

111th CONGRESS

2d Session

**H. R. 5820**

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

**IN THE HOUSE OF REPRESENTATIVES**

**July 22, 2010**

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

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**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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Toxic Chemicals Safety Act of 2010'.

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

(a) Findings, Policy, and Goal- Section 2 of the Toxic Substances Control Act (15 U.S.C. 2601) is amended--

(1) by striking 'intent' in the section heading and inserting 'goal'; and

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

'(a) Findings- Congress finds that--

'(1) the chemical industry is an important part of the United States economy and provides valuable products that are used in diverse manufacturing industries and other commercial, institutional, and consumer applications;

'(2) more than 3 decades after the enactment of the Toxic Substances Control Act, the public and the environment in the United States are still exposed to thousands of chemicals whose safety has not been adequately reviewed;

`(3) biomonitoring reveals that people in the United States have many hazardous chemicals in their bodies;

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

`(5) there is significant global trade in the chemical sector and many of the companies that conduct business in the United States must also comply with chemical safety regulatory programs in other countries, and the data that are generated to comply with these other regulatory programs may be useful in understanding the hazards of and exposures to chemicals in the United States; and

`(6) a revised policy on the safety of chemicals will assist in renewing the manufacturing sector of the United States, create new and safer jobs, spur innovations in green chemistry, restore confidence domestically and internationally in the safety of products of the United States, and ensure that products of the United States remain competitive in the global market.

`(b) Policy- It is the policy of the United States--

`(1) to protect the health of children, workers, consumers, and the public, and to protect the environment from adverse effects of exposures to chemicals;

`(2) to promote the use of safer alternatives and other actions that reduce use of and exposure to hazardous chemicals and reward innovation in developing safer chemicals, processes, and products;

`(3) to require that all chemicals in commerce meet a risk-based safety standard that protects disproportionately vulnerable and affected populations and the environment;

`(4) to require manufacturers and processors to provide sufficient health and environmental information for the chemicals which they manufacture or process as a condition of allowing distribution of such chemicals in commerce;

`(5) to improve the quality of information on chemical safety and use;

`(6) to guarantee the right of the public and workers to know about the risks associated with chemicals that they may be exposed to by maximizing public access to information on such chemicals;

`(7) to strengthen cooperation between and among the Federal Government and State, municipal, tribal, and foreign governments;

`(8) to ensure the Administrator has the authority to develop sufficient information to assess chemical safety, and to act effectively when the Administrator obtains information that indicates there are risks of harmful chemical exposure; and

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

`(c) Goal- It is the goal of the United States to protect health and the environment by addressing exposure to harmful chemicals distributed in commerce, including exposure of vulnerable or disproportionately affected populations, by--

- `(1) determining whether all chemicals in commerce meet the safety standard under this title;
- `(2) restricting the manufacture, processing, use, distribution in commerce, or disposal of a chemical, where warranted; and
- `(3) encouraging the replacement of harmful chemicals and processes with safer alternatives.'

(b) Conforming Amendment- The table of contents for the Toxic Substances Control Act is amended by amending the item relating to section 2 to read as follows:

`Sec. 2. Findings, policy, and goal.'

### **SEC. 3. DEFINITIONS AND DETERMINATIONS.**

(a) Definitions and Determinations- Section 3 of the Toxic Substances Control Act (15 U.S.C. 2602) is amended--

(1) by striking--

### **`SEC. 3. DEFINITIONS.**

`As used in this Act:' and inserting the following:

### **`SEC. 3. DEFINITIONS AND DETERMINATIONS.**

`(a) Definitions- As used in this Act:';

(2) in subsection (a), (relating to definitions, as designated by paragraph (1))--

(A) in paragraph (2)--

(i) in subparagraph (A)--

(I) by striking `Except as provided in subparagraph (B), the term' and inserting `The term';

(II) in clause (i), by striking `and' after `nature,';

(III) in clause (ii), by striking the period at the end and inserting `, and'; and

(IV) by adding at the end the following new clause:

`(iii) any form of a substance determined by the Administrator to be a chemical substance under subsection (b)(1).'; and

(ii) in subparagraph (B)--

(I) by striking clause (ii) and inserting the following:

`(ii) any alcoholic beverage (as defined in section 214 of the Federal Alcohol Administration Act),';

(II) in clause (iii), by striking `product,' inserting `product (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act), and'; and

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

(B) in paragraph (4)--

(i) by striking `or' after `or article;'; and

(ii) by inserting `; or to export or offer for export the substance, mixture, or article, except for demonstrated use solely as a pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act), food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) and including poultry, poultry products, meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), eggs, and egg products (as defined in section 4 of the Egg Products Inspection Act)' after `article after its introduction into commerce';

(C) in paragraph (5), by inserting `ambient and indoor' after `includes water,';

(D) in paragraph (7), by inserting `, except for demonstrated use solely as a pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act), food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) and including poultry, poultry products, meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), eggs, and egg products (as defined in section 4 of the Egg Products Inspection Act)' after `produce, or manufacture';

(E) in paragraph (9), by striking `which is not included in the chemical substance list compiled and published under section 8(b)' and inserting `for which no declaration has been submitted under section 8(a)(2), except that, with respect to the first year after the date of enactment of the Toxic Chemicals Safety Act of 2010, such term shall not include a chemical substance distributed in commerce as of such date of enactment';

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

`Except such term shall not include preparation for demonstrated use solely as a pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act), food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) and including poultry, poultry products, meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), eggs, and egg products (as defined in section 4 of the Egg Products Inspection Act). Relabeling or redistributing a container holding a chemical substance or mixture where no repackaging of the chemical substance or mixture occurs does not constitute processing of the chemical substance or mixture. Relabeling, redistributing, or repackaging an article containing a chemical substance or mixture, including incorporating the article into another article, does not constitute processing of the chemical substance or mixture.'.

(G) by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively; and

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

`(14) The term `adverse effect' means a chemical or biochemical change, anatomic change, or functional impairment, or a known precursor to such a change or impairment, that--

`(A) has the potential to impair the performance of an anatomic structure of a vital system of an organism or progeny of an organism;

`(B) causes irreversible change in the homeostasis of an organism;

`(C) increases the susceptibility of an organism or progeny of an organism to other chemical or biological stressors or reduces the ability of an organism or progeny of an organism to respond to additional health or environmental challenges; or

`(D) affects, alters, or harms the environment such that the health of humans or other organisms is directly or indirectly threatened.

In order to reflect best available science, the Administrator may, by rule, revise the definition of such term for purposes of this Act in such a way that reflects the state of the science and provides for equal or greater protection of health and the environment.

`(15) The term `aggregate exposure' means all exposure from--

`(A) manufacture, processing, distribution, use, and disposal;

`(B) manufacturing or processing of the substance for use as a pesticide, food, food additive, drug, cosmetic, or device;

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

`(D) permitted sources of pollution;

`(E) nonpoint sources of pollution; and

`(F) documented background levels from natural and anthropogenic sources.

`(16) The term `bioaccumulative' means, with respect to a chemical substance or mixture, that the chemical substance or mixture, as determined by the Administrator, can significantly accumulate in biota, as indicated through monitoring data, or is highly likely to accumulate in biota, as indicated by other evidence. In order to reflect best available science, the Administrator may, by rule, revise the definition of such term for purposes of this Act in such a way that reflects the state of the science and provides for equal or greater protection of health and the environment.

`(17) The term `chemical identity' means, with respect to a chemical substance--

`(A) each common and trade name of the chemical substance;

`(B) the name of the chemical substance appearing in International Union of Pure and Applied Chemistry nomenclature and 9th Collective Index format;

`(C) the Chemical Abstracts Service registration number of the chemical substance; and

`(D) the molecular structure and the molecular identity of the chemical substance.

`(18) The term `cumulative exposure' means the sum of aggregate exposure to--

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

`(B) mixtures containing chemical substances described in subparagraph (A).

`(19) The term `Federal agency' means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

`(20) The term `importer' means any person who imports a chemical substance or mixture, or any article containing a chemical substance or mixture, for distribution in commerce.

`(21) The term `persistent' means, with respect to a chemical substance or mixture, that the chemical substance or mixture, as determined by the Administrator, significantly persists in 1 or more environmental media, as indicated by monitoring data or other evidence. In order to reflect best available science, the Administrator may, by rule, revise the definition of such term for purposes of this Act in such a way that reflects the state of the science and provides for equal or greater protection of health and the environment.

`(22) The term `substance characteristic' means, with respect to a particular chemical substance, the physical and chemical characteristics that may vary for such substance, and whose variation may bear on the toxicological properties or the exposure potential of the substance, including--

`(A) structure and composition;

`(B) size or size distribution;

`(C) shape;

`(D) surface structure;

`(E) reactivity; and

`(F) other characteristics and properties that may bear on toxicological properties or exposure potential.

`(23) The term `toxic', with respect to a chemical substance or mixture, means that the chemical substance or mixture, or a metabolite or degradation product of such substance or mixture, has a toxicological property--

`(A) that causes an adverse effect that has been demonstrated in humans or other organisms; or

`(B) for which the weight of evidence (such as demonstration of such an adverse effect as described in subparagraph (A) in laboratory studies or data for a chemical from the same chemical class that exhibits such an adverse effect) demonstrates the potential for an adverse effect in humans or other organisms.

`(24) The term `toxicological property' means established toxicity, adverse effects, or established precursors to such toxicity or adverse effects, including effects of exposure to a chemical substance or mixture on--

`(A) mortality;

`(B) morbidity, including carcinogenesis;

`(C) genetics, including mutagenicity, genotoxicity, and epigenetics;

`(D) reproduction;

`(E) growth and development;

`(F) the immune system;

`(G) the endocrine system;

`(H) the brain or nervous system;

`(I) other organ systems; or

`(J) any other biological functions in humans or other organisms.

`(25) The term `use' means any utilization of a chemical substance or mixture that is not otherwise covered by the terms manufacture or process, and may include--

`(A) any composition of the chemical substance with other chemical substances;

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

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

`(26) The term `vulnerable population' means a population that is subject to a disproportionate exposure to, or potential for a disproportionate adverse effect from exposure to, a chemical substance or mixture, including--

`(A) infants, children, and adolescents;

`(B) pregnant women (including effects on fetal development);

`(C) the elderly;

`(D) individuals with preexisting medical conditions;

`(E) workers; and

`(F) members of any other appropriate population identified by the Administrator based on consideration of--

`(i) socioeconomic status;

`(ii) racial or ethnic background;

`(iii) culturally influenced dietary or other practices or factors; or

`(iv) other similar factors identified by the Administrator.'; and

(3) by adding at the end the following new subsection:

`(b) Determinations-

`(1) The Administrator may determine different forms of a chemical substance with a particular molecular identity to be different chemical substances for purposes of this Act, based on variations in the substance characteristics. New forms of existing chemical substances so determined shall be considered new chemical substances for purposes of this Act.

`(2) The Administrator may determine different uses of a chemical substance or mixture to be the same use for purposes of this Act, based on industry classification systems or factors determined by the Administrator to indicate similarity in use and exposure, provided that such systems or factors ensure that the different uses treated as the same use under this paragraph do not involve materially different patterns, pathways, or degrees of exposure.'.

(b) Conforming Amendment- The table of contents for the Toxic Substances Control Act is amended by amending the item relating to section 3 to read as follows:

`Sec. 3. Definitions and Determinations.'.

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

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

(1) By amending subsection (a) to read as follows:

`(a) Minimum Data Set-

`(1) Not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall establish, by rule, the data that constitute the minimum data set for substances described in paragraph (2). The rule shall--

`(A) require manufacturers and processors to submit a minimum data set that the Administrator determines will be useful in conducting safety standard determinations pursuant to section 6(b) or carrying out any provision of this Act, and shall include information on--

`(i) chemical identity;

- `(ii) substance characteristics;
  - `(iii) biological and environmental fate and transport;
  - `(iv) toxicological properties;
  - `(v) volume manufactured, processed, or imported;
  - `(vi) intended uses; and
  - `(vii) exposures from all stages of the chemical substance or mixture's lifecycle that are known or reasonably foreseeable to the party submitting the data set;
  - `(B) provide for varied or tiered testing;
  - `(C) establish requirements for manufacturers and processors to update their minimum data set submissions, as appropriate; and
  - `(D) be updated by the Administrator not less often than once every 5 years.
- `(2) Except as provided in paragraph (3), the manufacturers and processors of a chemical substance or mixture shall submit the minimum data set established by the rule under paragraph (1), accompanied by the certification described in section 8(i), to the Administrator--
- `(A) for an existing chemical substance or mixture, not later than the earlier of--
    - `(i) 18 months after the date on which the Administrator lists the chemical substance or mixture on the priority list under section 6(a); or
    - `(ii) for chemical substances produced--
      - `(I) at high volumes, as determined by the Administrator, 3 years after the date of enactment of the Toxic Chemicals Safety Act of 2010;
      - `(II) at moderate volumes, as determined by the Administrator, 4 years after the date of enactment of the Toxic Chemicals Safety Act of 2010; or
      - `(III) at low volumes, as determined by the Administrator, 5 years after the date of enactment of the Toxic Chemicals Safety Act of 2010; or
  - `(B) for a new chemical substance, the date on which the notice required under section 5(a)(1)(A) is submitted.
- `(3) No minimum data set shall be required to be submitted by manufacturers and processors of a chemical substance listed under section 6(a)(1)(A) or exempted from the requirement pursuant to section 39 or section 32 or for a safer alternative approved pursuant to section 35.
- `(4) If a manufacturer or processor is in violation of paragraph (2), the Administrator may impose penalties, pursuant to section 16, on such manufacturer or processor, or, by order, impose conditions, including prohibitions, on the manufacture, processing, or distribution in commerce of the chemical

substance, or any mixture or article containing the chemical substance, by such manufacturer or processor.'

(2) In subsection (b)--

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

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

(C) in paragraph (1)--

(i) by striking 'A rule under subsection (a) shall include' and all that follows through 'during the period prescribed under subparagraph (C)'; and

(D) by striking the following:

'(b)(1) Testing requirement rule- ' and inserting the following:

'(b) Testing Rules and Orders-

'(1) The Administrator may, by rule or order, after notice and opportunity for comment, require testing in addition to the requirements for the minimum data set under subsection (a) with respect to any chemical substance or mixture and the submission of test results by a specified date, as necessary for making a safety standard determination under section 6(b) or carrying out any provision of this Act.

'(2) If a manufacturer or processor is in violation of paragraph (1), the Administrator may impose penalties, pursuant to section 16, on such manufacturer or processor, or, by order, impose conditions, including prohibitions, on the manufacture, processing, or distribution in commerce of the chemical substance, or any mixture or article containing the chemical substance, by such manufacturer or processor.

'(3) A rule or order under paragraph (1) shall include--

'(A) identification of the chemical substance or mixture for which testing is required;

'(B) the testing required and justification for such testing, and may specify test protocols and methodology for testing for such substance or mixture in accordance with section 34(c); and

'(C) a specification of the period (which period may not be of unreasonable duration) within which the persons required to conduct the testing shall submit to the Administrator data developed in accordance with a methodology referred to in subparagraph (B).

In determining the testing, test protocols, and methodology, and period to be included, pursuant to subparagraphs (B) and (C), in a rule or order under paragraph (1), the Administrator shall consider the relative costs of the various test protocols and methodologies which may be required under the rule or order and the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule or order. Any such rule or order may require the submission to the Administrator of preliminary data during the period prescribed under subparagraph (C).';

(E) by amending paragraph (4), as redesignated by subparagraph (A) of this paragraph, to read as follows:

`(4)(A)(i) The health and environmental effects for which testing may be prescribed include any toxicological property and any other adverse effect which may be considered in a safety standard determination under section 6(b).

`(ii) The exposure information for which testing may be prescribed includes biological or environmental fate and transport, monitoring for the presence of the chemical substance or mixture (or a metabolite or degradation byproduct of the chemical substance or mixture) in animal or human biological media or environmental media, and any other exposure information which may be considered in a safety standard determination under section 6(b).

`(iii) The characteristics of chemical substances and mixtures for which testing may be prescribed include persistence, bioaccumulation, and any other relevant substance characteristic which may be considered in a safety standard determination under section 6(b).

`(B) The methodologies that may be prescribed in testing include epidemiologic studies, industrial hygiene surveys, biomonitoring studies, serial or hierarchical tests, in vitro tests, and whole animal tests consistent with section 34, except that before prescribing epidemiologic studies or industrial hygiene surveys of employees, the Administrator shall consult with the Director of the National Institute for Occupational Safety and Health.

`(C) From time to time, but not less than once each 12 months, the Administrator shall review the adequacy of the methodology for testing prescribed in rules or orders under paragraph (1) and shall, if necessary, institute proceedings to make appropriate revisions of such methodology.';

(F) in paragraph (5), as redesignated by subparagraph (A) of this paragraph--

(i) by striking subparagraph (B);

(ii) by striking `(A) A rule under subsection (a) respecting a chemical substance or mixture shall require the persons described in subparagraph (B)' and inserting `A rule or order under paragraph (1) respecting a chemical substance or mixture shall specify the persons required'; and

(iii) by inserting `in which case all parties remain individually liable for the testing requirements' after `on behalf of the persons making the designation';

(G) by inserting after paragraph (5), as redesignated by subparagraph (A) of this paragraph, the following new paragraph:

`(6) Any biomonitoring study of the public regarding a chemical substance or any metabolite or degradation byproduct of such substance shall be conducted by the Director of the Centers for Disease Control and Prevention in collaboration with the Administrator, at the expense of the manufacturers and processors of the chemical substance. Any biomonitoring study of employees regarding a chemical substance or any metabolite or degradation byproduct of such substance may be conducted by the relevant employer, at the expense of the manufacturers and processors of the chemical substance, in collaboration with the Director of the National Institute of Occupational Safety and Health and the Administrator.';

(H) in paragraph (7), as redesignated by subparagraph (B) of this paragraph--

(i) by striking `under subsection (a)' in both places it appears and inserting `or order under paragraph (1)';

(ii) by striking `repeals the rule' in both places it appears and inserting `withdraws the rule or order'; and

(iii) by striking `repeals the application of the rule' and inserting `withdraws the rule or order as applied'; and

(I) by amending paragraph (8), as redesignated by subparagraph (B) of this paragraph, to read as follows:

`(8) Rules issued under subsection (a) and paragraph (1) (and any substantive amendment thereto or repeal thereof) shall be promulgated pursuant to section 553 of title 5, United States Code.'

(3) In subsection (c)--

(A) in paragraph (1)--

(i) by inserting `or order' after `rule'; and

(ii) by striking `subsection (a)' and inserting `subsection (a) or (b)(1)';

(B) in paragraph (2)--

(i) by striking `under subsection (a)' and inserting `under subsection (b)(1)'; and

(ii) by inserting `or order' after `rule' each place it appears;

(C) in paragraph (3)(B)(i), by striking `promulgated under subsection (a)' and inserting `or order issued under subsection (b)(1)';

(D) in paragraph (4)--

(i) in subparagraph (A)--

(I) by striking `promulgated under subsection (a)' and inserting `issued under subsection (b)(1)'; and

(II) by inserting `or order' after `rule' each place it appears; and

(ii) in subparagraph (B)--

(I) by striking `promulgated under subsection (a)' and inserting `or order issued under subsection (b)(1)'; and

(II) by inserting `or order' after `such rule'; and

(III) by inserting `or order' after `requirements of the rule'; and

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

`(5) If a manufacturer or processor has submitted a declaration of permanent cessation of manufacture or processing under section 8(a)(3) for a chemical substance or mixture, the manufacturer or processor shall be exempted from the requirements of this section with regard to such chemical substance or mixture.'

(4) In subsection (d)--

(A) by striking `under subsection (a)' and inserting `or order issued under subsection (a) or (b)(1)';

(B) by inserting `Such notice shall not be interpreted as meeting the requirements of the rule or order, unless otherwise indicated.' before `Subject to section 14, each notice shall'; and

(C) by inserting `and be added to the public database established pursuant to section 8(d)' after `Administrator for examination by any person'.

(5) In subsection (e)--

(A) in the subsection heading, by striking `Priority List' and inserting `Interagency Testing Committee';

(B) in paragraph (1)--

(i) in subparagraph (A)--

(I) by striking `for the promulgation of a rule under subsection (a)' and inserting `for listing under section 6(a)(1) and promulgation of testing rules or orders under subsection (b)(1)';

(II) in clause (v), by striking `an unreasonable' and inserting `a substantial'; and

(III) in the matter following clause (viii)--

(aa) by striking `cancer, gene mutations, or birth defects' and inserting `adverse effects on health or the environment';

(bb) by striking `under subsection (a)' each place it appears and inserting `under subsection (b)(1)'; and

(cc) by striking `The total number of chemical substances and mixtures on the list which are designated under the preceding sentence may not, at any time, exceed 50.'; and

(ii) in subparagraph (B), by striking `rulemaking proceeding under subsection (a)' and inserting `proceeding to promulgate a rule or issue an order under subsection (b)(1)'; and

(C) in paragraph (2)(A)--

(i) by striking `eight members' and inserting `10 members'; and

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

`(ix) One member appointed by the Commissioner of the Food and Drug Administration from officers or employees of the Administration.

`(x) One member appointed by the Chairman of the Consumer Product Safety Commission from officers or employees of the Commission.'

(6) By amending subsection (f) to read as follows:

`(f) Requests From Other Federal Agencies for Additional Information or Testing-

`(1) IN GENERAL- If a Federal agency determines that information relating to a chemical substance or mixture, including data derived from new testing or monitoring, would assist such agency in carrying out duties or exercising authority of such agency, but such information is not available to the agency, such agency may request the Administrator to seek such information on its behalf.

`(2) DUTY OF ADMINISTRATOR- Not later than 60 days after the date of receipt of a request under paragraph (1), the Administrator shall--

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

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

`(C) issue a rule or order, under subsection (b), to develop such data, and require such data be furnished to the requesting agency and to the Administrator; or

`(D) publish in the Federal Register the reason for not taking any of the actions described in subparagraphs (A) through (C).'

(7) By striking subsection (g).

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

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

(1) By amending subsection (a) to read as follows:

`(a) New Chemical Substances and Mixtures and New Uses of Chemical Substances and Mixtures-

`(1) Except as provided in subsection (d), no person may manufacture or process a new chemical substance or mixture, or manufacture or process any chemical substance or mixture for a use which the Administrator has determined, in accordance with paragraph (2), is a new use, unless--

`(A) such person submits to the Administrator, at least 90 days before such manufacture or processing, a notice, in accordance with subsection (c) and section 8(i), of such person's intention to manufacture or process such chemical substance or mixture and such person complies with any applicable requirement of subsection (b); and

`(B) the Administrator finds that--

`(i) such use is a critical use as determined pursuant to section 6(e);

`(ii) in the case of a chemical substance or mixture that has not already been determined to meet the safety standard under section 6(b), the chemical substance or mixture meets the safety standard under section 6(b), with or without conditions; or

`(iii) in the case of a chemical substance or mixture that has already been determined to meet the safety standard under section 6(b) without inclusion of the proposed new use, the chemical substance or mixture continues to meet the safety standard under section 6 for all intended uses including the new use, with or without conditions.

`(2) A use shall be determined by the Administrator to be new if--

`(A) the chemical substance or mixture has already received a safety standard determination under section 6(b) which did not include the use; or

`(B) the proposed use will result in manufacturing or processing of the chemical substance or mixture at a significantly increased volume, as determined by the Administrator, above that considered in the safety standard determination under section 6(b).

`(3) Not later than 30 days after the date on which a manufacturer or processor commences manufacturing or processing of a new chemical substance or mixture or commences manufacturing or processing of a chemical substance or mixture for a new use, the manufacturer or processor shall submit to the Administrator a notice of commencement of manufacture or processing.'.

(2) By amending subsection (b) to read as follows:

`(b) Submission of Data for Uses and Manufacturers or Processors Not Previously Declared-

`(1) For a chemical substance or mixture which is not new that has not yet received a safety standard determination under section 6(b), any manufacturer or processor who manufactures, processes, or distributes in commerce the chemical substance or mixture for a use that has not previously been declared under section 8(a), shall submit the declaration required by section 8(a) within 6 months of initiating manufacture, processing, or distribution, for that use.

`(2) Any manufacturer or processor who manufactures, processes, or distributes in commerce a chemical substance for a use that the particular manufacturer or processor has not previously declared under section 8(a), even where such use has previously been declared by another party, shall submit the declaration required by section 8(a) within 6 months of initiating manufacture, processing, or distribution for that use.

`(3) For any chemical substance subject to a Significant New Use Rule pursuant to part 721 of title 40, Code of Federal Regulations, as of the date of enactment of the Toxic Chemicals Safety Act of 2010, the requirements of that rule shall apply to all manufacturers and processors of the chemical substance whether or not the Administrator determines a use to be new pursuant to subsection (a), unless and until the chemical substance receives a safety standard determination and, if appropriate, conditions or prohibitions are imposed pursuant to section 6, after which the Significant New Use Rule shall cease to apply.

`(4) For a chemical substance or mixture that is subject to a rule or order under section 4, the manufacturer or processor of such chemical for any use which has not previously been declared under section 8 shall submit to the Administrator any data required in accordance with such rule or order with the notice under subsection (a)(1)(A) or the declaration under this subsection, as appropriate.

`(5) Not later than 90 days after submission of a notice under subsection (a)(1)(A), and data under paragraph (4), if required, the Administrator shall determine, pursuant to subsection (a)(1)(B), whether the use is a critical use or whether a safety standard determination is required by that paragraph. Not later than 9 months after the date of such determination, the Administrator shall complete any such required safety standard determination. The Administrator's failure to make a determination pursuant to this paragraph in a timely manner shall not be deemed to satisfy subsection (a)(1)(B).'

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

(4) By amending subsection (c), as redesignated by paragraph (3) of this section, to read as follows:

`(c) Content of Notice; Publications- The notice required by subsection (a)(1)(A) shall include--

`(1) the declaration under section 8(a)(2);

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

`(3) a statement that the chemical substance or mixture is reasonably anticipated to meet or continue to meet the safety standard under section 6(b), and a justification for such statement.

Such a notice shall be made available, subject to section 14, in the public database established pursuant to section 8(d).';

(5) By striking subsections (e), (f), and (g), and redesignating subsections (h) and (i) as subsections (d) and (e), respectively.

(6) In subsection (d), as redesignated by paragraph (5) of this section--

(A) by redesignating paragraphs (1) through (3) as paragraphs (3) through (5), respectively;

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

(C) by striking paragraph (4);

(D) by inserting, before paragraph (3), as redesignated by subparagraph (A) of this paragraph, the following new paragraphs:

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

`(2) The Administrator may exempt any new chemical substance or new use of a chemical substance or mixture from the requirements of this section pursuant to section 39.';

(E) in paragraph (3), as redesignated by subparagraph (A) of this paragraph--

(i) by inserting `and by order,' after `upon application,'; and

(ii) by striking `any unreasonable' and inserting `a substantial';

(F) in paragraph (4), as redesignated by subparagraph (A) of this paragraph--

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

`(A) The Administrator shall exempt any person from the requirement to submit data for a chemical substance or mixture pursuant to subsection (b)(4), if upon receipt of an application from such person, the Administrator determines that--

`(i) the chemical substance or mixture with respect to which such application was submitted is equivalent to a chemical substance or mixture for which data has been submitted to the Administrator as required by this Act; and

`(ii) submission of data by the applicant on such substance or mixture would be duplicative of data which has been submitted to the Administrator in accordance with subsection (b)(4).

No exemption which is granted under this subparagraph with respect to the submission of data for a chemical substance or mixture may take effect before the beginning of the reimbursement period applicable to such data.'; and

(ii) in subparagraph (B), by striking `subsection (b)(2)' each place it appears and inserting `subsection (b)(4)';

(G) in paragraph (6), as redesignated by subparagraph (B) of this paragraph, by inserting `, including occupational exposure' after `human or environmental exposure'; and

(H) in paragraph (7), as redesignated by subparagraph (B) of this paragraph, by striking `(1) or (5)' and inserting `(3) or (6)'.

## **SEC. 6. PRIORITIZATION, SAFETY STANDARD DETERMINATION, AND RISK MANAGEMENT.**

(a) Safety Standard Determination- Section 6 of the Toxic Substances Control Act (15 U.S.C. 2605) is amended as follows:

(1) By amending the section heading to read as follows: `prioritization, safety standard determination, and risk management'.

(2) By striking subsection (d).

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

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

(5) By inserting before subsection (c), as redesignated by paragraph (4) of this subsection, the following new subsections:

`(a) Priority List for Safety Standard Determinations-

`(1) ESTABLISHMENT OF LIST-

`(A) As of the date of enactment of the Toxic Chemicals Safety Act of 2010, there shall be established a list of chemical substances for which safety standard determinations under this section shall first be made, which shall consist of the following chemical substances:

`(i) Bisphenol A.

`(ii) Formaldehyde.

`(iii) N-Hexane.

`(iv) Hexavalent chromium.

`(v) Methylene chloride.

`(vi) Trichloroethylene.

`(vii) Vinyl chloride.

`(viii) The following phthalates:

`(I) Benzylbutyl phthalate.

`(II) Dibutyl phthalate.

`(III) Diethylhexyl phthalate.

`(IV) Di-isodecyl phthalate.

`(V) Di-isononyl phthalate.

`(VI) Di-n-hexyl phthalate.

`(VII) Di-n-octyl phthalate.

`(ix) Perchlorate.

`(x) Tetrachloroethylene.

`(xi) Tris (1,3-dichloro-2-propyl) phosphate.

`(xii) Tris (2-chloroethyl) phosphate.

`(xiii) Tris (2,3-dibromopropyl) phosphate.

`(B) Not later than 12 months after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall update the list established in subparagraph (A) and publish in the Federal

Register, after notice and opportunity for comment, the updated list which shall consist of not fewer than 300 chemical substances, along with a justification for such listing. Chemical substances shall be listed at the Administrator's discretion, based on available scientific evidence and consideration of their hazard, exposure, or risk relative to other chemical substances, aggregate or cumulative exposure, evidence of exposure to humans including presence in human or animal biological and environmental media including in the workplace, use, volume of manufacture, toxicological properties, persistence, bioaccumulation, or other properties indicating risk.

`(2) UPDATING OF LIST- The Administrator shall--

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

`(B) add chemical substances to the list periodically so that the number of chemical substances on the list will not be fewer than 300 at any given time, until such time as all chemical substances manufactured, processed, or distributed in commerce have been listed, have received a safety standard determination, or have been exempted from the requirement to receive a safety standard determination pursuant to section 35 or section 39. Additions to the list shall be consistent with paragraph (1) and, to the extent practicable, based on consideration of hazard, exposure, or risk relative to listed chemical substances. Such additions to the list may be made in response to petitions under section 21 or recommendations from the Interagency Testing Committee under section 4(e).

`(3) MIXTURES- The Administrator may add a mixture to the priority list based on available scientific evidence and the considerations for listing described in paragraph (1).

`(b) Safety Standard Determinations-

`(1) SAFETY STANDARD-

`(A) The Administrator shall apply, as the safety standard under this title, a standard that takes into account aggregate exposure to a chemical substance or mixture and ensures that, for all intended uses--

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

`(ii) the public welfare is protected.

`(B) In making a determination under this subsection, the Administrator shall consider, among other relevant factors---

`(i) the lifecycle of the chemical substance or mixture; and

`(ii) available information concerning the cumulative effects of exposure to chemical substances or mixtures.

`(2) BURDEN OF PROOF- The manufacturers and processors of a chemical substance or mixture shall bear the burden of proving that the chemical substance or mixture meets the safety standard.

`(3) DETERMINATION-

`(A) For each chemical substance or mixture listed under subsection (a), the Administrator shall determine whether the chemical substance or mixture meets the safety standard, taking into account any existing conditions or controls already in effect, or can be made to meet the safety standard through the imposition of additional conditions under subsection (c), and whether intended uses that do not meet the safety standard are critical. In making this determination, the Administrator may consider exposures associated with known or foreseeable uses that are not intended uses identified by the manufacturers and processors of the substance or mixture.

`(B) The determination under subparagraph (A) shall be made in keeping with standards for assessment developed under paragraph (4).

`(C) Except as provided in subparagraph (D), the determination under subparagraph (A) shall be completed and published not later than 30 months after the date on which the chemical substance or mixture is placed on the priority list, or, for a chemical substance listed in subsection (a)(1)(A), not later than 18 months after the date of enactment of the Toxic Chemicals Safety Act of 2010.

`(D) In assessing risk to make the determination under subparagraph (A), the Administrator may require the submission of additional information by the manufacturer or processor. If additional information is required, the determination shall be completed and published not later than 12 months after the submission of all required information. Failure to submit required information in the period specified in section 4(b)(3)(C), as applicable, or by such other reasonable deadlines as the Administrator shall establish shall constitute grounds for determining that the chemical substance or mixture does not meet the safety standard.

#### `(4) STANDARDS FOR ASSESSMENT OF DATA-

`(A) Not later than 18 months after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall, after providing for notice and opportunity for comment, develop and publish guidance regarding the use of science in making determinations under this subsection. In developing such guidance, the Administrator shall rely upon the recommendations of the National Academy of Sciences report entitled 'Science and Decisions'.

`(B) Not later than 5 years after the date of enactment of the Toxic Chemicals Safety Act of 2010, and not less often than once every 5 years thereafter, the Administrator shall review the guidance under this paragraph and may revise the guidance to reflect new scientific developments or understanding.

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

`(6) RENEWAL AND REDETERMINATION- The determination made pursuant to paragraph (3) regarding a chemical substance or mixture shall remain in effect for 15 years, except that the Administrator shall make a redetermination pursuant to paragraph (3) if a new use of such chemical substance or mixture is proposed under section 5, or new information related to such chemical substance or mixture raises a credible question as to whether the chemical substance or mixture continues to meet the safety standard. The Administrator may renew a determination made pursuant to paragraph (3) for additional 15 year periods. The burden of proof for renewal of a determination or redetermination shall remain with the manufacturers and processors of each chemical substance or mixture.

`(7) FAILURE TO MEET DEADLINES- If the Administrator fails to publish or renew a determination or publish a redetermination by the applicable deadline pursuant to this subsection, the Administrator shall promptly publish notice of such failure in the Federal Register, identifying the chemical substance or mixture and any information gaps that have impeded the determination, shall prohibit new manufacturers or processors or new uses of the chemical substance or mixture until the determination is published, and shall require manufacturers and processors of the chemical substance or mixture to provide, within a reasonable timeframe as determined by the Administrator, written notice to the public, their employees and their commercial customers that a safety standard determination of the chemical substance or mixture is pending.'

(6) By amending subsection (c), as redesignated by paragraph (4) of this subsection, to read as follows:

`(c) Risk Management-

`(1) CHEMICAL SUBSTANCES AND MIXTURES DETERMINED TO MEET THE SAFETY STANDARD WITHOUT CONDITIONS- A chemical substance or mixture, for which the Administrator has determined, pursuant to subsection (b)(3), that the chemical substance or mixture meets the safety standard without imposition of conditions under this subsection, may be manufactured, processed, and distributed in commerce for uses identified and included in the safety standard determination. The Administrator may make such determination contingent on the continuation of conditions or controls already in effect, if any.

`(2) CHEMICAL SUBSTANCES AND MIXTURES DETERMINED TO MEET THE SAFETY STANDARD WITH CONDITIONS- Except as the Administrator determines pursuant to subsection (e), a chemical substance or mixture, for which the Administrator has determined, pursuant to subsection (b)(3), that imposition of conditions under this subsection is required to ensure that the chemical substance or mixture meets the safety standard, shall be subject to conditions on manufacture, processing, use, distribution in commerce, or disposal, as specified by the Administrator. Such conditions shall be identified in a manner that ensures effective and efficient protection of health and the environment and may include:

`(A) A requirement--

`(i) prohibiting the manufacturing, processing, or distribution in commerce of such substance or mixture; or

`(ii) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce.

`(B) A requirement--

`(i) prohibiting the manufacture, processing, or distribution in commerce of such substance or mixture for--

`(I) a particular use; or

`(II) a particular use in a concentration in excess of a level specified by the Administrator in the safety standard determination; or

`(ii) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for--

`(I) a particular use; or

`(II) a particular use in a concentration in excess of a level specified by the Administrator in the safety standard determination.

`(C) A requirement that such substance or mixture, or any article containing such substance or mixture, be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal or with respect to any combination of such activities. The form and content of such warnings and instructions shall be prescribed by the Administrator or by the appropriate agency as determined under section 9, and shall be consistent with the Globally Harmonized System of Labeling and Classification of Chemicals.

`(D) A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture, or any article containing such substance or mixture, and monitor or conduct tests which are reasonable and necessary to assure compliance with the requirements of any rule applicable under this paragraph.

`(E) A requirement prohibiting or otherwise regulating any manner or method of manufacturing, processing, distribution in commerce or commercial use of such substance or mixture.

`(F) A requirement that prescribes specific control measures to reduce occupational exposures shall reflect the industrial hygiene hierarchy of controls.

`(G)(i) A requirement prohibiting or otherwise regulating any manner or method of disposal of such substance or mixture, or of any article containing such substance or mixture, by its manufacturer or processor or by any other person who uses, or disposes of, it for commercial purposes.

`(ii) A requirement under clause (i) may not require any person to take any action which would be in violation of any law or requirement of, or in effect for, a State or political subdivision, and shall require each person subject to it to notify each State and political subdivision or tribe in which a required disposal may occur of such disposal.

`(H) A requirement that the manufacturers and processors of such chemical substance or mixture, or article containing such chemical substance or mixture, develop a risk reduction management plan to achieve a risk reduction specified by the Administrator. For all cases in which a risk reduction management plan requires a reduction in occupational exposure, the specified level or risk reduction is to be achieved through application of the industrial hygiene hierarchy of controls.

Where the Administrator determines that conditions under this subsection are necessary to ensure that a chemical substance or mixture meets the safety standard, the Administrator shall require that such conditions be met within one year after publication of the determination under subsection (b), or as quickly as feasible and in no case later than 3 years after such publication. The Administrator, in determining the deadline for compliance with conditions pursuant to this subsection, shall consider human health and the environment as the primary and paramount concern, and shall also consider the technological feasibility of compliance, the economic impact of compliance, the benefits of earlier compliance, and other relevant considerations. After the date or dates on which conditions become effective, no person shall manufacture, process, use for commercial purposes, distribute in commerce,

or dispose of the chemical substance or mixture, or any article containing such substance or mixture, unless the applicable conditions of the determination are met with respect to that person's activities.

**`(3) CHEMICAL SUBSTANCES AND MIXTURES DETERMINED NOT TO MEET THE SAFETY STANDARD-** Except as the Administrator determines pursuant to subsection (e):

`(A) If the Administrator determines that an existing chemical substance or mixture has not been proven to meet the safety standard, pursuant to subsection (b)(3), effective 1 year after publication of that determination, or as quickly as feasible and in no case later than 3 years after such publication, no person shall manufacture, process, use for commercial purposes or distribute in commerce the chemical substance or mixture. The Administrator, in determining the deadline for compliance with this subsection, shall consider human health and the environment as the primary and paramount concern, and shall also consider the technological feasibility of compliance, the economic impact of compliance, and other relevant considerations.

`(B) If the Administrator determines that a new chemical substance or mixture has not been proven to meet the safety standard, no person shall manufacture, process, or distribute in commerce the new chemical substance or mixture.

`(C) If the Administrator determines that an existing chemical substance or mixture has not been proven to meet the safety standard for a new use, no person shall manufacture, process, use, or distribute in commerce the existing chemical substance or mixture for the new use.'

(7) In subsection (d), as redesignated by paragraph (4) of this subsection, by striking 'present an unreasonable' each place it appears and inserting 'present a significant'.

(8) By amending subsection (e), as redesignated by paragraph (4) of this subsection, to read as follows:

**`(e) Critical Use Exemptions-**

`(1) Exemptions from restrictions on manufacture, processing, use, distribution in commerce, or disposal imposed under subsection (c) may be requested for a specific use by a manufacturer or processor of a chemical substance or mixture, and may be granted by the Administrator, after providing public notice and opportunity for comment, if the Administrator determines that the manufacturer or processor has demonstrated by clear and convincing evidence that--

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

`(ii) the restriction would significantly disrupt the national economy; or

`(iii) the specific use is a critical or essential use; and

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

`(ii) the specified use of the chemical substance or mixture provides a net benefit to health or the environment when compared to all available alternatives.

`(2) Exemptions granted under paragraph (1) shall expire after a period not to exceed 5 years, but may be renewed for one or more additional 5 year periods if the Administrator finds that the use continues to meet the requirements of paragraph (1).

`(3) Notice of any exemption granted under this subsection shall be provided--

`(A) to known commercial purchasers by the manufacturers and processors of the subject chemical substance or mixture; and

`(B) to the public by the Administrator.

`(4) The Administrator shall impose conditions on any use receiving an exemption under this subsection to reduce risk from the chemical substance or mixture to the greatest extent feasible. Such conditions shall take effect upon the granting of such exemption under paragraph (1). For cases in which such conditions are related to occupational exposure, exposure shall be controlled through application of the industrial hygiene hierarchy of controls.'

(9) In subsection (f), as redesignated by paragraph (3) of this subsection--

(A) in paragraph (2), by striking 'an unreasonable risk of injury to health or the environment' and inserting 'a substantial risk of injury to health or the environment, and will comply with section 37 and any regulations prescribed thereunder';

(B) in paragraph (3)(B)--

(i) in clause (i)--

(I) by striking 'an unreasonable' and inserting 'a substantial'; and

(II) by striking ', and' and inserting a semicolon;

(ii) in clause (ii)--

(I) by striking 'which does not present an unreasonable risk of injury to health or the environment' and inserting 'that meets the safety standard under subsection (b)'; and

(II) by inserting 'and' after 'biphenyl'; and

(iii) by adding at the end the following new clause:

`(iii) the terms of the exemption will comply with section 37 and any regulations prescribed thereunder.';

(C) by striking paragraph (4); and

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

(b) Conforming Amendment- The table of contents for the Toxic Substances Control Act is amended by amending the item relating to section 6 to read as follows:

`Sec. 6. Prioritization, safety standard determination, and risk management.'.

## **SEC. 7. IMMINENT HAZARDS.**

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

(1) By amending subsection (a) to read as follows:

`(a) Actions Authorized and Required-

`(1) CIVIL ACTION- The Administrator may commence a civil action in an appropriate district court of the United States for--

`(A) seizure of a chemical substance or mixture or any article containing such a substance or mixture, that may present an imminent and substantial endangerment to health or the environment;

`(B) relief (as authorized by subsection (b)) against any person who manufactures, processes, distributes in commerce, uses, or disposes of, a chemical substance or mixture or any article containing such a substance or mixture, that may present an imminent and substantial endangerment to health or the environment; or

`(C) both such seizure described in subparagraph (A) and relief described in subparagraph (B).

`(2) OTHER ACTIONS- The Administrator may issue such orders as may be necessary to protect health or the environment from a chemical substance or mixture or article containing such substance or mixture that may present an imminent and substantial endangerment to health or the environment. Such orders may include any requirements on the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or article containing such substance or mixture, as the Administrator determines are necessary to protect health or the environment, including the conditions that may be imposed under section 6(c)(2) and the relief authorized in subsection (b) of this section.

`(3) RELATIONSHIP TO EXISTING RULES, ORDERS, AND PROCEEDINGS- A civil action may be commenced under paragraph (1) or other action may be taken under paragraph (2), notwithstanding the existence of a rule or order under this Act and notwithstanding the pendency of any administrative or judicial proceeding under this Act.'.

(2) In subsection (b)--

(A) in paragraph (1)--

(i) by striking `subsection (a)' and inserting `subsection (a)(1)'; and

(ii) by striking `unreasonable risk' and inserting `imminent and substantial endangerment';

(B) in paragraph (2)--

(i) by striking `subsection (a)' and inserting `subsection (a)(1)';

(ii) by striking `or distributes in commerce' and inserting `distributes in commerce, uses, or disposes of';

(iii) by striking `risk' each place it appears and inserting `hazard'; and

(iv) by striking `or (E)' and inserting `(E) conditions that may be imposed under section 6(c); or (F)'; and

(C) in paragraph (3), by striking `subsection (a)' and inserting `subsection (a)(1)'.

(3) In subsection (c), by striking `subsection (a)' each place it appears and inserting `subsection (a)(1)'.

(4) By amending subsection (d) to read as follows:

`(d) Action Under Section 6- As appropriate, concurrently with the filing of an action under subsection (a)(1) or as soon thereafter as may be practicable, the Administrator shall add the subject chemical substance or mixture to the priority list under section 6(a) or initiate a redetermination of whether the subject chemical substance or mixture meets the safety standard under section 6(b).'

(5) In subsection (e), by striking `subsection (a)' and inserting `subsection (a)(1)'.

(6) By striking subsection (f).

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

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

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

(2) by redesignating subsection (e) as subsection (h);

(3) by redesignating subsection (c) as subsection (e);

(4) by striking subsection (d);

(5) by redesignating subsection (f) as subsection (j);

(6) by inserting before subsection (c), as redesignated by paragraph (1) of this section, the following new subsections:

`(a) Declarations-

`(1) IN GENERAL- (A) Each manufacturer or processor of a chemical substance distributed in commerce shall submit to the Administrator a declaration described in paragraph (2) or (3), accompanied by the certification described in subsection (i), not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010 or 1 year after commencement of such manufacturing or processing, whichever is earlier.

`(B) The Administrator may additionally require submission of a declaration described in paragraph

(2) or (3), accompanied by the certification described in subsection (i), from any manufacturer or processor of a mixture determined by the Administrator to have substance characteristics different from the substance characteristics of the constituent chemical substances, in kind or degree.

`(2) DECLARATION OF CURRENT MANUFACTURE OR PROCESSING- A declaration described in this paragraph is a statement that includes, for each chemical substance or mixture that is manufactured or processed by a manufacturer or processor--

`(A) the chemical identity of the chemical substance or mixture;

`(B) the name and location of each facility under the control of the manufacturer or processor at which the chemical substance or mixture is manufactured or processed or from which the chemical substance or mixture is distributed in commerce;

`(C) the number of individuals exposed, and reasonable estimates of the number who will be exposed, to such substance or mixture in their places of employment and the duration of such exposure;

`(D) a list of health and safety studies conducted or initiated by or for, known to, or reasonably ascertainable by the manufacturer or processor with respect to the chemical substance or mixture, and copies of any such studies that have not previously been submitted to the Administrator by the manufacturer or processor; and

`(E) all other information known to, in the possession or control of, or reasonably ascertainable by the manufacturer or processor that has not previously been submitted to the Administrator by the manufacturer or processor regarding--

`(i) the physical, chemical, and toxicological properties of the chemical substance or mixture, including classification of the toxicity of the chemical in accordance with the Globally Harmonized System for Hazard Communication;

`(ii) the categories or proposed categories of intended use of each such substance or mixture;

`(iii) the total amount of each substance and mixture manufactured or processed, reasonable estimates of the total amount to be manufactured or processed, the amount manufactured or processed for each of its categories of use, and reasonable estimates of the amount to be manufactured or processed for each of its categories of use or proposed categories of use;

`(iv) a description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture;

`(v) exposure information relating to the chemical substance or mixture;

`(vi) any condition or conditions currently placed on the chemical substance or mixture due to regulation under any Federal law or due to voluntary action; and

`(vii) for a processor of a chemical substance, any information indicating that a mixture including the chemical substance has substance characteristics that are different from the substance characteristics of the named chemical substances, in kind or degree.

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

“(3) DECLARATION OF PERMANENT CESSATION OF MANUFACTURING OR

PROCESSING- A manufacturer or processor that permanently ceases manufacture or processing of a chemical substance or mixture shall file a declaration certifying that the manufacturer or processor has permanently ceased all manufacturing or processing of the chemical substance or mixture, not later than 180 days after cessation is complete. A declaration under this paragraph may be filed based on an intention to permanently cease manufacture or processing, in which case such cessation must be completed not later than 180 days after the declaration is filed.

“(4) UPDATING OF DECLARATION- Each manufacturer or processor of a chemical substance or mixture that submits to the Administrator a declaration required under paragraph (2) shall submit an update of the previously submitted declaration to the Administrator, at a minimum, once every 3 years, and immediately, at any time at which there becomes known or available to, in the possession or control of, or reasonably ascertainable by the manufacturer or processor, significant new information regarding a physical, chemical, toxicological property or use of, or exposure to, the chemical substance or mixture, indicating a new potential adverse effect of the chemical substance or mixture, suggesting an adverse effect at a lower dose than previously demonstrated, or otherwise reasonably relevant to an analysis of whether the chemical substance or mixture meets the safety standard under section 6.

“(5) RECORDS TO SUPPORT DECLARATIONS- Each manufacturer or processor of a chemical substance, substance, or mixture, as applicable, distributed in commerce shall maintain records of the information described in subparagraphs (A) through (E) of paragraph (2).

“(6) PROHIBITION- The Administrator may impose penalties, pursuant to section 16, on a manufacturer or processor in violation of paragraphs (1) or (4), or, by order, prohibit, or otherwise impose conditions under section 6(c), on the manufacture, processing, or distribution in commerce of a chemical substance or mixture, or any article containing such chemical substance or mixture, by a manufacturer or processor in violation of such paragraphs.

“(b) Recordkeeping and Reports-

“(1) The Administrator may, by rule or order, require any person who manufactures, processes, distributes in commerce, uses for commercial purposes, repackages, or disposes of a chemical substance, mixture, or article containing such substance or mixture (other than as described in paragraph (2)) to maintain records of and submit reports by a specified date, to supply any information concerning the chemical substance, mixture, or article containing such substance or mixture that, in the judgment of the Administrator, would assist the Administrator in--

“(A) making a safety standard determination with respect to a chemical substance or mixture under this title; or

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

“(2) With respect to the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research, including any such research or analysis for the development of a product, the Administrator may require a person to maintain

records or submit a report under paragraph (1) only to the extent the Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of this Act.

`(3) The Administrator may impose penalties, pursuant to section 16, on a person in violation of a requirement of a rule or order under paragraph (1) or, by order, prohibit, or otherwise impose conditions under section 6(c), on the manufacture, processing, or distribution in commerce of a chemical substance or mixture, or any article containing such chemical substance or mixture, by a person in violation of such a requirement.';

(7) in subsection (c), as redesignated by paragraph (1) of this section--

(A) in the subsection heading, by inserting `and Categorization' after `Inventory';

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

`(1) INVENTORY- The Administrator shall compile, keep current, publish and enter into the public database established pursuant to subsection (d) a list of each chemical substance, and each mixture for which a declaration is received, which is manufactured or processed in the United States. Such list shall at least include each such chemical substance or mixture which any person reports, under section 5 or subsection (a)(2) of this section, is manufactured or processed in the United States, but shall not include any chemical substance or mixture for which all manufacturers and processors have submitted declarations under subsection (a)(3). In the case of a chemical substance or mixture for which a notice is submitted in accordance with section 5, the date of such notice shall be included in the list under this section, in addition to the date on which the chemical substance or mixture was first added to the list. The Administrator shall first publish such a list not later than 24 months after the effective date of the Toxic Chemicals Safety Act of 2010. The Administrator shall not include in such list any chemical substance or mixture which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or mixture or another substance or mixture, including such research or analysis for the development of a product.'; and

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

`(2) CATEGORIZED INVENTORY- Not later than 5 years after the date of enactment of the Toxic Chemicals Safety Act of 2010, and no less than every 3 years thereafter, the Administrator shall publish in the Federal Register and enter in the public database established pursuant to subsection (d) a list of all chemical substances and mixtures manufactured, processed, or distributed in commerce that categorizes the chemical substances and mixtures, based on existing information available to the Administrator, based upon health or environmental adverse effects, exposure, or other criteria that the Administrator determine appropriate.';

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

`(d) Public Database and Access to Significant Information-

`(1) PUBLIC DATABASE- Not later than 1 year after the date of the enactment of Toxic Chemicals Safety Act of 2010, the Administrator shall establish--

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

`(B) procedures for use in maintaining and updating the database.

`(2) PUBLIC ACCESS TO SIGNIFICANT INFORMATION- Not later than 90 days after the date of any significant decision made by the Administrator or receipt by the Administrator of any significant information submitted pursuant to this title, the Administrator shall, subject to section 14, make available to the public on the public database established pursuant to paragraph (1) such significant decision made by the Administrator under this title or such significant information submitted pursuant to this title.';

(9) in subsection (e), as redesignated by paragraph (3) of this section--

(A) in the subsection heading, by inserting `of Significant Adverse Reactions' after `Records'; and

(B) by inserting `Such records shall be submitted to the Administrator on an annual basis, or immediately upon request by the Administrator.' after the first sentence;

(10) by inserting after subsection (e), as redesignated by paragraph (3) of this section, the following new subsections:

`(f) Disclosures to Commercial Purchasers- Effective 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, all manufacturers and processors of chemical substances and mixtures subject to this section shall provide, with shipment or promptly thereafter and by request, to all known commercial purchasers of the chemical substances and mixtures they manufacture or process a disclosure, subject to section 14, of--

`(1) the chemical identity of the chemical substance or, for mixtures, the chemical identity of all chemical ingredients;

`(2) all information regarding toxicological properties of the chemical substance or mixture submitted to the Administrator under subsection (a);

`(3) the list of health and safety studies submitted to the Administrator under subsection (a), with copies of the individual studies available upon request; and

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

`(g) Information in the Possession of Other Federal Agencies-

`(1) The Administrator may request, and upon such request a Federal agency shall submit to the Administrator, any information in the possession or control of such Federal agency relating to a hazard of, use of, exposure to, or risk of a chemical substance or mixture, or a report, including copies of the data and records in the possession or control of such Federal agency that may be useful to the Administrator in carrying out the purposes of this Act.

`(2) The Administrator shall specify the format, content, and level of detail of any report requested under paragraph (1).

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

`(4) The Administrator shall issue a request pursuant to paragraph (1) to each Federal agency which the Administrator reasonably expects may have information on chemical substances or mixtures that would assist the Administrator in making a safety standard determination for a chemical substance or mixture under this title. Such requests shall be issued by the Administrator not later than 12 months after the date on which the Administrator lists a chemical substance or mixture on the priority list under section 6(a), or, for chemical substances identified in section 6(a)(1)(A), 12 months after enactment of the Toxic Chemicals Safety Act of 2010.'; and

(11) by inserting after subsection (h), as redesignated by paragraph (2) of this section, the following new subsection:

`(i) Certification- Each submission required pursuant to this title, or pursuant to a rule or an order promulgated or issued by the Administrator under this title, other than a submission under subsection (g), shall be accompanied by a certification signed by a responsible official of the submitting party that each statement contained in the submission--

`(1) is accurate and reliable; and

`(2) includes all material facts known to, in the possession or control of, or reasonably ascertainable by the manufacturer or processor.'

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

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

(1) by striking `the manufacture, processing, distribution in commerce, use, or disposal of' after `If the Administrator has reasonable basis to conclude that';

(2) by striking `, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment' and inserting `does not meet the safety standard under section 6(b)';

(3) by striking `such risk may be prevented' and inserting `that the risk associated with the chemical substance or mixture may be prevented';

(4) by striking `describes such risk' and inserting `describes the risk associated with the chemical substance or mixture'; and

(5) in the matter following subparagraph (B)--

(A) by striking `Any report' and inserting `Any such report';

(B) by striking `information on which it is based and shall be published in the Federal Register' and inserting `information on which it is based and shall be promptly published in the Federal Register and entered into the public database established pursuant to section 8(d)';

(C) by inserting `and not more than 180 days' after `but such time specified may not be less than 90 days'; and

(D) by inserting `and entered into the public database established pursuant to section 8(d)' after `conclusions of the agency and shall be published in the Federal Register'.

## **SEC. 10. MIXTURES.**

(a) Mixture Definition and Determination- Section 3 of the Toxic Substances Control Act (15 U.S.C. 2602), as amended by section 3 of this Act, is further amended--

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

`(8) The term `mixture' means any composition of two or more chemical substances if the composition does not occur in nature, and is not, in whole or in part, the result of a chemical reaction.'; and

(2) by inserting after paragraph (b)(2) the following new paragraph:

`(3) The Administrator may determine different mixtures comprised of the same chemical substances to be the same mixture for purposes of this Act, if the substance characteristics of the mixtures are identical. Mixtures which would be considered new mixtures but for grouping under this paragraph shall not be considered new mixtures for purposes of this Act.'.

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

`(3) MIXTURE SURVEY- Not later than 6 years after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall, based on declarations under this section and a survey of processors as necessary and appropriate, characterize the number of mixtures, including mixtures grouped pursuant to paragraph (b)(3) of section 3, introduced into commerce in the United States, and the number of such mixtures that have or may have substance characteristics that are different, in kind or degree, from the substance characteristics of the constituent chemical substances, and shall publish such characterization in the Federal Register and enter it in the public database established in subsection (d).'

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

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

(1) in subsection (a)--

(A) by inserting `commercial' after `establishment, facility, or other';

(B) by striking `premises in which chemical substances, mixtures' and inserting `premises in which chemical substances or mixtures subject to this Act, articles containing such substances or mixtures';

(C) by inserting `and any place where records relating to such chemical substances, mixtures, articles, or products or otherwise relating to compliance with this Act, are held' after `or such articles in connection with distribution in commerce'; and

(D) by adding at the end the following:

`The Administrator, and any duly designated representative of the Administrator, may also inspect and obtain samples of any such chemical substances, mixtures, or articles, and any containers or labeling of such chemical substances, mixtures, or articles.'; and

(2) in subsection (b)--

(A) in paragraph (1), by striking `chemical substances, mixtures, or products' and inserting `chemical substances or mixtures subject to this Act, articles containing such substances or mixtures, or products'; and

(B) in paragraph (2)(E), by inserting `or order' after `rule'.

## **SEC. 12. EXPORTS.**

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

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

(2) in subsection (a), as redesignated by paragraph (1) of this section--

(A) in paragraph (1)--

(i) by striking `or intends to export';

(ii) by striking `or 5(b)';

(iii) by striking `or intent to export' and inserting `not later than 30 days after the date of exportation of the substance or mixture'; and

(iv) by inserting `promptly thereafter' before `furnish';

(B) in paragraph (2)--

(i) by striking `or intends to export';

(ii) by striking `an order has been issued under section 5 or a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted under section 5 or 7' and inserting `a condition has been imposed pursuant to section 6(c)(2) or an action has been taken pursuant to section 7';

(iii) by striking `or intent to export' and inserting `not later than 30 days after the date of exportation of the substance or mixture';

(iv) by inserting `promptly thereafter' before `furnish'; and

(v) by striking `such rule, order, action, or relief' and inserting `such condition imposed pursuant to section 6(c)(2) or such action taken pursuant to section 7'; and

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

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

`(B) The Administrator shall furnish, as promptly as feasible, an updated notice to the governments that have been notified pursuant to paragraphs (1) and (2) regarding the exportation of any chemical substance or mixture subject to this section if--

`(i) new data for such substance or mixture have been received by the Administrator pursuant to section 4, section 5(b), section 8(e), or section 8(h);

`(ii) the Administrator has received notice under subparagraph (A) of a change in the information provided in the original notice; or

`(iii) a change has been made in any conditions imposed pursuant to section 6(c) or section 7 for such substance or mixture.';

(3) in subsection (b), as redesignated by paragraph (1), by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively; and

(4) by adding at the end the following new subsections:

`(c) Chemicals Listed Under the PIC Convention- If any person intends to export to a foreign country a chemical substance or mixture listed in Annex III of the PIC Convention as of the date of enactment of the Toxic Chemicals Safety Act of 2010, such person shall file the notice required under subsection (a) not later than 30 days prior to the date of exportation of such substance or mixture and shall include therein the information required for export under such Convention as of the date of enactment of the Toxic Chemicals Safety Act of 2010.

`(d) Public Records- The Administrator shall maintain copies of all current notices provided to other governments under this section, and make such copies available to the public in electronic format.

`(e) Definition- For purposes of this title, the term `PIC Convention' means the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, adopted in Rotterdam on September 10, 1998, and any subsequent amendment or protocol.'.

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

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

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

(2) by inserting, before subsection (b), as redesignated by paragraph (1) of this section, the following new subsection:

`(a) Duties of Importers- The importer of any chemical substance, mixture, or article containing a chemical substance or mixture for distribution in commerce shall satisfy all requirements under sections 4, 5, 6, and 8 of this Act, without regard to whether the chemical substance or mixture has been formed into or contained in an article prior to importation.';

(3) in subsection (b), as redesignated by paragraph (1) of this section--

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

`(b) Entry- ';

(B) by striking `Secretary of the Treasury' each place it appears and inserting `Secretary of Homeland Security'; and

(C) in paragraph (1), by striking the em dash and subparagraphs (A) and (B) and inserting `the substance, mixture, or article fails to comply with or is offered for entry in violation of any rule or order in effect under this Act.'; and

(4) in subsection (c), as redesignated by paragraph (1) of this section--

(A) by striking `Secretary of the Treasury' and inserting `Secretary of Homeland Security'; and

(B) by striking `subsection (a)' and inserting `subsection (b)'.

## **SEC. 14. DISCLOSURE OF DATA.**

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

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

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

(3) by inserting, before subsection (c), as redesignated by paragraph (1) of this section, the following new subsections:

`(a) Administrator Responsibilities- The Administrator shall ensure that--

`(1) information control designations under this section are not a determinant of public disclosure pursuant to section 552 of title 5, United States Code (commonly referred to as the `Freedom of Information Act'); and

`(2) all information in the Administrator's possession that is releasable pursuant to an appropriate request under section 552 of title 5, United States Code (commonly referred to as the `Freedom of Information Act'), is made available to members of the public.

`(b) Rule of Construction- Nothing in this section shall be construed to prevent or discourage the Administrator from voluntarily releasing to the public any unclassified information that is not exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the `Freedom of Information Act`);

(4) in subsection (c), as redesignated by paragraph (1) of this subsection--

(A) by striking `Except as provided by subsection (b)' and all that follows through `subsection (b)(4) of such section,' and inserting `Except as provided by subsection (d), information submitted to the Administrator pursuant to this Act may be designated for information protection by the submitter of such information based on the submitter's reasonable belief that the information is eligible for protection under section 552 of title 5, United States Code. Information designated for protection under this section';

(B) by inserting `unless the designation is determined to be inappropriate,' after `Administrator or by any officer or employee of the United States,';

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

(D) by adding after paragraph (2) the following new paragraph:

`(3) shall be disclosed upon request to a State, tribal, or municipal government, including identification of the location of the manufacture, processing, or storage of a chemical substance upon the request of the government for the purpose of administration or enforcement of a law, if one or more applicable agreements ensure that the recipient government will take appropriate steps to maintain the confidentiality of the information in accordance with this section and section 350.27 of title 40, Code of Federal Regulations, or any successor to such regulation;'; and

(E) in paragraph (4), as redesignated by subparagraph (C) of this paragraph, by striking `an unreasonable' and inserting `a substantial';

(5) in subsection (d), as redesignated by paragraph (1) of this section--

(A) in the subsection heading, by striking `Data From Health and Safety Studies' and inserting `Information Not Eligible for Protection';

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

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

`(A) The identity of a chemical substance when included in a health and safety study, safety standard determination under section 6(b), or information indicating the presence of the chemical substance in a consumer article intended for use or reasonably expected to be used by children or indicating exposure to the chemical substance in children.

`(B) The components of a mixture, when included in a health and safety study, safety standard determination under section 6(b), or information indicating the presence of the mixture in a consumer article intended for use or reasonably expected to be used by children or indicating exposure to the

mixture in children.

`(C) Any safety standard developed under section 6(b).

`(D) Any health and safety study which is submitted under this Act with respect to--

`(i) any chemical substance or mixture--

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

`(II) for which testing is required under section 4 or for which notification is required under section 5 of this title; and

`(ii) any data reported to, or otherwise obtained by, the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i).

`(E) Any information indicating the presence of a chemical substance or mixture in a consumer article intended for use or reasonably expected to be used by children or indicating exposure to the chemical substance or mixture in children.

This paragraph does not authorize the release of any data which discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the release of data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture.'; and

(C) in paragraph (2)--

(i) by striking `the first sentence of paragraph (1)' and inserting `paragraph (1)(D)'; and

(ii) by striking `in the second sentence of such paragraph' and inserting `in the last sentence of paragraph (1)';

(6) by inserting after subsection (d), as redesignated by paragraph (1) of this section, the following new subsection:

`(e) Guidance- Not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall by order develop and make publicly available guidance that specifies--

`(1) the format for and manner for designating information for protection;

`(2) the acceptable bases on which written requests to protect information under this section may be approved, which shall be no more restrictive of public disclosure than section 552 of title 5, United States Code; and

`(3) the documentation that must accompany such requests.';

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

`(f) Designation and Release of Confidential Information-

`(1) DUTIES OF MANUFACTURERS AND PROCESSORS- In submitting information under this Act, a manufacturer, processor, or distributor in commerce may designate the information which such person believes is entitled to protection under this section, and submit such designated information separately from other information submitted under this Act. A designation under this paragraph shall be accompanied by the appropriate fee under subsection (i), shall be made in writing and in such manner as the Administrator may prescribe, and shall include--

`(A) justification for each claim of confidentiality;

`(B) a certification that the information is not otherwise publicly available; and

`(C) separate copies of all submitted information, with 1 copy containing and 1 copy excluding the information to which the request applies.

Designations shall last for 5 years, at which time the information shall be made public unless the manufacturer or processor has submitted a request for renewal, accompanied by the appropriate fee under subsection (i), made in writing and in such manner as the Administrator may prescribe, including all of the elements required for the initial submission.

`(2) DUTIES OF THE ADMINISTRATOR- The Administrator shall--

`(A) evaluate a representative sample of all submitted designations and requests for renewal within 60 days of their submission to determine whether--

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

`(ii) the designation was accompanied by the appropriate fee, made in writing and in such manner as prescribed by the Administrator, and included the necessary components; and

`(iii) the information is not publicly available;

`(B) release all information previously designated for protection if one or more of the criteria in subparagraph (A) are not found;

`(C) determine whether the criteria in subparagraph (A) were met at the time the designation was made; and

`(D) make such determinations publicly available.

`(3) NOTIFICATION- (A) Except as provided by subparagraph (B), if the Administrator proposes to release for inspection data which has been designated under paragraph (1) but not released under paragraph (2), the Administrator shall notify, in writing and by certified mail, the manufacturer, processor, or distributor in commerce who submitted such information of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, such notice shall be given immediately upon approval of such request by the Administrator. The Administrator shall release the information in accordance with the disclosure and procedural requirements of section 552 of title 5, United States Code.

`(B)(i) Subparagraph (A) shall not apply to the release of information under paragraph (1), (2), (3), (4), or (5) of subsection (c) of this section, except that the Administrator may not release data under paragraph (4) of subsection (c) of this section unless the Administrator has notified each manufacturer, processor, and distributor in commerce who submitted such data of such release. Such notice shall be made in writing by certified mail at least 15 days before the release of such data, except if the Administrator determines that the release of such data is necessary to protect against an imminent risk of injury to health or the environment.

`(ii) Subparagraph (A) shall not apply to the release of information described in subsection (c)(1) of this section other than information described in the last sentence of such subsection.';

(8) in subsection (g), as redesignated by paragraph (2) of this section--

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

`(g) Penalties for Wrongful Designation or Disclosure- ';

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

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

`(1) Any manufacturer or processor whose designation of information for protection under this section is found by the Administrator not to have met the criteria for protection under this section at the time the designation was made may be subject to administrative penalties under section 15.

`(2) Any manufacturer or processor who, knowing that information does not meet the criteria for protection under this section, willfully designates such information for protection, shall be guilty of a misdemeanor and fined not more than \$5,000 or imprisoned for not more than one year, or both.'; and

(D) in paragraph (4), as redesignated by subparagraph (B) of this paragraph--

(i) by striking `paragraph (1)' and inserting `paragraph (3)'; and

(ii) by striking `subsection (a)(2)' and inserting `subsection (c)(2)'; and

(9) by adding at the end the following new subsections:

`(i) Fees- The Administrator may, by rule, require the payment of a reasonable fee from any person designating information for protection under this section or seeking to renew such a designation to defray the cost of administering this section. In setting a fee under this subsection, the Administrator shall take into account the ability to pay of the person designating or seeking renewal and the cost to the Administrator of reviewing such designations.

`(j) Risk Information for Workers- The Administrator shall provide standards for and facilitate the provision of the chemical identity, safety standard determination, health and safety data, and any other information determined by the Administrator to be necessary to ensure worker safety, that pertains to chemical substances or mixtures, that workers may come into contact with or otherwise be exposed to during the course of their work, to such workers and representatives of each certified or recognized bargaining agent representing such workers.'.

## **SEC. 15. PROHIBITED ACTS.**

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

(1) in paragraph (1), by striking `(A)' and all that follows through `under title II' and inserting `any rule, order, prohibition, restriction, or other requirement imposed by this Act or by the Administrator under this Act';

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

`(2) manufacture, process, distribute in commerce, use for commercial purposes, or dispose of a chemical substance or mixture, or an article containing a chemical substance or mixture, which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of any rule, order, prohibition, restriction, or other requirement imposed by this Act or by the Administrator under this Act;

`(3) fail or refuse to (A) establish or maintain accurate and complete records, (B) submit or make accurate and complete reports, notices, disclosures, declarations, certifications, or other information, or (C) permit access to or copying of records, as required by this Act or a rule thereunder;';

(3) in paragraph (4), by striking the final period and inserting `; or'; and

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

`(5) make or submit a statement, declaration, disclosure, certification, data set, or any oral, written, or electronic representation that is materially false, in whole or in part, or to falsify or conceal any material fact, in taking any action or making any communication pursuant to this Act or pursuant to any rule or order promulgated or issued under this Act;

`(6) introduce or deliver for introduction into commerce or knowingly distribute in commerce a chemical substance or mixture, or an article containing a chemical substance or mixture--

`(A) that lacks or fails to comply in any material respect with any applicable labeling requirements imposed pursuant to section 6(c); or

`(B) the label, labeling or advertising of which is misleading in any material respect, including by reason of representations, either explicit or implicit, that the chemical substance or mixture is available for a use other than an intended use; or

`(7) forge, counterfeit, simulate, falsely represent, or use without proper authority any mark, stamp, tag, label, or other identification device authorized or required by this Act or by the Administrator under this Act.'.

## **SEC. 16. PENALTIES.**

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

(1) in subsection (a)--

(A) in paragraph (1)--

(i) by striking `provision of section 15 or 409' and inserting `provision of this Act or a rule promulgated or order issued pursuant to this Act, as described in section 15';

(ii) by striking `\$25,000' and inserting `\$37,500'; and

(iii) by striking `violation of section 15 or 409' and inserting `violation of this Act';

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

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

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

(D) in subparagraph (A) of paragraph (3), as redesignated by subparagraph (B) of this paragraph--

(i) by striking `A civil penalty for a violation of section 15 or 409' and inserting `In any administrative action to assess penalties for a violation described in paragraph (1), a civil penalty for a violation'; and

(ii) by striking `within 15 days of' and inserting `not later than 15 days after';

(E) in paragraph (4), as redesignated by subparagraph (B) of this paragraph--

(i) by striking `paragraph (2)(A)' and inserting `paragraph (3)(A)'; and

(ii) by striking `the United States Court of Appeals for the District of Columbia Circuit or for any other circuit' and inserting `the appropriate district court of the United States for the district'; and

(F) in paragraph (5), as redesignated by subparagraph (B) of this paragraph, by striking `paragraph (3)' each place it appears and inserting `paragraph (4)'; and

(2) in subsection (b)--

(A) by inserting `(1)' before `Any person who';

(B) by inserting `this Act, as described in' before `section 15';

(C) by striking `or 409';

(D) by striking `\$25,000' and inserting `\$50,000';

(E) by striking `one year' and inserting `5 years'; and

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

`(2) Any person who knowingly or willfully violates any provision of this Act and who knows that such violation may result in imminent danger of death or serious bodily injury to any person shall,

upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. A person that is not an individual shall, upon conviction of violating this paragraph, be subject to a fine of not more than \$1,000,000.'

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

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

(1) in subsection (a)--

(A) in paragraph (1)--

(i) in subparagraph (A), by striking `or 409';

(ii) in subparagraph (B), by striking `section 5, 6, or title IV, or by a rule or order under section 5, 6, or title IV' and inserting `this Act or a rule or order promulgated or issued under this Act'; and

(iii) in subparagraph (D)--

(I) by striking `chemical substance, mixture, or product' and inserting `chemical substance or mixture subject to this Act, article containing such substance or mixture, or product';

(II) by striking `of section 5, 6, or title IV' and inserting `of this Act';

(III) by striking `under section 5, 6, or title IV' and inserting `promulgated or issued under this Act, as described in section 15';

(IV) by inserting `, article' before `, or product and, to the extent';

(V) by inserting `, article' before `, or product or exposed to such substance';

(VI) by inserting `, article' before `, or product, (ii) to give'; and

(VII) by inserting `, article' before `, or product, whichever the person to which the requirement'; and

(B) in paragraph (2)--

(i) by striking `A civil action described in paragraph (1)' and inserting `The district courts of the United States shall have jurisdiction over a civil action described in paragraph (1). A civil action'; and

(ii) in subparagraph (A), by inserting `this Act, as described in' before `section 15'; and

(2) in subsection (b), by striking `chemical substance, mixture, or product' and inserting `chemical substance or mixture subject to this Act, or product'.

## **SEC. 18. PREEMPTION.**

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

## **SEC. 18. PREEMPTION.**

Nothing in this Act affects the right of a State or political subdivision of a State or a tribe to adopt or enforce any regulation, requirement, or standard of performance that is different from or in addition to a regulation, requirement, liability, or standard of performance established pursuant to this Act unless compliance with both this Act and the State or political subdivision of a State or tribe regulation, requirement, or standard of performance is impossible.

## **SEC. 19. JUDICIAL REVIEW.**

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

(1) in subsection (a)--

(A) in paragraph (1)--

(i) by striking subparagraph (B);

(ii) by striking '(A)';

(iii) by inserting 'or issuance' after 'promulgation';

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

(v) by inserting 'or order' after 'rule' each place it appears;

(vi) by inserting 'except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for judicial review of such rule or order shall be filed within 60 days after such grounds arise' after 'such person's principal place of business is located';

(vii) by striking '(other than in an enforcement proceeding)'; and

(viii) by striking 'subparagraph' and inserting 'paragraph';

(B) in paragraph (2)--

(i) by striking 'paragraph (1)(A)' and inserting 'paragraph (1)';

(ii) by striking 'rulemaking'; and

(iii) by inserting 'or order' after 'rule'; and

(C) by striking paragraph (3);

(2) in subsection (b), by inserting 'or order' after 'rule' each place it appears; and

(3) in subsection (c)--

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

`(1) Upon the filing of a petition under subsection (a)(1) for judicial review of a rule or order, the court shall have jurisdiction--

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

`(B) to review such rule or order in accordance with chapter 7 of title 5, United States Code.'; and

(B) in paragraph (2), by inserting `or order' after `rule'.

## **SEC. 20. CITIZENS' CIVIL ACTION.**

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

(1) in subsection (a)--

(A) in paragraph (1)--

(i) by striking `under section 4, 5, or 6, or title II or IV,'; and

(ii) by striking `section 5 or title II or IV to restrain such violation' and inserting `this Act'; and

(B) in the matter following paragraph (2), by inserting `, to enforce this Act or any rule promulgated or order issued under this Act, or to order the Administrator to perform an act or duty under this Act which is not discretionary, as the case may be' after `citizenship of the parties'; and

(2) in subsection (b)(1), by striking `to restrain' and inserting `respecting'.

## **SEC. 21. CITIZENS' PETITIONS.**

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

(1) in subsection (a), by striking `under section 4, 6, or 8 or an order under section 5(e) or (6)(b)(2)' and inserting `, order, or any other action authorized under this Act'; and

(2) in subsection (b)--

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

(B) in paragraph (3), by striking `section 4, 5, 6, or 8' and inserting `the applicable provisions of this Act'; and

(C) in paragraph (4)--

(i) in subparagraph (A), by striking `a rulemaking proceeding' and inserting `a proceeding authorized under this Act'; and

(ii) in subparagraph (B)--

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

(II) in clause (i)--

(aa) by inserting `or order' after `issuance of a rule';

(bb) by striking `or an order under section 5(e)'; and

(cc) by striking `an unreasonable' and inserting `a substantial'; and

(III) in clause (ii)--

(aa) by inserting `except as provided in clause (i)' before `in the case of';

(bb) by striking `issuance of a rule under section 6 or 8 or an order under section 6(b)(2)' and inserting `promulgation of a rule, issuance of an order, or imposition or issuance of a restriction or use condition under this Act'; and

(cc) by striking `an unreasonable' and inserting `a substantial'.

## **SEC. 22. EMPLOYEE PROTECTION.**

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

(1) In subsection (a)--

(A) by striking `employer may discharge' and inserting `manufacturer, processor, or distributor may discharge';

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

(C) by inserting before paragraph (2), as redesignated by subparagraph (B) of this paragraph, the following new paragraph:

`(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, the appropriate official of the tribe, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act;';

(D) in paragraph (3), as redesignated by subparagraph (B) of this paragraph--

(i) by inserting `concerning any such violation or' after `testified or is about to testify'; and

(ii) by striking `or' after `Act';

(E) in paragraph (4), as redesignated by subparagraph (B) of this paragraph, by inserting `or' after

`Act'; and

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

`(5) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act.'.

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

`(b) Remedy- (1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, not later than 180 days after the date on which such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the `Secretary') alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

`(2)(A) Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) of this section has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

`(B)(i) The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

`(ii) Notwithstanding a finding by the Secretary that the complainant has made the prima facie showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

`(iii) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

`(iv) Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

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

`(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation--

`(i) to take affirmative action to abate the violation;

`(ii) to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment;

`(iii) to provide compensatory damages; and

`(iv) where appropriate, exemplary damages.

If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

`(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee, not exceeding \$1,000, to be paid by the complainant.

`(4) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including--

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

`(B) the amount of back pay, with interest; and

`(C) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

`(5)(A) Unless the complainant brings an action under paragraph (4), any employee or employer adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the

order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the final order of the Secretary. Such review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

`(B) An order of the Secretary, with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

`(6) Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

`(7)(A) A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

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

`(c) Nondiscretionary Duty- Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

`(d) Deliberate Violation- Subsection (a) shall not apply with respect to an employee of a manufacturer, processor, or distributor who, acting without direction from such manufacturer, processor, or distributor (or such person's agent), deliberately causes a violation or alleged violation of any rule, order, regulation, or safety standard under this Act or any other law enforced by the Administrator.'

## **SEC. 23. EMPLOYMENT EFFECTS.**

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

(1) in subsection (a)--

(A) by striking `continuing' and inserting `periodic'; and

(B) by striking the em dash and paragraphs (1) and (2) and inserting `the implementation of this Act.'; and

(2) in subsection (b)--

(A) in paragraph (1), by striking `section 4, 5, or 6 or a requirement of section 5 or 6' and inserting `this Act';

(B) in paragraph (2)--

(i) in subparagraph (A), by striking 'by order issued' and inserting 'in writing,'; and

(ii) in subparagraph (B)--

(I) in clause (i), by inserting 'and' after the 'such request,'; and

(II) by striking clause (ii) and redesignating clause (iii) as clause (ii); and

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

“(4) This section shall not be construed--

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

“(B) to impose a condition on the Administrator's authority to issue orders or promulgate rules under this Act.’.

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

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

(1) by amending subsection (b) to read as follows:

“(b) Fees- The Administrator shall, by rule, require the payment of a reasonable fee from any person required to submit data under this Act to defray the cost of administering this Act. In setting a fee under this subsection, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for sharing such a fee in any case in which the expenses of data production are shared under this Act.’; and

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

(3) by inserting after subsection (c) the following new subsections:

“(d) Action With Respect to Specific Chemical Substances- Any action authorized under this Act to be taken by the Administrator through rule or order shall be made through order if the action applies to a single chemical substance or single category of chemical substances.

“(e) Action With Respect to Articles Containing a Chemical Substance or Mixture- No action taken under this title with respect to articles containing a chemical substance or mixture shall apply to articles already introduced or delivered for introduction into commerce, unless the action is taken pursuant to section 7 to address an imminent hazard and the Administrator has determined that action against articles introduced or delivered for introduction into commerce is necessary to protect health or the environment.’; and

(4) by adding at the end the following new subsection:

(j) Rulemaking- In carrying out this Act, the Administrator is authorized to prescribe such regulations as are necessary to carry out this Act.'

## **SEC. 25. STATE PROGRAMS.**

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

(1) in subsection (a)--

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

(a) State Grants- ';

(B) before 'For the purpose of complementing', by inserting the following:

(1) IN GENERAL- ';

(C) by inserting 'and tribes' after 'may make grants to States';

(D) by striking 'unreasonable risks within the States' and inserting 'risks within the States and tribes';

(E) by striking 'is unable or is not likely to take' and inserting 'has not taken'; and

(F) by inserting 'or tribe' after 'no grant for any State';

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

(3) in paragraph (2), as redesignated by paragraph (2) of this section--

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

(B) in subparagraph (A), as redesignated by subparagraph (A) of this paragraph--

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

(ii) in clause (ii), as redesignated by clause (i), by inserting 'or tribe'; and

(iii) by striking 'subsection (a)' each place it appears and inserting 'paragraph (1)';

(C) in subparagraph (B), as redesignated by subparagraph (B) of this paragraph--

(i) by striking 'paragraph (1)' and inserting 'subparagraph (A)';

(ii) by inserting 'or tribe' after 'State' each place it appears; and

(iii) by striking 'including cancer, birth defects, and gene mutations,';

(4) in paragraph (3), as redesignated by paragraph (2) of this section, by striking 'subsection (a)' and inserting 'this subsection';

(5) in paragraph (4), as redesignated by paragraph (2) of this section, by striking `subsection (a)' and inserting `this subsection'; and

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

`(b) State Coordination- Not later than 18 months after enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall establish a process to coordinate with State and tribal governments, on an on-going basis, to share data and priorities relating to the management of chemical substances and mixtures under this title and under programs operated by States and tribes, in keeping with requirements of section 14. The areas for coordination shall include the following:

`(1) Grant funding under subsection (a).

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

`(3) Development of a process by which confidential business information may be shared with the States under section 14.

`(4) Development of action plans under section 38(d).'

## **SEC. 26. AUTHORIZATION FOR APPROPRIATIONS.**

(a) Authorization- Section 29 of the Toxic Substances Control Act (15 U.S.C. 2628) is amended to read as follows:

## **`SEC. 29. AUTHORIZATION FOR APPROPRIATIONS.**

`There are authorized to be appropriated to the Administrator to carry out this Act such sums as necessary for each of fiscal years 2011 through 2018.'

## **SEC. 27. ADDITIONAL REQUIREMENTS.**

(a) Additional Requirements- The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding after section 31 the following new sections:

## **`SEC. 32. CHEMICAL SUBSTANCES AND MIXTURES THAT ARE PERSISTENT, BIOACCUMULATIVE, AND TOXIC.**

`(a) Identification- Not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall by rule establish criteria to identify chemical substances and mixtures that are persistent, bioaccumulative, and toxic, or are degraded or metabolized into chemical substances that are persistent, bioaccumulative, and toxic, and for which there is documented evidence of exposure to humans or the environment.

`(b) Publication- Not later than 6 months after the promulgation of the rule under subsection (a), and every 3 years thereafter, the Administrator shall publish a list of all chemical substances and mixtures that meet those criteria, based on available scientific information.

`(c) Risk Management-

`(1) EXPEDITED EXPOSURE REDUCTION- As promptly as feasible and not later than 18 months after the listing of a chemical substance or mixture under subsection (b), the Administrator shall impose conditions authorized under section 6(c) on the manufacture, processing, use, distribution in commerce, and disposal of such chemical substance or mixture necessary to achieve the greatest practicable reductions in exposure to the chemical substance or mixture.

`(2) RESIDUAL RISK ASSESSMENT- Within one year after the effective date of such conditions, the Administrator shall determine whether the chemical substance or mixture meets the safety standard with the conditions imposed, taking into account the residual risk posed by continued exposure to the chemical substance or mixture, and shall impose any further conditions authorized under section 6(c) necessary to ensure that the chemical substance or mixture meets the safety standard.

`(d) Manufacturer Duties-

`(1) NO MINIMUM DATA SET- Notwithstanding the requirements of section 4(a) of this title, manufacturers and processors of chemical substances or mixtures listed pursuant to subsection (b) shall not be required to submit a minimum data set for such chemical substances or mixtures, unless requested to do so by the Administrator.

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

`(e) New Chemical Substances and New Uses-

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

`(2) For each chemical substance or mixture identified in paragraph (1), and for any proposed new use of a chemical substance subject to section 5(a)(1) that is identified in subsection (b), the Administrator shall allow manufacture, processing, and distribution in commerce of the substance only for a use which the Administrator determines meets the requirements of section 6(e).

**`SEC. 33. CHILDREN'S ENVIRONMENTAL HEALTH.**

`(a) Children's Environmental Health Research-

`(1) IN GENERAL- Subject to amounts made available in advance in appropriations Acts, the Administrator shall enter into contracts and make grants to further understanding of the vulnerability of children to chemical substances.

`(2) CONSULTATION- Contracts and grants under this section shall be made in consultation with Science Advisory Board on Children's Health and Toxic Substances established under subsection (b) and the Children's Health Protection Advisory Committee established in response to Executive Order 13045.

`(b) Science Advisory Board on Children's Health and Toxic Substances-

`(1) ESTABLISHMENT- Not later than 90 days after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall consult with the head of any other appropriate Federal agency to establish an advisory board to be known as the `Science Advisory Board on Children's Health and Toxic Substances'. The Board, and any subcommittee thereof, shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

`(2) PURPOSES- The purposes of the Science Advisory Board on Children's Health and Toxic Substances shall be to provide independent advice, expert consultation, and peer review upon the request of the Administrator on the scientific and technical aspects of issues relating to the implementation of this title with respect to protecting children's health under this Act.

`(3) COMPOSITION- The Administrator shall--

`(A) appoint the members of the Board, including, at a minimum, one employee of--

`(i) the National Institute of Environmental Health Sciences;

`(ii) the Centers for Disease Control and Prevention;

`(iii) the National Toxicology Program;

`(iv) the National Cancer Institute;

`(v) the National Tribal Science Council; and

`(vi) not fewer than 3 centers of children's health at leading universities;

`(B) ensure that at least 1/3 of the members of the Board have specific scientific expertise in the relationship of chemical exposures to prenatal, infant, and children's health; and

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

`(4) DISCLOSURE-

`(A) The Administrator shall make publicly available in accordance with subparagraph (B) the following information:

`(i) A description of the process used to establish and appoint the members of the advisory committee, including the following:

`(I) The process for identifying prospective members.

`(II) The process of selecting members for balance of viewpoints or expertise.

`(ii) A list of all current members, including, for each member, the following:

`(I) The name of any person or entity that nominated the member.

- `(II) The reason the member was appointed to the committee.
- `(III) Whether the member is designated as a special government employee or a representative.
- `(IV) In the case of a representative, the individuals or entity whose viewpoint the member represents.
- `(iii) A list of all members designated as special government employees for whom written certifications were made under section 208(b) of title 18, United States Code, a summary description of the conflict necessitating the certification, and the reason for granting the certification.
- `(iv) Transcripts or audio or video recordings of all meetings of the committee.
- `(v) Any additional information considered relevant by the head of the agency to which the advisory committee reports.
- `(B)(i) Except as provided in clause (ii), the Administrator shall make the information required to be disclosed under subparagraph (A) available electronically on the official public internet site of the agency at least 15 calendar days before each meeting of an advisory committee. If the Administrator determines that such timing is not practicable for any required information, the information shall be made available as soon as practicable but no later than 48 hours before the next meeting of the committee. The Administrator may withhold from disclosure any information that would be exempt from disclosure under section 552 of title 5, United States Code.
- `(ii) The Administrator shall make available electronically, on the official public internet site of the agency, a transcript or audio or video recording of each advisory committee meeting not later than 30 calendar days after the meeting.
- `(c) Biomonitoring-
- `(1) STUDY-
- `(A) If, through studies performed pursuant to grants and contracts under subsection (a), testing or biomonitoring under section 4, or other available research, the Administrator identifies a chemical substance (or a metabolite or degradation product of such substance) that is likely to be present in human biological media at a level above that normally found in such media that is likely to have adverse effects on early childhood development, the Administrator shall, except as provided in subparagraph (B), coordinate with the Secretary of Health and Human Services to conduct, not later than 2 years after the date on which the Administrator makes such identification, a biomonitoring study to determine the presence of the chemical substance in human biological media in, at a minimum, pregnant women and infants.
- `(B) A biomonitoring study under subparagraph (A) shall not be required if--
- `(i) the Administrator determines that the chemical substance is already subject to equivalent testing;
- `(ii) the Administrator has determined that the chemical substance meets the safety standard; or
- `(iii) a safety standard determination is pending, and the Administrator determines that such a study is not required to complete the determination.

`(2) PUBLICATION- Upon completion of any biomonitoring study conducted pursuant to paragraph (1), the Administrator shall publish the results of the study on the public database established pursuant to section 8(d).

`(3) POSITIVE RESULTS-

`(A) DISCLOSURE- Whenever a chemical substance or mixture (or a metabolite or degradation product of such substance or mixture) is determined to be present in human biological media in a biomonitoring study conducted pursuant to paragraph (1), the manufacturers and processors of such chemical substance or mixture shall, not later than 180 days after the date of publication of such study, disclose to the Administrator, commercial customers of the manufacturers and processors, consumers, and the public--

`(i) all known uses of the chemical substance or mixture; and

`(ii) all articles in which the chemical substance or mixture is or is expected to be present.

`(B) COST AND FORM OF DISCLOSURE- Information under clauses (i) and (ii) of subparagraph (A) shall be--

`(i) added to the public database established pursuant to section 8(d); and

`(ii) made readily accessible and free of charge by each applicable manufacturer and processor in electronic format to the commercial customers of such manufacturer or processor, consumers, and the public.

## **`SEC. 34. REDUCTION OF ANIMAL-BASED TESTING.**

`(a) Duties of the Administrator- The Administrator shall take action to minimize the use of animals in testing of chemical substances or mixtures, including--

`(1) encouraging and facilitating, where practicable--

`(A) use of existing data of sufficient scientific quality;

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

`(C) grouping of 2 or more chemical substances into scientifically appropriate categories where testing of one chemical substance will provide reliable and useful data on others in the category;

`(D) formation of industry consortia to jointly conduct testing to avoid unnecessary duplication of tests; and

`(E) parallel submission of data from animal-based studies and from emerging methods and models;

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

`(3) in consultation with the Interagency Coordinating Committee on the Validation of Alternative Methods, and after providing an opportunity for public comment, developing a strategic plan to promote the development and implementation of alternative test methods and testing strategies to generate information used for safety standard determinations under section 6(b) that do not use animals, including toxicity pathway-based risk assessment, in vitro studies, systems biology, computational toxicology, bioinformatics, and high-throughput screening; and

`(4) biennially reporting to Congress on progress made in implementing this section.

`(b) List of Methods- Not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, and triennially thereafter, the Administrator, in consultation with the Interagency Coordinating Committee on the Validation of Alternative Methods, shall publish a list of demonstrated testing methods that reduce the use of animals in testing.

`(c) Criteria for Adapting or Waiving Animal Testing Requirements- Upon request from a manufacturer or processor that is required to conduct animal-based testing of a chemical substance or mixture under this title, the Administrator may adapt or waive such requirement in part or in whole if the Administrator determines that--

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

`(2) testing for a specific adverse effect is technically not practicable to conduct as a consequence of the substance characteristics; or

`(3) a chemical substance or mixture cannot be tested in animals at concentrations that do not result in significant pain or distress as a consequence of the substance characteristics, such as potential to cause severe corrosion or severe irritation to tissues.

A waiver under this subsection does not waive the duty of the manufacturer or processor to demonstrate that the chemical substance or mixture meets the safety standard under section 5(a) or section 6(b).

## **`SEC. 35. SAFER ALTERNATIVES AND GREEN CHEMISTRY AND ENGINEERING.**

`(a) Safer Alternatives-

`(1) INCENTIVES- Not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall, after notice and opportunity for comment, establish a program to create incentives for the development of safer alternatives to existing chemical substances and mixtures that reduce or avoid the use and generation of hazardous chemical substances or mixtures. The program under this paragraph shall include--

`(A) recognition for a chemical substance or mixture, an article containing such substance or mixture, or a non-chemical alternative, determined by the Administrator under paragraph (2) to be a safer alternative for all intended uses or for a particular use of an existing chemical substance or mixture by means of a special designation intended for use in marketing the safer alternative, and periodic public awards; and

`(B) such other financial or non-financial incentives as the Administrator considers to be appropriate to encourage the development, marketing, and use of chemical substances or mixtures, articles containing such substances or mixtures, or non-chemical alternatives, determined by the Administrator to be safer alternatives for all uses or for particular uses of existing chemical substances or mixtures.

`(2) SAFER ALTERNATIVE ASSESSMENT- Any person seeking approval for a safer alternative under this section shall submit to the Administrator an application, including the safer alternative data set described in subparagraph (A) and shall bear the burden of demonstrating that the safer alternative standard is met, pursuant to subparagraph (B).

`(A) SAFER ALTERNATIVE DATA SET- Not later than one year after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall establish, by rule, the data that constitute the safer alternative data set. The rule shall identify the information that the Administrator determines will be useful for the safer alternative standard determination under subparagraph (B) and shall include--

`(i) chemical identity for the applicant alternative chemical substance or mixture, article containing such substance or mixture, or non-chemical alternative and the chemical substance or mixture targeted for substitution;

`(ii) the proposed use, if applicable, or all intended uses of the applicant alternative;

`(iii) substance characteristics, toxicological properties, and biological and environmental fate and transport data for the applicant alternative;

`(iv) known and potential exposures for the applicant alternative;

`(v) a comparative analysis of the applicant alternative and the chemical substance or mixture targeted for substitution based on the best publicly-available science on the targeted substance demonstrating that the applicant alternative will involve lower hazard, lower exposure, or both; and

`(vi) a demonstration that the applicant alternative is effective for the proposed use or for all intended uses, as applicable.

The rule shall require any person applying for approval of a safer alternative to submit the safer alternative data set, and may provide a form for such application.

`(B) SAFER ALTERNATIVE STANDARD DETERMINATION- The Administrator shall, following the submission of a safer alternative data set pursuant to subparagraph (A), approve the applicant alternative chemical substance or mixture, article containing such substance or mixture, or non-chemical alternative for the proposed use or uses if the Administrator determines that the proposed alternative is effective for the proposed use or uses and--

`(i) provides a reasonable certainty of no harm from the aggregate exposure to the alternative substance from intended uses, including to vulnerable populations, and protects the public welfare, considering the lifecycle of the alternative substance and cumulative exposures and other relevant considerations, and, when compared to the chemical substance or mixture targeted for substitution--

`(I) reduces the potential for harm to human health or the environment;

`(II) has been shown not to be persistent or bioaccumulative, while the chemical substance or mixture targeted for substitution has not; or

`(III) does not require the use of hazardous, persistent, or bioaccumulative substances during its manufacture or processing, while the chemical substance or mixture targeted for substitution does; or

`(ii) in the case that the applicant alternative cannot provide a reasonable certainty of no harm from the aggregate exposure to the alternative substance from intended uses, including to vulnerable populations, and protect the public welfare, considering the lifecycle of the alternative substance and cumulative exposures and other relevant considerations, the chemical substance or mixture targeted for substitution had been granted or would qualify for a critical use exemption under section 6(e) and the applicant alternative chemical substance or mixture, article containing such substance or mixture, or non-chemical alternative, when compared to the chemical substance or mixture targeted for substitution--

`(I) reduces the potential for harm to human health or the environment;

`(II) has been shown not to be persistent or bioaccumulative, while the chemical substance or mixture targeted for substitution has not; or

`(III) does not require the use of hazardous, persistent, or bioaccumulative substances during its manufacture or processing, while the chemical substance or mixture targeted for substitution does.

Any applicant alternative approved under this section shall be exempt from the requirements of sections 4, 5, and 6 for the uses considered and approved in the approval under this section, except that any approval under this section shall expire after 15 years, at which time a renewal will be required pursuant to section 6(b).

`(C) CONSIDERATION IN DETERMINATION- Any safer alternative standard determination made under this subsection shall be considered by the Administrator in making a safety standard determination under section 6(b) or in granting an exemption under section 6(e) for the chemical substance or mixture targeted for substitution by the application under this subsection.

`(b) Green Chemistry-

`(1) GREEN CHEMISTRY RESEARCH NETWORK- Not later than 2 years after the date of enactment of the Toxic Chemicals Safety Act of 2010, and subject to amounts made available in advance in appropriations Acts, the Administrator shall establish an interdisciplinary network of regional centers, to support the research, development, and adoption of safer alternatives to existing chemical substances and mixtures, particularly chemical substances and mixtures listed on the priority list under section 6(a).

`(2) GREEN CHEMISTRY AND ENGINEERING RESEARCH- Subject to amounts made available in advance in appropriations Acts, the Administrator shall make grants and enter into contracts to promote and support the research, development, and adoption of safer alternatives to existing chemical substances and mixtures.

`(3) GREEN CHEMISTRY WORKFORCE EDUCATION AND TRAINING PROGRAM-

`(A) ESTABLISHMENT OF PROGRAM- The Administrator shall establish a program to facilitate the development of a workforce, including industrial and scientific workers, that produces safer alternatives to existing chemical substances and mixtures.

`(B) GOALS- The goals of the program established under subparagraph (A) are to provide workforce training on skills that will--

`(i) facilitate the expansion of green chemistry in the United States to create new and safer jobs;

`(ii) develop a scientifically and technically trained green chemistry workforce in the United States;

`(iii) inform and engage communities about green chemistry; and

`(iv) promote innovation and strong public health and environmental protections.

`(C) IMPLEMENTATION- The Administrator shall, subject to amounts made available in advance in appropriations Acts, implement the program established under subparagraph (A) to achieve the goals under subparagraph (B), including by--

`(i) promoting the development of a broad range of skills relevant to the production and use of safer alternatives to existing chemical substances and mixtures, including their design, manufacturing, and use and disposal;

`(ii) developing partnerships with educational institutions, training organizations, private sector companies, community organizations, labor unions, and other non-profit organizations; and

`(iii) in coordination with the Secretary of Labor and the Secretary of Energy, providing grants to State and local governments and to the partnerships established pursuant to clause (ii) to promote and support activities consistent with achieving the goals under subparagraph (B).

## **`SEC. 36. INTERNATIONAL COOPERATION AND AGREEMENTS.**

`(a) Cooperation- In coordination with the Secretary of State and the head of any other Federal agency, as appropriate, the Administrator shall cooperate with any international effort which the Administrator determines has broad international support and a reasonable expectation of success--

`(1) to develop a common protocol or electronic database relating to chemical substances and mixtures; or

`(2) to develop safer alternatives for chemical substances and mixtures.

`(b) Prohibition-

`(1) PROHIBITION- Except as provided in paragraph (2), notwithstanding any other provision of law, effective 3 years after the date of enactment of the Toxic Chemicals Safety Act of 2010, no person shall manufacture, process, distribute in commerce, use for commercial purposes, or dispose of the following chemical substances, except in a manner determined by the Administrator to be protective of health and the environment:

`(A) Hexabromobiphenyl.

`(B) Hexachlorobenzene.

`(C) Hexabromodiphenyl ether and Heptabromodiphenyl ether and congeners in the commercial OctaBDE mixture.

`(D) Pentachlorobenzene.

`(E) Tetrabromodiphenyl ether and pentabromodiphenyl ether and congeners in the commercial PentaBDE mixture.

`(2) EXCEPTION- If the United States deposits its instrument of ratification for the Stockholm Convention, the PIC Convention, or the LRTAP POPs Protocol before the prohibition under paragraph (1) has taken effect, the effective date of the prohibition shall be determined in keeping with the requirements of the applicable agreement.

`(c) Notice of Restrictions Under International Agreements- Not later than 60 days after the enactment of the Toxic Chemicals Safety Act of 2010, the Administrator, in consultation with the Secretary of State, shall publish in the Federal Register a notice of the chemical substances or mixtures that are subject to the Stockholm Convention, the PIC Convention, and the LRTAP POPs Protocol, including conditions or restrictions relating to such chemical substances or mixtures imposed by such agreements or by foreign governments pursuant to such agreements.

`(d) Implementing Agreements- In consultation with the Secretary of State and the head of any other appropriate Federal agency (as determined by the Administrator), the Administrator shall implement the provisions of international agreements (and any subsequent amendment to such agreements) related to chemical substances and mixtures to which the United States becomes a party. Such implementation shall provide notice at each step in the listing and delisting process as required in such agreements and include requirements that:

`(1) Not later than 30 days after the United States deposits its instrument of ratification for the Stockholm Convention, the PIC Convention, the LRTAP POPs Protocol, or any other international agreement related to chemical substances and mixtures, or not later than 30 days after the listing of any chemical substance or mixture subsequently added under such an instrument has entered into force for the United States, (whichever occurs earlier), the Administrator shall provide public notice of the chemical substances or mixtures that are subject to that agreement, and shall provide similar public notice of any chemical substance or mixture subsequently added under such agreement. In providing such notice, the Administrator may specify the applicable requirements for individual chemical substances or mixtures.

`(2) Whenever a chemical substance or mixture is proposed for listing under an international agreement to which the United States is a party, the Administrator shall publish in the Federal Register a notice that--

`(A) includes any relevant toxicity, exposure, and risk information related to the chemical substance or mixture known to the Administrator, as well as any domestic activities involving the chemical substance or mixture known to the Administrator;

`(B) includes a summary of the process, under the international agreement, for the listing or delisting step that was taken, including criteria applied in that process and records generated by the international body during that process;

`(C) requires any person that manufactures, processes, distributes in commerce, uses, or disposes of the chemical substance or mixture to provide to the Administrator any information that the Administrator determines to be necessary to assist the United States in its consideration of the proposal; and

`(D) provides an opportunity for public comment on the proposed listing of the chemical substance or mixture.

The comments and information received under this paragraph shall be placed in a public docket and shall be considered in the Administrator's review of the proposal.

`(3) Any chemical substance or mixture listed under an international agreement to which the United States is a party that is not already subject to conditions under section 6(c) or already listed on the priority list under section 6(a) shall be promptly added to the priority list under section 6(a).

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

`(e) Rules- The Administrator may promulgate such rules as the Administrator determines necessary to cooperate with international efforts pursuant to subsection (a) and to implement international agreements related to chemical substances and mixtures pursuant to subsection (d).

`(f) Effect on Other Provisions of Law- Nothing in this section shall affect the authority of the Administrator to regulate a chemical substance or mixture under any other provision of law, provided that such regulation--

`(1) is not less stringent than actions prescribed by this section; and

`(2) does not impair the ability of the United States to comply with obligations under international agreements (and any subsequent amendment to such agreements) related to chemical substances and mixtures to which the United States becomes a party.

`(g) Definitions- In this section:

`(1) LRTAP CONVENTION- The term `LRTAP Convention' means the Convention on Long-Range Transboundary Air Pollution, adopted in Geneva on November 13, 1979, and any subsequent amendment or protocol.

`(2) LRTAP POPS PROTOCOL- The term `LRTAP POPs Protocol' means the Protocol on Persistent Organic Pollutants to the LRTAP Convention, adopted in Aarhus on June 24, 1998, and any subsequent amendment.

`(3) STOCKHOLM CONVENTION- The term `Stockholm Convention' means the Stockholm Convention on Persistent Organic Pollutants adopted in Stockholm on May 22, 2001, and any subsequent amendment or protocol.

## **SEC. 37. DATA QUALITY.**

Not later than 18 months after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall, by order, after notice and opportunity for comment, establish and implement procedures to ensure data quality under this Act including, at a minimum, requirements that--

(1) not less than annually, the Administrator randomly inspect commercial and private laboratories that develop the data required under this title;

(2) annually, the Administrator perform a comprehensive data audit on a subset, as selected by the Administrator, of the data submissions under this title;

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

(4) the submitter of any study conducted by a third party in response to requirements under this title disclose to the Administrator and the public, at the time of submission, the sources of any funding used for the conduct or publication of the study received by the researchers who conducted the study.

## **SEC. 38. HOT SPOTS.**

(a) Criteria- Not later than 1 year after the date of enactment of the Toxic Chemicals Safety Act of 2010, the Administrator shall promulgate a rule to--

(1) establish criteria for the determination of disproportionate exposure, which shall include criteria for identification of average exposure levels in the United States and criteria for identification of exceedences that are significant based on their potential impact on health or the environment;

(2) establish criteria to identify any locality that is disproportionately exposed; and

(3) develop a method for data collection on and categorization of patterns of disproportionate exposure and associated adverse effects.

(b) Identification-

(1) IN GENERAL- Not later than 18 months after promulgation of the rule under subsection (a), the Administrator shall identify localities within the United States subject to disproportionate exposure.

(2) USE OF DATA- In identifying localities under paragraph (1), the Administrator--

(A) shall use data contained in the National Air Toxic Assessment Database; and

(B) may use other data available to the Administrator, including data developed pursuant to--

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

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

`(iii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

`(iv) the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.); and

`(v) the National Environmental Public Health Tracking program at the Centers for Disease Control and Prevention.

`(3) PUBLIC PARTICIPATION- The Administrator shall provide an opportunity for State, local, and tribal governments and members of the public to nominate localities for which there may be disproportionate exposure for inclusion in the identification of localities under paragraph (1).

`(c) Hot Spot List-

`(1) IN GENERAL- Not later than 180 days after completing the identification of localities under subsection (b)(1), the Administrator shall, after notice and consultation with all applicable State, local, and tribal health and environmental officials, legislators and other elected officials, and members of the public, publish a list of the localities subject to disproportionate exposure identified pursuant to such subsection in the Federal Register and make such list available electronically. The initial list shall include at least 20 localities.

`(2) UPDATING- Not later than 5 years after the date of publication of the list under paragraph (1), and at least once every 5 years thereafter, the Administrator shall update and republish such list. The Administrator may update and republish such list to add new localities that meet the criteria under subsection (a), or to remove localities when the Administrator determines that the percentage exposure reduction goal for such a locality established pursuant to subsection (d) has been achieved and no further action is needed. The Administrator shall notify all applicable State, local, and tribal health and environmental officials, legislators and other elected officials, and members of the public of such an updated listing.

`(d) Action Plans- Not later than 1 year after publishing or updating the list under subsection (c), the Administrator shall coordinate with State, local, and tribal governments and members of the public to develop, for each locality identified on the list, an action plan to reduce disproportionate exposure within such locality. Each such action plan shall include--

`(1) identification of the chemical substances and mixtures that contribute to the disproportionate exposure (including exposure levels, sources, and pathways);

`(2) a description of actions to be undertaken by the Administrator or State, local, or tribal governments, to reduce disproportionate exposure within the locality;

`(3) a percentage exposure reduction goal for each chemical substance and mixture identified under paragraph (1); and

`(4) a timeline to achieve the percentage exposure reduction goal under paragraph (3).

`(e) Report to Congress- Beginning on the date that is one year after the development of the first action plan under subsection (d), and annually thereafter, the Administrator shall--

`(1) prepare and submit to Congress an annual report identifying--

`(A) each locality added to the list in the prior year under subsection (c);

`(B) each action plan developed in the prior year under subsection (d);

`(C) the progress on each action plan to date; and

`(D) the reasons why any timelines for percentage exposure reductions were not met and the revised timeline for meeting those reductions; and

`(2) make the report available to the public in the public database established under section 8(d).

`(f) Locality- In this section, the term 'locality' means any geographical area in which the Administrator identifies disproportionate exposure and may include a county, city, town, neighborhood, census tract, zip code, or other commonly understood political or geographical subdivision.

## **`SEC. 39. EXEMPTION FOR CHEMICAL SUBSTANCES OR MIXTURES BASED ON INTRINSIC PROPERTIES.**

`(a) Authority to Exempt Certain Chemical Substances and Mixtures Based on Intrinsic Properties- If the Administrator determines that scientific consensus exists that the intrinsic properties of a chemical substance or mixture are such that it does not and would not pose any risk of injury to health or the environment under any current, proposed, or anticipated levels of production, patterns of use, or exposures arising at any stage across the lifecycle of the substance or mixture, the Administrator may, by order, exempt the substance or mixture, or particular uses of the substance or mixture, from one or more of the requirements of sections 4, 5, 6 and 8 of this Act. A determination under this section shall be based on consideration of the intrinsic properties of the substance or mixture, and shall not be based on findings or assumptions of low human or environmental exposure to the substance or mixture.

`(b) Notice of Determination and Exemption- Within 30 days of determining and exempting, pursuant to subsection (a), a chemical substance or mixture, or a particular use of a chemical substance or mixture, the Administrator shall publish in the Federal Register, and shall add to the public database established pursuant to section 8(d), a notice that provides the specific identity of the chemical substance or mixture, and, for a particular use determined and exempted under subsection (a), the particular use of the substance or mixture, that the Administrator has determined and exempted under subsection (a) and that explains and documents the basis for the Administrator's determination and exemption.

`(c) Reconsideration of Determination and Exemption-

`(1) IN GENERAL- The Administrator may reconsider and revoke or modify any determination or exemption under subsection (a) at any time if the Administrator determines that the conditions of subsection (a) are no longer met, or that such action is necessary to protect human health or the environment or is otherwise in the public interest. In the event of such revocation or modification, the Administrator shall provide public notice of the grounds for that determination and publish such notice on the public database established pursuant to section 8(d).

`(2) EFFECTIVE DATE- Any revocation or modification undertaken pursuant to this subsection shall not take effect prior to the date that is one year after public notice of the determination, unless an earlier effective date is necessary to protect human health or the environment.

`(d) Prior Regulatory Exemptions- Not later than one year after the date of enactment of the Toxic Chemicals Safety Act of 2010, exemptions granted by the Administrator pursuant to section 5(h)(4) of this Act prior to the date of enactment of the Toxic Chemicals Safety Act of 2010, as such section was in effect before such date of enactment, shall be reviewed by the Administrator and continued in effect under the authority granted by this section, as appropriate. Such an exemption shall continue to be in effect until such date as the Administrator determines, by order, that--

`(1) the exemption is not authorized or not appropriate under this section, at which time the exemption shall cease to be in effect; or

`(2) the exemption is authorized and appropriate under this section, at which time the Administrator may issue an order to modify or continue in effect the exemption pursuant to subsection (a).

`(e) No Limitation on Authority- Nothing in this section shall be construed to limit or otherwise affect the Administrator's authority under any other provision of this Act.

## **`SEC. 40. APPLICATION OF THIS ACT TO FEDERAL AGENCIES.**

`(a) In General- Except as provided in subsection (e), each Federal agency, and any officer, agent, or employee thereof, shall be subject to, and comply with, all applicable requirements of this Act, both substantive and procedural, in the same manner, and to the same extent, as any person subject to such requirements. The substantive and procedural requirements referred to in this subsection include--

`(1) any rule or order;

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

`(3) any requirement for reporting;

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

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

`(b) Waiver of Immunity- The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any substantive or procedural requirement referred to under subsection (a).

`(c) Civil Penalties- No agent, employee, or officer of the United States shall be personally liable for any civil penalty under this Act with respect to any act or omission within the scope of the official duties of the agent, employee, or officer.

`(d) Criminal Sanctions- An agent, employee, or officer of the United States shall be subject to any criminal sanction (including any fine or imprisonment) under this Act, but no Federal agency shall be

subject to any such sanction.

`(e) Exemption-

`(1) IN GENERAL- If the President determines it is in the paramount interest of the United States, the President may grant an exemption for any Federal agency from compliance with any requirement of this Act.

`(2) LACK OF APPROPRIATION- No exemption shall be granted under paragraph (1) due to lack of appropriation unless the President has specifically requested such appropriation as a part of the budgetary process and the Congress has failed to make available such requested appropriation.

`(3) PERIOD OF EXEMPTION- Any exemption granted under paragraph (1) shall be for a period of not more than 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination that such exemption is in the paramount interest of the United States.

`(4) REPORT- Annually after the date of enactment of the Toxic Chemicals Safety Act of 2010, the President shall report to the Congress all exemptions under this subsection granted during the preceding calendar year, together with the reason for granting each such exemption.

`(f) Administrative Enforcement Actions-

`(1) IN GENERAL- The Administrator may commence an administrative enforcement action against any Federal agency pursuant to the enforcement authorities contained in this Act. The Administrator shall initiate an administrative enforcement action against such agency in the same manner and under the same circumstances as an action would be initiated against another person. Any voluntary resolution or settlement of an administrative enforcement action shall be set forth in a consent order.

`(2) FINAL- No administrative order issued to a Federal agency shall become final until such agency has had the opportunity to confer with the Administrator.'.

(b) Conforming Amendment- The table of contents for the Toxic Substances Control Act is amended by adding after the item relating to section 31, the following new items:

`Sec. 32. Chemical substances and mixtures that are persistent, bioaccumulative, and toxic.

`Sec. 33. Children's environmental health.

`Sec. 34. Reduction of animal-based testing.

`Sec. 35. Safer alternatives and green chemistry and engineering.

`Sec. 36. International cooperation and agreements.

`Sec. 37. Data quality.

`Sec. 38. Hot spots.

`Sec. 39. Exemption for chemical substances or mixtures based on intrinsic properties.

`Sec. 40. Application of this Act to Federal agencies.'.

*END*