

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

S. 847

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by _____

Viz:

1 Beginning on page 16, strike line 1 and all that fol-
2 lows through page 92, line 14, and insert the following:

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

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

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

9 **“(a) MINIMUM INFORMATION SETS.—**

10 **“(1) RULE.—**

11 **“(A) IN GENERAL.—**Subject to subpara-
12 **graphs (B) and (C), and not later than 1 year**

1 after the date of enactment of the Safe Chemi-
2 cals Act of 2011, the Administrator shall estab-
3 lish, by rule, such minimum information sets as
4 the Administrator determines to be appropriate
5 to evaluate chemical substances under sections
6 5 and 6.

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

10 “(i) provide for varied or tiered infor-
11 mation to be provided for different chem-
12 ical substances;

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

16 “(iii) require each minimum informa-
17 tion set to include sufficient information
18 for the Administrator to conduct a screen-
19 ing-level risk assessment of the chemical
20 substance, including information on the
21 characteristics, toxicological properties, en-
22 vironmental and biological fate and behav-
23 ior, exposure, and use of a chemical sub-
24 stance;

1 new chemical substance as a sub-
2 stance of very low concern under sec-
3 tion 5(b)(2)(D)(iii)(II); and

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

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

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

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

22 “(iii) assignment of chemical sub-
23 stances to priority classes under section
24 6(b)(4);

1 “(iv) safety standard determina-
2 tions—

3 “(I) for new uses of existing
4 chemical substances under section
5 5(b)(2); and

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

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

10 “(2) SUBMISSION OF MINIMUM INFORMATION
11 SET.—Each manufacturer and processor of a chem-
12 ical substance shall submit the minimum informa-
13 tion set for the chemical substance to the Adminis-
14 trator—

15 “(A) for new chemical substances, concur-
16 rent with the notice required under section
17 (5)(b)(1)(A); and

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

22 “(3) PROHIBITION.—In addition to any other
23 authorities available under this Act, the Adminis-
24 trator may, by order, take any action authorized

1 under section 6(f) if a manufacturer or processor is
2 in violation of paragraph (2).

3 “(b) TESTING.—

4 “(1) GENERAL SUBMISSIONS.—

5 “(A) IN GENERAL.—The Administrator
6 may, by rule or order, require testing with re-
7 spect to any chemical substance, and the sub-
8 mission of test results by a specified date, as
9 appropriate for making any determination or
10 carrying out any provision of this Act. Such
11 testing may be required—

12 “(i) to provide information in addition
13 to the information specified in any applica-
14 ble minimum information set under sub-
15 section (a); and

16 “(ii) of persons to whom the Adminis-
17 trator decides not to apply a requirement
18 to submit a minimum information set
19 under subsection (a).

20 “(B) EFFECT ON OTHER AUTHORITY.—

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

23 “(2) SAMPLE SUBMISSIONS.—

24 “(A) IN GENERAL.—The Administrator
25 may, by rule or order, require the submission of

1 a sample of any chemical substance in such
2 manner as the Administrator determines en-
3 ables the Administrator to conduct any tests
4 necessary for making any determination or car-
5 rying out any provision of this Act.

6 “(B) EFFECT ON OTHER AUTHORITY.—
7 Nothing in this paragraph limits the authority
8 of the Administrator under paragraph (1).

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

14 “(4) EXEMPTION.—If a manufacturer or proc-
15 essor ceases all manufacture or processing of a
16 chemical substance pursuant to its submission of a
17 declaration of cessation of manufacture or proc-
18 essing under section 8(b)(4) for the chemical sub-
19 stance, the manufacturer or processor shall be ex-
20 empted from the requirements of this subsection.

21 “(c) TEST RULES OR ORDERS.—

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

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

4 “(B) standards for the development of test
5 information for that substance; and

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

12 “(2) CONSIDERATIONS.—

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

17 “(i) the relative costs of the various
18 test protocols and methodologies that may
19 be required under the rule or order; and

20 “(ii) the reasonably foreseeable avail-
21 ability of the facilities and personnel need-
22 ed to perform the testing required under
23 the rule.

24 “(B) PRELIMINARY INFORMATION.—Any
25 rule or order issued by the Administrator under

1 this subsection may require a manufacturer or
2 processor to submit preliminary information
3 during the period described in paragraph
4 (1)(C).

5 “(3) TYPES OF HEALTH AND ENVIRONMENTAL
6 INFORMATION.—

7 “(A) IN GENERAL.—The Administrator
8 may prescribe standards for the development of
9 test information under this subsection for
10 health and environmental information, includ-
11 ing—

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

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

22 “(iii) information pertaining to—

23 “(I) bioaccumulation;

24 “(II) persistence;

25 “(III) acute toxicity;

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

5 “(B) METHODOLOGIES.—

6 “(i) IN GENERAL.—The Administrator
7 may prescribe methodologies in standards
8 for the development of test information, in-
9 cluding—

- 10 “(I) epidemiologic studies;
11 “(II) biomonitoring or environ-
12 mental monitoring studies;
13 “(III) serial or hierarchical tests;
14 “(IV) in vitro tests;
15 “(V) whole animal tests, con-
16 sistent with section 30; and
17 “(VI) any other methodology
18 deemed appropriate by the Adminis-
19 trator.

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

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

4 “(i) review the adequacy of the stand-
5 ards for development of information pre-
6 scribed under subparagraph (A); and

7 “(ii) if necessary, institute pro-
8 ceedings to make appropriate revisions of
9 those standards.

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

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), a rule or order under sub-
14 section (b) respecting a chemical substance
15 shall specify the persons required to conduct
16 tests and submit information to the Adminis-
17 trator on the substance.

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

24 “(C) LIABILITY.—All persons described in
25 subparagraphs (A) and (B) shall remain liable

1 for compliance with any requirements subject to
2 the designation.

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

4 “(A) IN GENERAL.—Any rule or order
5 under subsection (b) that requires the testing
6 and submission of information for a particular
7 chemical substance shall expire at the end of
8 the applicable reimbursement period (as defined
9 in subsection (d)(3)) unless, prior to that date,
10 the Administrator withdraws the rule or order.

11 “(B) CATEGORY OF CHEMICAL SUB-
12 STANCES.—A rule or order under subsection (b)
13 that requires the testing and submission of in-
14 formation for a category of chemical substances
15 shall expire with respect to a chemical sub-
16 stance included in the category at the end of
17 the applicable reimbursement period (as defined
18 in subsection (d)(3)) unless, prior to that date,
19 the Administrator withdraws the rule or order
20 with respect to the substance entirely.

21 “(d) EXEMPTIONS.—

22 “(1) IN GENERAL.—Any person required by a
23 rule or order under subsections (a) or (b) to conduct
24 tests and submit information for a chemical sub-
25 stance may apply to the Administrator (in such form

1 and manner as the Administrator determines nec-
2 essary) for an exemption from the requirement.

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

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

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

15 “(ii) information is being developed in
16 accordance with the rule or order; and

17 “(B) submission of information by the ap-
18 plicant for the substance would be duplicative of
19 information that—

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

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

25 “(3) REIMBURSEMENT DUE TO EXEMPTION.—

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

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

10 “(ii) ends on the later of—

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

13 “(II) the date which, as deter-
14 mined by the Administrator, provides
15 the applicant with a time period which
16 is sufficient to develop the test infor-
17 mation.

18 “(B) REIMBURSEMENT FOR PREVIOUSLY
19 SUBMITTED TEST INFORMATION.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), for an exemption under
22 paragraph (2)(B)(i), if the exemption is
23 granted during the reimbursement period
24 for the test information, the Administrator
25 shall order the person granted the exemp-

1 tion to provide fair and equitable reim-
2 bursement (in an amount determined by
3 the Administrator) to—

4 “(I) the person who previously
5 submitted the test information, for a
6 portion of the costs incurred by the
7 person in complying with the informa-
8 tion submission requirement; and

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

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

20 “(iii) CONSIDERATIONS.—In promul-
21 gating rules for the determination of fair
22 and equitable reimbursement to the per-
23 sons described in subclauses (I) and (II) of
24 clause (i) for costs incurred with respect to
25 a chemical substance, the Administrator

1 shall, after consultation with the Attorney
2 General and the Federal Trade Commis-
3 sion, consider all relevant factors, includ-
4 ing—

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

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

14 “(C) REIMBURSEMENT DUE TO EXEMP-
15 TION FOR TEST INFORMATION BEING DEVEL-
16 OPED IN ACCORDANCE WITH RULE OR
17 ORDER.—

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

1 “(I) each person who is devel-
2 oping the test information, for the
3 portion of the costs incurred by each
4 person in complying with the rule or
5 order; and

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

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

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

1 sion, consider the factors described in sub-
2 paragraph (B)(iii).

3 “(iv) LACK OF COMPLIANCE.—If any
4 exemption is granted under paragraph (2)
5 on the basis that 1 or more persons are de-
6 veloping test information pursuant to a
7 rule or order promulgated or issued under
8 subsection (a) or (b), and after the exemp-
9 tion is granted, the Administrator deter-
10 mines that no person has complied with
11 the rule or order, the Administrator
12 shall—

13 “(I) after providing written no-
14 tice and an opportunity for a hearing
15 to the person who holds the exemp-
16 tion, by order, terminate the exemp-
17 tion; and

18 “(II) notify in writing the person
19 of the requirements of the rule or
20 order with respect to which the ex-
21 emption was granted.

22 “(e) NOTICE.—

23 “(1) IN GENERAL.—Not later than 15 days
24 after the date of receipt of any test information pur-
25 suant to a rule or order under subsection (a) or (b),

1 the Administrator shall publish in the Federal Reg-
2 ister a notice of the receipt of the test information.

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

5 “(A) identify the chemical substance for
6 which information has been received;

7 “(B) list—

8 “(i) the commercial and consumer
9 uses or intended commercial and consumer
10 uses of the substance known to the Admin-
11 istrator; and

12 “(ii) the information required by the
13 applicable standards for the development
14 of test information; and

15 “(C) describe the nature of the test infor-
16 mation developed.

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

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

23 “(1) IN GENERAL.—The head of a Federal
24 agency may request the Administrator to seek the

1 information on behalf of that agency if the head of
2 that Federal agency determines that—

3 “(A) information relating to a chemical
4 substance, including information derived from
5 new testing or monitoring, would assist that
6 Federal agency in carrying out the duties or ex-
7 ercising the authority of that agency; but

8 “(B) the requested information is not
9 available to that agency.

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

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

16 “(B) issue a request under section 8(k) to
17 require—

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

20 “(ii) a copy of any such submission to
21 be furnished to the requesting agency or
22 institution;

23 “(C) issue a rule or order under subsection
24 (b)—

25 “(i) to develop the information; and

1 “(ii) to require the developed informa-
2 tion to be furnished to the requesting
3 agency or institution; or

4 “(D) publish in the Federal Register the
5 reason for which none of the actions described
6 in this paragraph were taken.

7 “(g) CERTIFICATION.—Each person who submits in-
8 formation under this section or under a rule or an order
9 promulgated or issued by the Administrator under this
10 section shall accompany the information with a certifi-
11 cation signed by a responsible official that each statement
12 contained in the submission—

13 “(1) is accurate and reliable; and

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

17 **SEC. 6. NEW CHEMICAL SUBSTANCES AND NEW USES OF**
18 **CHEMICAL SUBSTANCES.**

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

21 **“SEC. 5. NEW CHEMICAL SUBSTANCES AND NEW USES OF**
22 **CHEMICAL SUBSTANCES.**

23 “(a) DEFINITIONS.—In this section:

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

4 “(2) TEST MARKETING.—The term ‘test mar-
5 keting’ does not include any provision of a chemical
6 substance or mixture, or an article containing a
7 chemical substance or mixture, to an end consumer
8 of the chemical substance, mixture, or article.

9 “(b) NEW CHEMICAL SUBSTANCES.—

10 “(1) NOTICES.—Except as provided in sub-
11 section (h), no person may manufacture a new
12 chemical substance, or process the chemical sub-
13 stance for a use that is proposed to meet the criteria
14 described in section 6(h)(2)(B), unless—

15 “(A) the person submits to the Adminis-
16 trator a notice, in accordance with subsection
17 (g)(1)(A), of the intention of the person to
18 manufacture or process the substance;

19 “(B) the person complies with subsection
20 (f); and

21 “(C) the Administrator finds that—

22 “(i) the new chemical substance is
23 likely to meet the safety standard under
24 section 6(d), which shall be limited to sub-
25 stances assigned by the Administrator to 1

1 of the categories described in paragraph
2 (2)(D)(iii); or

3 “(ii) the person has established by
4 clear and convincing evidence that 1 or
5 more uses of the new chemical substance
6 meet the criteria described in section
7 6(h)(2)(B), in which case—

8 “(I) the Administrator may by
9 order allow the person to manufacture
10 or process the substance only for such
11 use or uses in accordance with sub-
12 paragraph (A) of section 6(h)(2);

13 “(II) the procedures and require-
14 ments specified in subparagraphs (A),
15 (C), (D), and (E) of section 6(h)(2)
16 shall apply; and

17 “(III) the Administrator shall
18 not, upon receipt of a notice of com-
19 mencement for the chemical substance
20 under subsection (d), add the chem-
21 ical substance to the active inventory
22 established under section 8(h)(1).

23 “(2) CATEGORIZATION OF NEW CHEMICAL SUB-
24 STANCES.—

1 “(A) RULE.—Not later than 1 year after
2 the date of enactment of the Safe Chemicals
3 Act of 2011, the Administrator shall promul-
4 gate a rule that—

5 “(i) designates the categories in ac-
6 cordance with subparagraph (D) and speci-
7 fies the process and criteria the Adminis-
8 trator will use to categorize new chemical
9 substances; and

10 “(ii) describes criteria and factors the
11 Administrator will use to assess weight of
12 evidence and the quality and reliability of
13 information used to inform categorization
14 decisions.

15 “(B) INFORMATION SOURCES.—In catego-
16 rizing a new chemical substance, the Adminis-
17 trator shall consider information on the sub-
18 stance available to the Administrator at the
19 time the categorization decision is to be made,
20 including information—

21 “(i) received by the Administrator
22 from the manufacturer or processor of the
23 substance in accordance with subsection
24 (f);

1 “(ii) submitted to a governmental
2 body in another jurisdiction, to the extent
3 that the information is accessible to the
4 Administrator;

5 “(iii) derived through application of
6 validated structure-activity relationship or
7 other models developed by the Adminis-
8 trator to estimate the environmental and
9 human health effects, environmental and
10 biological fate and behavior, and exposure
11 potential of chemical substances;

12 “(iv) inferred based on the degree of
13 similarity of the structure or properties of
14 the new chemical substance to those of 1
15 or more other chemical substances for
16 which reliable information exists that is
17 relevant to predicting the potential envi-
18 ronmental or human health effects, envi-
19 ronmental or biological fate and behavior,
20 or exposure potential of the new chemical
21 substance; and

22 “(v) any additional information the
23 Administrator determines is needed to cat-
24 egorize the substance, including informa-
25 tion identified as needed based on the

1 analysis by the Administrator of estimated
2 or inferred information described in
3 clauses (iii) and (iv).

4 “(C) TIMING.—Not later than 90 days
5 after the date of receipt of a notice under para-
6 graph (1)(A), the Administrator shall assign
7 the new chemical substance for which the notice
8 was submitted to 1 of the categories described
9 in subparagraph (D).

10 “(D) CATEGORIES.—

11 “(i) IN GENERAL.—The rule promul-
12 gated pursuant to subparagraph (A) shall
13 incorporate, establish criteria for, and fur-
14 ther specify as needed, the categories de-
15 scribed in this subparagraph, to 1 of which
16 each new chemical substance for which a
17 notice is submitted pursuant to paragraph
18 (1) shall be assigned.

19 “(ii) SUBSTANCES OF VERY HIGH
20 CONCERN.—

21 “(I) IN GENERAL.—The Admin-
22 istrator shall designate as a substance
23 of very high concern any new chemical
24 substance that—

1 “(aa) is toxic, persists in the
2 environment, and is bioaccumula-
3 tive; or

4 “(bb) is highly hazardous.

5 “(II) REQUIREMENTS.—

6 “(aa) IN GENERAL.—The
7 Administrator shall allow the
8 submitter of a notice under para-
9 graph (1)(A) for a new chemical
10 substance assigned to the cat-
11 egory described in this clause to
12 manufacture or process the new
13 chemical substance only in ac-
14 cordance with paragraph
15 (1)(C)(ii).

16 “(bb) PROHIBITION.—No
17 other person may manufacture or
18 process the chemical substance
19 unless the person has submitted
20 a notice pursuant to paragraph
21 (1) and the requirements of para-
22 graph (1)(C)(ii) have been met
23 with respect to that notice.

24 “(iii) SUBSTANCES LIKELY TO MEET
25 THE SAFETY STANDARD.—

1 “(I) IN GENERAL.—

2 “(aa) The Administrator
3 shall designate as a substance
4 likely to meet the safety standard
5 any new chemical substance that
6 the Administrator determines,
7 based on available information,
8 would likely meet the safety
9 standard under section 6(d)—

10 “(AA) for uses and
11 under conditions specified by
12 the submitter of the notice
13 for the new chemical sub-
14 stance pursuant to para-
15 graph (1); or

16 “(BB) for uses and
17 under additional conditions
18 that could be specified by
19 the Administrator in making
20 a safety standard determina-
21 tion for the substance.

22 “(bb) The Administrator
23 shall assign to the category de-
24 scribed in item (aa) any new
25 chemical substance that meets

1 the criteria specified in subclause
2 (II) or (III).

3 “(II) SUBSTANCES OF VERY LOW
4 CONCERN.—

5 “(aa) IN GENERAL.—Within
6 the category described in sub-
7 clause (I), the Administrator
8 shall designate as a substance of
9 very low concern any new chem-
10 ical substance that, based on ro-
11 bust information, the Adminis-
12 trator determines possesses in-
13 trinsic low-hazard properties so
14 that no further action by the Ad-
15 ministrator is warranted unless
16 and until the Administrator re-
17 ceives new information that war-
18 rants a different categorization of
19 the chemical substance.

20 “(bb) BASIS OF DESIGNA-
21 TION.—In identifying new chem-
22 ical substances to be placed in
23 the category described in this
24 subclause, the Administrator
25 shall base the designation of a

1 new chemical substance as a sub-
2 stance of very low concern on the
3 applicable minimum information
4 set required under section 4, un-
5 less the Administrator determines
6 that such designation of a par-
7 ticular new chemical substance—

8 “(AA) can be made to a
9 high degree of confidence
10 based on less information; or

11 “(BB) requires infor-
12 mation in addition to the
13 full minimum information
14 set to address conflicting or
15 ambiguous findings, in
16 which case the Adminis-
17 trator may require the devel-
18 opment and submission of
19 the additional information.

20 “(III) SUBSTANCES TO UNDERGO
21 SAFETY STANDARD DETERMINA-
22 TIONS.—Within the category de-
23 scribed in subclause (I), the Adminis-
24 trator shall designate as a substance
25 to undergo a safety standard deter-

1 the submission and workload con-
2 siderations, add the chemical
3 substance to the current batch or
4 hold the substance until the next
5 batch of substances to be
6 prioritized in accordance with
7 section 6(b)(4).

8 “(V) MANUFACTURING AND
9 PROCESSING.—Pending the comple-
10 tion of a safety standard determina-
11 tion under section 6(d), a chemical
12 substance designated as a substance
13 likely to meet the safety standard may
14 be manufactured or processed for uses
15 and under conditions specified by the
16 Administrator in determining that the
17 chemical substance is likely to meet
18 the safety standard—

19 “(aa) by the submitter of
20 the notice for the chemical sub-
21 stance submitted pursuant to
22 paragraph (1)(A), upon submis-
23 sion of a notice for the chemical
24 substance pursuant to subsection
25 (d);

1 “(bb) by other manufactur-
2 ers of the chemical substance,
3 once the chemical substance has
4 been placed on the active inven-
5 tory described in section 8(h)(1),
6 upon submission of a declaration
7 for the chemical substance pursu-
8 ant to section 8(b)(1)(B); or

9 “(cc) by processors of the
10 substance, upon compliance with
11 the requirements of section 8(e).

12 “(iv) SUBSTANCES WITH INSUFFI-
13 CIENT INFORMATION.—

14 “(I) IN GENERAL.—The Admin-
15 istrator shall designate as a substance
16 with insufficient information any new
17 chemical substance for which the Ad-
18 ministrator concludes, after gathering
19 and screening available use, hazard,
20 and exposure information, that needed
21 information for the chemical sub-
22 stance is not available, is insufficient,
23 or is not of sufficient quality and reli-
24 ability to allow for an informed cat-
25 egorization decision.

1 “(II) REQUIRED SUBMISSION.—

2 For substances designated under this
3 clause, the Administrator shall require
4 submission of the applicable minimum
5 information set specified under section
6 4 as needed to inform categorization
7 decisionmaking for new chemical sub-
8 stances.

9 “(III) RECATEGORIZATION.—

10 Following submission of the applicable
11 minimum information set for the
12 chemical substance pursuant to sub-
13 clause (II), the Administrator shall re-
14 categorize the chemical substance
15 using the categories and process de-
16 scribed in this paragraph.

17 “(IV) PROHIBITION.—Notwith-
18 standing paragraph (1)(C)(ii), no per-
19 son may manufacture or process a
20 chemical substance designated under
21 this clause until and unless the infor-
22 mation described in subclause (II) has
23 been submitted and the Administrator
24 has recategorized the substance, at
25 which time the provisions applicable

1 to the category to which the substance
2 has been assigned shall apply.

3 “(v) SUBSTANCES UNLIKELY TO MEET
4 THE SAFETY STANDARD.—

5 “(I) IN GENERAL.—The Admin-
6 istrator shall designate as a substance
7 unlikely to meet the safety standard
8 any new chemical substance that the
9 Administrator determines, based on
10 available information, would be un-
11 likely to meet the safety standard
12 under section 6(d)—

13 “(aa) for uses and under
14 conditions specified by the sub-
15 mitter of the notice for the chem-
16 ical substance pursuant to para-
17 graph (1); or

18 “(bb) for other uses or
19 under additional conditions that
20 the Administrator may evaluate
21 in making a safety standard de-
22 termination for the chemical sub-
23 stance.

24 “(II) PROHIBITION.—Except as
25 provided under clause (ii), no person

1 may manufacture or process a chem-
2 ical substance designated under this
3 clause.

4 “(c) NEW USES OF EXISTING CHEMICAL SUB-
5 STANCES.—

6 “(1) NEW USES OF EXISTING CHEMICAL SUB-
7 STANCES PRIOR TO SAFETY STANDARD DETERMINA-
8 TION.—

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

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

18 “(ii) at a volume that is significantly
19 increased from the volume as of the date
20 of enactment of the Safe Chemicals Act of
21 2011.

22 “(B) EXCEPTION.—A person may manu-
23 facture or process a chemical substance in a
24 manner prohibited by subparagraph (A) if—

1 “(i) the person submits to the Admin-
2 istrator the notice specified in subsection
3 (g)(1)(B);

4 “(ii) the person complies with sub-
5 section (f); and

6 “(iii) such manufacturing or proc-
7 essing is consistent with subsection
8 (b)(2)(D)(iii)(V).

9 “(C) GUIDANCE.—Not later than 90 days
10 after the date of enactment of the Safe Chemi-
11 cals Act of 2011, the Administrator shall issue
12 guidance for the purpose of identifying what
13 constitute new uses and significantly increased
14 production volumes under this paragraph.

15 “(2) NEW USES OF EXISTING CHEMICAL SUB-
16 STANCES THAT MEET THE SAFETY STANDARD.—

17 “(A) IN GENERAL.—For an existing chem-
18 ical substance for which the Administrator has
19 determined under section 6(d) that the manu-
20 facturers and processors of the chemical sub-
21 stance have established that the substance
22 meets the applicable safety standard, no person
23 may manufacture, process, distribute in com-
24 merce, use, or dispose of the chemical sub-
25 stance, or a mixture or article containing the

1 chemical substance for uses, at production vol-
2 umes, or in manners other than those the Ad-
3 ministrator specified in the safety standard de-
4 termination, unless—

5 “(i) the person submits to the Admin-
6 istrator a notice in accordance with sub-
7 section (g)(1)(C) of the intention of the
8 person to manufacture, process, distribute
9 in commerce, use, or dispose of the chem-
10 ical substance, or a mixture or article con-
11 taining the chemical substance, for the new
12 use or at a new production volume, or in
13 such other manner that is inconsistent
14 with a specified condition or term in the
15 safety standard determination made by the
16 Administrator for that substance; and

17 “(ii) the Administrator determines
18 that the person submitting the notice has
19 established that the chemical substance
20 will continue to meet the safety standard if
21 the allowed uses, production volumes, or
22 other specified conditions or terms for that
23 substance, are revised to encompass the
24 new use, new production volume, or other

1 manner of manufacturing, processing, dis-
2 tribution in commerce, use, or disposal.

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

14 “(C) SAFETY STANDARD DETERMINA-
15 TION.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clauses (ii) and (iii), not later
18 than 180 days after the date of receipt of
19 a notice pursuant to subparagraph (A)(i),
20 the Administrator shall determine whether
21 the person submitting the notice has estab-
22 lished that the chemical substance will con-
23 tinue to meet the safety standard under
24 section 6(d).

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

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

13 “(d) NOTICE OF COMMENCEMENT.—

14 “(1) IN GENERAL.—Not later than 30 days
15 after the date on which a manufacturer or processor
16 commences manufacturing or processing of a new
17 chemical substance, the manufacturer or processor
18 shall submit to the Administrator a notice of commencement
19 of manufacture or processing.

20 “(2) REQUIREMENTS.—The notice of commencement shall—

21 “(A) be considered equivalent to the declaration
22 required under subparagraph (A) or
23 (C) of section 8(b)(2); and
24

1 “(B) include the information described in
2 section 8(b)(5).

3 “(3) WITHDRAWAL.—A person who has sub-
4 mitted a notice for a chemical substance under sub-
5 section (b) or (c), and has not commenced with man-
6 ufacture or processing of the substance, may with-
7 draw the notice.

8 “(e) CHEMICAL SUBSTANCES EXHIBITING SPECIAL
9 SUBSTANCE CHARACTERISTICS.—

10 “(1) DETERMINATION.—The Administrator
11 shall determine by order or rule that a variant of a
12 chemical substance exhibiting 1 or more special sub-
13 stance characteristics—

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

17 “(B) is a distinct chemical substance.

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

1 “(3) REQUIREMENTS FOR VARIANTS THAT ARE
2 DISTINCT CHEMICAL SUBSTANCES.—In the case of a
3 chemical substance that the Administrator deter-
4 mines to be a distinct chemical substance based on
5 the special substance characteristics of the chemical
6 substance, and that is not listed on the active inven-
7 tory established under section 8(h)(1), the manufac-
8 turer or processor shall comply with the require-
9 ments of subsection (b).

10 “(f) SUBMISSION OF DATA.—

11 “(1) IN GENERAL.—A person shall submit to
12 the Administrator data in accordance with the rule
13 or order at the time that notice is submitted under
14 subsection (b) or (c) if the person is required to sub-
15 mit to the Administrator—

16 “(A) under subsection (b) or (c), a notice
17 prior to beginning the manufacture or proc-
18 essing of a chemical substance; and

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

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

1 “(3) TIMING.—Except as provided under sub-
2 section (b)(2)(D)(iv), the Administrator may require
3 a person subject to an information requirement for
4 a chemical substance under this subsection or sec-
5 tion 4 to submit the information—

6 “(A) prior to and as a condition of the Ad-
7 ministrator assigning the substance to a cat-
8 egory;

9 “(B) as a condition of commencement of
10 manufacture or processing; or

11 “(C) as a condition of exceeding a specified
12 manufacturing volume or expanding use of the
13 substance.

14 “(g) CONTENT AND AVAILABILITY OF NOTICE.—

15 “(1) CONTENT.—

16 “(A) NEW CHEMICAL SUBSTANCES.—A no-
17 tice under subsection (b)(1) shall include—

18 “(i) the chemical identity and any
19 special substance characteristics of the
20 chemical substance;

21 “(ii) the identity and primary business
22 location of the manufacturer;

23 “(iii) the information described in sec-
24 tion 8(h)(5)(B)(ii);

1 “(iv) the minimum information set de-
2 scribed in section 4(a), where applicable;
3 and

4 “(v) a statement that—

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

8 “(II) the 1 or more uses pro-
9 posed for the new chemical substance
10 meet the criteria described in section
11 6(h)(2)(B).

12 “(B) NEW USES OF EXISTING CHEMICAL
13 SUBSTANCES PRIOR TO SAFETY STANDARD DE-
14 TERMINATION.—A notice under subsection
15 (c)(1) shall include all updates to the declara-
16 tion described in section 8(b)(2) and informa-
17 tion described in section 8(h)(5)(B)(ii) that is
18 relevant to the new use, new production volume,
19 or other new manner of manufacturing or proc-
20 essing.

21 “(C) NEW USES OF EXISTING CHEMICAL
22 SUBSTANCES THAT MEET THE SAFETY STAND-
23 ARD.—A notice under subsection (c)(2) shall in-
24 clude—

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

3 “(ii) information described in section
4 8(h)(5)(B)(ii) that is relevant to the new
5 use, new production volume, or other new
6 manner of manufacturing or processing;

7 “(iii) all updates to the minimum in-
8 formation set described in section 4(a) rel-
9 evant to the new use, new production vol-
10 ume, or other new manner of manufac-
11 turing or processing; and

12 “(iv) a statement that the chemical
13 substance will continue to meet the safety
14 standard if the allowed uses, production
15 volumes, or other specified conditions or
16 terms for that chemical substance are re-
17 vised to encompass the new use, produc-
18 tion volume, or other manner of manufac-
19 turing or processing.

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

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

1 days, and legal holidays) after the date of the receipt
2 of a notice under subsection (b), (c), or (d), or of
3 data under subsection (f), the Administrator shall
4 make available on a publicly accessible Internet site
5 a notice that—

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

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

10 “(C) for substances for which a notice is
11 submitted under subsection (b)(1), is promptly
12 updated to specify the category to which the
13 Administrator has assigned the substance pur-
14 suant to subsection (b)(2) once the assignment
15 has been made;

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

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

20 “(ii) any data that were received
21 under subsection (f) or a rule or order
22 under section 4; and

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

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

6 “(h) EXEMPTIONS.—

7 “(1) INTRINSICALLY SAFE SUBSTANCES.—

8 “(A) EXEMPTION.—

9 “(i) IN GENERAL.—If the Adminis-
10 trator determines that scientific consensus
11 exists that the intrinsic properties of a new
12 chemical substance are such that the
13 chemical substance does not and would not
14 pose any risk of injury to human health or
15 the environment under any intended or
16 reasonably anticipated levels of production,
17 patterns of use, or exposures arising at
18 any stage across the lifecycle of the chem-
19 ical substance, the Administrator may, by
20 order, exempt the chemical substance, or
21 particular uses of such substances, from 1
22 or more of the requirements of this section.

23 “(ii) BASIS OF DETERMINATION.—A
24 determination under clause (i)—

1 “(I) shall be based on consider-
2 ation of the intrinsic properties of the
3 chemical substance; and

4 “(II) shall not be based on find-
5 ings or assumptions of low human or
6 environmental exposure to such sub-
7 stances.

8 “(B) NOTICE OF DETERMINATION AND EX-
9 EMPTION.—Not later than 30 days after pro-
10 viding an exemption pursuant to subparagraph
11 (A), the Administrator shall publish in the Fed-
12 eral Register a notice that—

13 “(i) subject to section 14, provides the
14 specific identity of the chemical substance
15 or category;

16 “(ii) if a particular use of the chem-
17 ical substance is exempted under subpara-
18 graph (A), describes the particular use of
19 the chemical substance that the Adminis-
20 trator has exempted; and

21 “(iii) explains and documents the
22 basis for the determination and exemption
23 of the Administrator.

24 “(C) RECONSIDERATION OF EXEMPTION.—

1 as in effect on the day before that
2 date of enactment.

3 “(II) EFFECT OF EXEMPTION.—
4 An exemption described in subclause
5 (I) shall continue to be in effect until
6 the date on which the Administrator
7 determines, by order, that—

8 “(aa) the exemption is not
9 appropriate under this section, at
10 which time the exemption shall
11 cease to be in effect; or

12 “(bb) the exemption is ap-
13 propriate under this section, at
14 which time the Administrator
15 may issue an order to modify or
16 continue in effect the exemption
17 pursuant to subparagraph (A).

18 “(ii) POLYMERIC CHEMICAL SUB-
19 STANCES.—Notwithstanding subparagraph
20 (A) and any previously issued exemption
21 applicable to polymeric chemical sub-
22 stances—

23 “(I) subsection (d) shall apply to
24 new polymeric chemical substances eli-

1 gible for the previously issued exemp-
2 tion—

3 “*(aa)* during the period
4 prior to a determination by the
5 Administrator pursuant to clause
6 *(i)* applicable to such substances;
7 and

8 “*(bb)* after a determination
9 by the Administrator pursuant to
10 clause *(i)(II)(bb)* that continu-
11 ation of the prior exemption is
12 appropriate for some or all such
13 substances, for such substances
14 to which the continuation applies;
15 and

16 “*(II)* all of this section shall
17 apply to new polymeric chemical sub-
18 stances eligible for the previously
19 issued exemption after a determina-
20 tion by the Administrator pursuant to
21 clause *(i)(II)(aa)* that continuation of
22 the prior exemption is not appropriate
23 for some or all such substances, for
24 such substances to which the deter-
25 mination applies.

1 “(E) NO LIMITATION ON AUTHORITY.—
2 Nothing in this paragraph limits or otherwise
3 affects the authority of the Administrator under
4 any other provision of this Act.

5 “(2) TEST MARKETING PURPOSES.—Subject to
6 paragraph (6), the Administrator may, upon applica-
7 tion, exempt any person from any requirement of
8 subsection (b), (c), or (f) to permit the person to
9 manufacture or process a chemical substance for test
10 marketing purposes—

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

18 “(B) under such restrictions as the Admin-
19 istrator considers appropriate.

20 “(3) EQUIVALENT CHEMICAL SUBSTANCES.—

21 “(A) IN GENERAL.—The Administrator
22 shall, upon application, fully or partially exempt
23 any person from the requirement to submit any
24 data under subsection (b) or (f) if, on receipt

1 of an application, the Administrator determines
2 that—

3 “(i) the chemical substance for which
4 the application was submitted is equivalent
5 to a chemical substance for which data has
6 been submitted to the Administrator as re-
7 quired by this Act; and

8 “(ii) submission of data by the appli-
9 cant on the chemical substance would be
10 duplicative of data which has been sub-
11 mitted to the Administrator in accordance
12 with this Act.

13 “(B) EFFECTIVE DATE.—No exemption
14 under this paragraph may take effect before the
15 beginning of the reimbursement period applica-
16 ble to the data.

17 “(C) FAIR AND EQUITABLE REIMBURSE-
18 MENT.—

19 “(i) DEFINITION OF REIMBURSEMENT
20 PERIOD.—In this subparagraph, the term
21 ‘reimbursement period’, with respect to
22 any previously submitted data for a chem-
23 ical substance, means a period—

24 “(I) beginning on the date of the
25 termination of the prohibition, im-

1 posed under this section, on the man-
2 ufacture or processing of the chemical
3 substance by the person who sub-
4 mitted the data to the Administrator;
5 and

6 “(II) ending on the later of—

7 “(aa) the date that is 5
8 years after the date referred to in
9 subclause (I); or

10 “(bb) the expiration of the
11 period, which begins on the date
12 referred to in subclause (I) and
13 is equal to the period that the
14 Administrator determines to be
15 necessary to develop the data.

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

1 “(I) to the person who previously
2 submitted the data on which the ex-
3 emption was based, for a portion of
4 the costs incurred by the person in
5 complying with the requirement under
6 this title to submit the data; and

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

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

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

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

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

7 “(II) the share of the market for
8 the chemical substance of the person
9 required to provide reimbursement to
10 the share of the market of the persons
11 to be reimbursed.

12 “(4) SMALL QUANTITIES SOLELY FOR EXPERI-
13 MENTATION, RESEARCH, AND ANALYSIS.—

14 “(A) IN GENERAL.—If the conditions de-
15 scribed in subparagraph (B) are met, sub-
16 sections (b), (c), and (f) shall not apply with re-
17 spect to the manufacturing or processing of any
18 chemical substance that is manufactured or
19 processed, or proposed to be manufactured or
20 processed, only in small quantities (as defined
21 by the Administrator by rule) solely for pur-
22 poses of—

23 “(i) scientific experimentation or anal-
24 ysis; or

1 “(ii) chemical research on, or analysis
2 of the chemical substance or another chem-
3 ical substance, including such research or
4 analysis for the development of a product.

5 “(B) CONDITIONS.—All persons engaged
6 in the experimentation, research, or analysis for
7 a manufacturer or processor shall be notified
8 (in such form and manner as the Administrator
9 may prescribe) of any risk to human health
10 that the manufacturer, processor, or the Ad-
11 ministrator has reason to believe may be associ-
12 ated with that chemical substance.

13 “(5) TEMPORARY EXISTENCE.—Subject to
14 paragraph (6), the Administrator may, upon applica-
15 tion, exempt from subsections (b), (c), and (f) the
16 manufacturing or processing of any chemical sub-
17 stance—

18 “(A) that exists temporarily as a result of
19 a chemical reaction in the manufacturing or
20 processing of a mixture or another chemical
21 substance; and

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

24 “(6) PUBLICATION.—

1 “(A) IN GENERAL.—As soon as practicable
2 after the date of receipt of an application under
3 paragraph (2) or (5), the Administrator shall
4 publish in the Federal Register notice of the re-
5 ceipt of the application.

6 “(B) REQUIREMENTS.—The Administrator
7 shall—

8 “(i) give interested persons an oppor-
9 tunity to comment upon any application
10 described in subparagraph (A);

11 “(ii) not later than 45 days after the
12 date of receipt of an application, approve
13 or deny the application; and

14 “(iii) publish in the Federal Register
15 notice of the approval or denial of the ap-
16 plication.

17 “(i) CERTIFICATION.—Each submission required
18 under this section or under a rule or an order promulgated
19 or issued by the Administrator under this section shall be
20 accompanied by a certification signed by a responsible offi-
21 cial of the manufacturer or processor that each statement
22 contained in the submission—

23 “(1) is accurate and reliable; and

1 “(2) includes all material facts required by the
2 applicable provision of this section or rule or order
3 under this section.”.

4 **SEC. 7. BATCHING, CATEGORIZATION, PRIORITIZATION,**
5 **SAFETY STANDARD DETERMINATION, AND**
6 **RISK MANAGEMENT.**

7 (a) IN GENERAL.—Section 6 of the Toxic Substances
8 Control Act (15 U.S.C. 2605) is amended—

9 (1) by striking subsection (f);

10 (2) by redesignating subsection (e) as sub-
11 section (i);

12 (3) by striking the section heading and designa-
13 tion and all that follows through subsection (d) and
14 inserting the following:

15 **“SEC. 6. BATCHING, CATEGORIZATION, PRIORITIZATION,**
16 **SAFETY STANDARD DETERMINATION, AND**
17 **RISK MANAGEMENT.**

18 “(a) BATCHING.—

19 “(1) IN GENERAL.—To ensure that an efficient
20 and orderly process and pace is established for the
21 determination of safety of chemical substances in
22 commerce and the application of risk management
23 measures as needed, the Administrator shall estab-
24 lish a system for assigning chemical substances into
25 batches in accordance with this subsection.

1 “(2) REQUIREMENTS.—

2 “(A) TIMING.—Not later than 270 days
3 after the date of enactment of the Safe Chemi-
4 cals Act of 2011, and not less frequently than
5 once every 5 years thereafter until all chemical
6 substances listed on the active portion of the in-
7 ventory established under section 8(h)(1) have
8 been assigned to a batch, the Administrator
9 shall assign chemical substances on the active
10 portion of the inventory to batches of chemical
11 substances under this subsection.

12 “(B) NUMBER.—Each batch established
13 under this subsection shall include a number of
14 chemical substances approximately equal to the
15 number of chemical substances for which re-
16 ports are submitted to the Administrator under
17 the chemical data reporting rule as of the date
18 of enactment of the Safe Chemicals Act of
19 2011.

20 “(C) PUBLICATION.—The Administrator
21 shall publish, subject to section 14, the list of
22 chemical substances assigned to each batch
23 promptly on designation of the chemical sub-
24 stances to the batch.

25 “(3) INITIAL BATCH.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the initial batch of chemical sub-
3 stances designated under paragraph (2)(A)
4 shall include the chemical substances for which
5 reports are submitted to the Administrator
6 under the chemical data reporting rule as of the
7 date of enactment of the Safe Chemicals Act of
8 2011.

9 “(B) INCLUSIONS AND EXCLUSIONS.—Not-
10 withstanding subparagraph (A), the Adminis-
11 trator may—

12 “(i) include in the initial batch chem-
13 ical substances that—

14 “(I) are manufactured at vol-
15 umes below the threshold used under
16 the chemical data reporting rule to
17 designate chemical substances subject
18 to basic reporting under that rule; but

19 “(II) are used or released into
20 the environment in a manner that the
21 Administrator determines warrants
22 early evaluation; and

23 “(ii) exclude from the initial batch
24 chemical substances that—

1 “(I) are reported to the Adminis-
2 trator under the chemical data report-
3 ing rule; but

4 “(II) are used or released into
5 the environment in a manner that the
6 Administrator determines does not
7 warrant early evaluation.

8 “(4) SUBSEQUENT BATCHES.—The Adminis-
9 trator shall assign chemical substances to subse-
10 quent batches in a manner that the Administrator
11 determines reflects the extent to which the chemical
12 substances warrant earlier or later evaluation.

13 “(b) CATEGORIZATION AND PRIORITIZATION.—

14 “(1) REGULATIONS.—Not later than 1 year
15 after the date of enactment of the Safe Chemicals
16 Act of 2011, the Administrator shall promulgate
17 regulations that—

18 “(A) establish the categories and specify
19 the process and criteria the Administrator will
20 use to categorize chemical substances, which
21 shall be consistent with paragraph (3)(B), be-
22 ginning with those chemical substances as-
23 signed to the initial batch described in sub-
24 section (a)(3);

1 “(B) designate the process and criteria the
2 Administrator will use to prioritize chemical
3 substances that are placed in the category of
4 chemical substances to undergo safety standard
5 determinations, which shall be consistent with
6 the priorities described in paragraph (4);

7 “(C) describe how the categorization and
8 prioritization process and criteria relate to, and
9 take into account, the categorization and
10 prioritization decisions made in other jurisdic-
11 tions, including States and foreign govern-
12 ments; and

13 “(D) describe criteria and factors the Ad-
14 ministrator will use to weigh evidence and as-
15 sess the quality and reliability of information
16 used to inform categorization and prioritization
17 decisions.

18 “(2) INFORMATION SOURCES.—

19 “(A) IN GENERAL.—In making categoriza-
20 tion and prioritization decisions, the Adminis-
21 trator shall take into consideration information
22 regarding chemical substances that is available
23 to the Administrator at the time the decisions
24 are made, including information that is—

1 “(i) received by the Administrator
2 from manufacturers or processors pursu-
3 ant to requirements under section 8(b) and
4 (c);

5 “(ii) included in any minimum infor-
6 mation set required under section 4;

7 “(iii) submitted to the Administrator
8 that is relevant to the categorization or
9 prioritization of the chemical substance;
10 and

11 “(iv) identified through an active
12 search by the Administrator of information
13 sources that are publicly available or other-
14 wise accessible to the Administrator.

15 “(B) INFORMATION FROM MANUFACTUR-
16 ERS AND PROCESSORS.—

17 “(i) IN GENERAL.—Subject to clause
18 (ii), on designation by the Administrator
19 under paragraph (3)(B)(iii) of a chemical
20 substance safety standard determination,
21 any manufacturer or processor of a des-
22 ignated chemical substance and any trade
23 association or voluntary consortium that
24 represents a manufacturer or processor of
25 a designated chemical substance may pro-

1 “(iii) METHOD OF SUBMISSION.—In-
2 formation described in this subparagraph
3 may be submitted to the Administrator
4 by—

5 “(I) a manufacturer or proc-
6 essor—

7 “(aa) on an individual basis;

8 or

9 “(bb) through a trade asso-
10 ciation or voluntary consortium;

11 and

12 “(II) a trade association or vol-
13 untary consortium that has developed
14 relevant information on behalf of the
15 manufacturers or processors of des-
16 ignated chemical substances rep-
17 resented by the trade association or
18 voluntary consortium.

19 “(3) CATEGORIZATION OF CHEMICAL SUB-
20 STANCES.—

21 “(A) TIMING.—

22 “(i) INITIAL BATCH.—Not later than
23 180 days after the date of promulgation of
24 regulations pursuant to paragraph (1), the
25 Administrator shall publish, subject to sec-

1 tion 14, the category assignments for the
2 initial batch of chemical substances identi-
3 fied under subsection (a)(3), using the cat-
4 egories described in subparagraph (B).

5 “(ii) SUBSEQUENT BATCHES.—Not
6 later than 180 days after the date on
7 which the Administrator designates each
8 subsequent batch of chemical substances
9 under subsection (a)(2)(A), the Adminis-
10 trator shall publish the category assign-
11 ments for the chemical substances in the
12 batch.

13 “(B) CATEGORIES.—The regulation pro-
14 mulgated pursuant to paragraph (1) shall incor-
15 porate, establish criteria for, and further specify
16 as needed, the following categories into which
17 chemical substances in each batch shall be
18 placed:

19 “(i) SUBSTANCES OF VERY HIGH CON-
20 CERN.—

21 “(I) IN GENERAL.—The Admin-
22 istrator shall designate as substances
23 of very high concern those chemical
24 substances—

1 substance of very high concern under
2 this clause.

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

5 “(I) IN GENERAL.—The Admin-
6 istrator shall designate as substances
7 of very low concern those chemical
8 substances that, based on robust in-
9 formation, the Administrator deter-
10 mines possess intrinsic low-hazard
11 properties such that no further action
12 by the Administrator is warranted,
13 unless the Administrator receives new
14 information that warrants a different
15 categorization of the chemical sub-
16 stance.

17 “(II) FACTORS FOR CONSIDER-
18 ATION.—In designating chemical sub-
19 stances to be placed in the very low
20 concern category under this clause,
21 the Administrator shall—

22 “(aa) take into consideration
23 whether chemical substances in
24 commerce have received, as of
25 the date of enactment of the Safe

1 Chemicals Act of 2011, exemp-
2 tions under section 5 of this Act
3 (as in effect on the day before
4 the date of enactment of the Safe
5 Chemicals Act of 2011) based on
6 anticipated low intrinsic hazard;
7 and

8 “(bb) in general, base the
9 designation on a minimum infor-
10 mation set as required under sec-
11 tion 4, unless the Administrator
12 determines that such designation
13 of a particular chemical sub-
14 stance—

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

18 “(BB) requires infor-
19 mation in addition to the
20 full minimum information
21 set to address conflicting or
22 ambiguous findings, in
23 which case the Adminis-
24 trator may require the devel-

1 ering and screening available use, haz-
2 ard, and exposure information, that
3 information is not available, is insuffi-
4 cient, or is not of sufficient quality
5 and reliability to allow for an in-
6 formed categorization decision.

7 “(II) MINIMUM INFORMATION
8 SET.—

9 “(aa) IN GENERAL.—For
10 chemical substances designated
11 under this clause, the Adminis-
12 trator shall require submission of
13 the applicable minimum informa-
14 tion set specified under section 4
15 as needed to inform categoriza-
16 tion decisionmaking.

17 “(bb) TIMING.—The min-
18 imum information set shall be
19 submitted to the Administrator—

20 “(AA) not later than 5
21 years after the date of en-
22 actment of the Safe Chemi-
23 cals Act of 2011 for the ini-
24 tial batch of chemical sub-

1 stances identified under sub-
2 section (a)(3); and

3 “(BB) not later than 5
4 years after the assignment
5 of a chemical substance to
6 the category under this
7 clause for subsequent
8 batches.

9 “(III) RECATEGORY.—

10 “(aa) IN GENERAL.—After
11 submission of the minimum in-
12 formation set for a chemical sub-
13 stance pursuant to subclause (I),
14 the Administrator shall recat-
15 egorize the chemical substance
16 using the categories and process
17 described in this paragraph.

18 “(bb) DISCRETION OF AD-
19 MINISTRATOR.—The Adminis-
20 trator, taking into account the
21 timing of the submission and
22 workload considerations, may—

23 “(AA) add a chemical
24 substance to a current
25 batch; or

1 “(BB) hold the chem-
2 ical substance until the next
3 batch of chemical substances
4 for recategorization.

5 “(4) PRIORITIZATION OF CHEMICAL SUB-
6 STANCES.—

7 “(A) TIMING.—

8 “(i) INITIAL BATCH.—Not later than
9 270 days after the date of promulgation of
10 regulations pursuant to paragraph (1), the
11 Administrator shall publish, subject to sec-
12 tion 14, the priority class assignments,
13 using the priority classes described in sub-
14 paragraph (B), for the chemical substances
15 in the initial batch of chemical substances
16 identified under subsection (a)(3) that the
17 Administrator has assigned to the category
18 of chemical substances to undergo safety
19 standard determinations.

20 “(ii) SUBSEQUENT BATCHES.—Not
21 later than 270 days after the date on
22 which the Administrator designates each
23 subsequent batch of chemical substances
24 under subsection (a)(2)(A), the Adminis-
25 trator shall publish the priority class as-

1 signments for the chemical substances in
2 the batch that the Administrator has as-
3 signed to the category of chemical sub-
4 stances to undergo safety standard deter-
5 minations.

6 “(B) CRITERIA.—The criteria used by the
7 Administrator to assign chemical substances to
8 priority classes shall take into account—

9 “(i) potential impacts of the chemical
10 substance on human health and the envi-
11 ronment;

12 “(ii) the hazard potential of the chem-
13 ical substance, including classifications and
14 designations of hazard characteristics by
15 other authoritative entities;

16 “(iii) the potential for exposure to the
17 chemical substance; and

18 “(iv) measurements of exposure for a
19 given pathway of exposure, if available and
20 reliable, in preference to less direct indica-
21 tors of, or surrogates for, exposure poten-
22 tial for the same pathway.

23 “(C) PRIORITY CLASSES.—The regulations
24 promulgated pursuant to paragraph (1) shall
25 establish the following priority classes and cri-

1 initially assigned to a lower priority
2 class, including chemical substances—

3 “(aa) posing significant haz-
4 ard concerns but of less or un-
5 known exposure concern;

6 “(bb) posing significant ex-
7 posure concern but of less or un-
8 known hazard concern; or

9 “(cc) posing less hazard and
10 exposure concerns.

11 “(IV) FACTORS FOR CONSIDER-
12 ATION.—In determining the number
13 of chemical substances to be placed in
14 Priority Class 1, the Administrator
15 shall seek to balance considerations
16 relating to—

17 “(aa) the number of chem-
18 ical substances for which safety
19 standard determinations need to
20 be conducted;

21 “(bb) the resources available
22 to the Administrator for con-
23 ducting safety standard deter-
24 minations; and

1 “(cc) the deadlines for com-
2 pletion of safety standard deter-
3 minations specified in subsection
4 (d)(4).

5 “(ii) PRIORITY CLASS 2.—

6 “(I) IN GENERAL.—The Admin-
7 istrator shall designate as Priority
8 Class 2 those chemical substances
9 that the Administrator determines are
10 of lower priority than Priority Class 1
11 substances with respect to the timing
12 for conducting safety standard deter-
13 minations.

14 “(II) MINIMUM INFORMATION
15 SET.—

16 “(aa) IN GENERAL.—For
17 chemical substances designated
18 under this clause, the Adminis-
19 trator shall require submission of
20 the applicable minimum informa-
21 tion set specified under section 4
22 as needed to inform prioritization
23 decisionmaking.

1 “(bb) TIMING.—The min-
2 imum information set shall be
3 submitted to the Administrator—

4 “(AA) not later than 5
5 years after the date of en-
6 actment of the Safe Chemi-
7 cals Act of 2011 for chem-
8 ical substances in the initial
9 batch identified under sub-
10 section (a)(3) that are as-
11 signed to Priority Class 2;
12 and

13 “(BB) not later than 5
14 years after the assignment
15 of a chemical substance to
16 Priority Class 2 under this
17 clause for subsequent
18 batches.

19 “(III) REPRIORITIZATION.—After
20 submission of the minimum informa-
21 tion set for a chemical substance
22 under subclause (II), the Adminis-
23 trator shall, if warranted, recategorize
24 or otherwise reprioritize the chemical
25 substance using the priority classes

1 and process described in this para-
2 graph, together with other chemical
3 substances in the batch undergoing
4 prioritization at the time of the sub-
5 mission.

6 “(IV) REPRIORITIZATION TO PRI-
7 ORITY CLASS 1.—As safety standard
8 determinations are completed on Pri-
9 ority Class 1 chemical substances pur-
10 suant to subsection (d), the Adminis-
11 trator shall reprioritize Priority Class
12 2 substances as Priority Class 1 at a
13 pace consistent with—

14 “(aa) the resources available
15 to the Administrator for con-
16 ducting safety standard deter-
17 minations; and

18 “(bb) the deadlines for com-
19 pletion of safety standard deter-
20 minations specified in subsection
21 (d)(4).

22 “(iii) PRIORITY CLASS 3.—

23 “(I) IN GENERAL.—The Admin-
24 istrator shall designate as Priority
25 Class 3 those chemical substances

1 that the Administrator determines
2 may be set aside for further assess-
3 ment until such time as—

4 “(aa) safety standard deter-
5 minations are completed on all
6 Priority Class 1 and 2 sub-
7 stances; or

8 “(bb) new information arises
9 that warrants reprioritization of
10 such a substance to a higher pri-
11 ority class.

12 “(II) MINIMUM INFORMATION
13 SET.—

14 “(aa) IN GENERAL.—For a
15 chemical substance designated
16 under this clause, the Adminis-
17 trator shall not require submis-
18 sion of the applicable minimum
19 information set specified under
20 section 4 until such time as the
21 chemical substance is reassigned
22 to Priority Class 1 or 2.

23 “(bb) SUBMISSION.—On re-
24 assignment of a chemical sub-
25 stance to Priority Class 1 or 2

1 under item (aa), the minimum
2 information set shall be sub-
3 mitted to the Administrator not
4 later than 5 years after the date
5 of the reassignment.

6 “(III) REPRIORITIZATION.—After
7 submission of the minimum informa-
8 tion set for a chemical substance pur-
9 suant to subclause (II), the Adminis-
10 trator shall reprioritize the chemical
11 substance using the priority classes
12 and process described in this para-
13 graph, together with chemical sub-
14 stances in the batch undergoing
15 prioritization at the time of the sub-
16 mission.

17 “(IV) REPRIORITIZATION TO PRI-
18 ORITY CLASSES 1 AND 2.—In conjunc-
19 tion with the reprioritization by the
20 Administrator of Priority Class 2 sub-
21 stances as Priority Class 1, the Ad-
22 ministrator shall reprioritize Priority
23 Class 3 substances as Priority Class 1
24 or 2, at a pace consistent with—

1 “(aa) the resources available
2 to the Administrator for con-
3 ducting safety standard deter-
4 minations; and

5 “(bb) the deadlines for com-
6 pletion of safety standard deter-
7 minations specified in subsection
8 (d)(4).

9 “(c) TREATMENT AS FINAL AGENCY ACTION; NO JU-
10 DICIAL REVIEW; NONDISCRETIONARY DUTY.—

11 “(1) IN GENERAL.—The designation by the Ad-
12 ministrator of batches of chemical substances pursu-
13 ant to subsection (a), the assignment of chemical
14 substances to categories pursuant to subsection
15 (b)(3), and the assignment of chemical substances to
16 priority classes pursuant to subsection (b)(4), in-
17 cluding any determination of the Administrator to
18 include a specific chemical substance in, or exclude
19 a specific chemical substance from, a designated
20 batch, category, or priority class under this section,
21 shall not be—

22 “(A) considered to be a final agency action
23 for the purpose of subchapter II of chapter 5,
24 and chapter 7, of title 5, United States Code

1 (commonly known as ‘the Administrative Proce-
2 dure Act’); or

3 “(B) subject to judicial review.

4 “(2) FAILURE TO ACT.—A failure by the Ad-
5 ministrator to designate or publish a list of chemical
6 substances assigned to a batch, category, or priority
7 class in accordance with this subsection shall be—

8 “(A) considered to be a failure to perform
9 a nondiscretionary duty; and

10 “(B) subject to judicial review.

11 “(d) SAFETY STANDARD DETERMINATIONS FOR
12 CHEMICAL SUBSTANCES.—

13 “(1) IN GENERAL.—

14 “(A) APPLICATION.—This paragraph ap-
15 plies to any determination or redetermination
16 regarding whether a chemical substance meets
17 the safety standards of this Act.

18 “(B) RESPONSIBILITIES.—

19 “(i) IN GENERAL.—For purposes of
20 this Act, each manufacturer and processor
21 of a chemical substance shall at all times
22 bear the burden of proof in any legal pro-
23 ceeding relating to a decision of the Ad-
24 ministrator regarding whether the chemical
25 substance meets the safety standard.

1 “(ii) DUTIES.—For purposes of this
2 Act—

3 “(I) it shall be the duty of the
4 manufacturer or processor of a chem-
5 ical substance to provide sufficient in-
6 formation for the Administrator to de-
7 termine whether the chemical sub-
8 stance meets the safety standard; and

9 “(II) it shall be the duty of the
10 Administrator to determine whether a
11 chemical substance meets the safety
12 standard.

13 “(2) ASSESSMENT OF RISK.—

14 “(A) ASSESSMENT.—

15 “(i) IN GENERAL.—A chemical sub-
16 stance that undergoes a safety standard
17 determination under this section may be
18 manufactured, processed, or distributed in
19 commerce only if the Administrator deter-
20 mines that the chemical substance—

21 “(I) meets the safety standard,
22 taking into account any existing con-
23 ditions or controls already in effect; or

1 of the National Academy of Sciences in the
2 report entitled ‘Science and Decisions’.

3 “(iii) REVIEW.—Not later than 5
4 years after the date of enactment of the
5 Safe Chemicals Act of 2011, and not less
6 frequently than once every 5 years there-
7 after, the Administrator shall review the
8 methodology under this paragraph and
9 may revise the methodology to reflect new
10 scientific developments or understandings.

11 “(E) SCOPE.—An assessment described in
12 subparagraph (A) shall address health or envi-
13 ronmental impacts including potential or dem-
14 onstrated cancer and noncancer endpoints.

15 “(F) TRANSPARENCY.—In carrying out
16 this subsection, the Administrator shall ensure
17 that the approaches and resulting assessments
18 are communicated in a manner that is trans-
19 parent and understandable to—

20 “(i) the public; and

21 “(ii) risk managers.

22 “(G) MANUFACTURE OR PROCESSING FOR
23 EXPORT.—In the case of a chemical substance
24 that is manufactured or processed in whole or
25 in part for export, in determining whether the

1 chemical substance meets the safety standard
2 under subparagraph (A)(i), the Administrator
3 shall take into account any risk—

4 “(i) that the chemical substance may
5 pose in the United States, including risks
6 involving long-range transport of the chem-
7 ical substance in the environment; or

8 “(ii) involving the import of articles
9 and mixtures containing the chemical sub-
10 stance.

11 “(H) RISK ASSESSMENT NOT REQUIRED.—
12 The Administrator shall not be required to con-
13 duct a risk assessment to determine that a
14 manufacturer or processor has not met the bur-
15 den of proof under paragraph (1)(B).

16 “(I) NO JUDICIAL REVIEW.—A determina-
17 tion by the Administrator that a manufacturer
18 or processor has not established that the chem-
19 ical substance meets the applicable safety
20 standard under this subsection shall not be sub-
21 ject to judicial review.

22 “(3) INFORMATION FOR SAFETY STANDARD DE-
23 TERMINATIONS.—

1 “(A) IN GENERAL.—In making a safety
2 standard determination with respect to a chem-
3 ical substance, the Administrator—

4 “(i) shall take into consideration in-
5 formation regarding the chemical sub-
6 stance that is already available to the Ad-
7 ministrator at the time the determination
8 is to be made, including information—

9 “(I) received by the Adminis-
10 trator from manufacturers or proc-
11 essors under this section or section 8;

12 “(II) contained in any minimum
13 information sets previously required
14 under section 4;

15 “(III) voluntarily submitted by
16 manufacturers and processors in ac-
17 cordance with subsection (b)(2)(B);

18 “(IV) submitted by any other
19 party to the Administrator that is rel-
20 evant to the conduct of a safety
21 standard determination of the chem-
22 ical substance; or

23 “(V) identified through an active
24 search by the Administrator of infor-
25 mation sources that are publicly avail-

1 able or otherwise accessible to the Ad-
2 ministrator;

3 “(ii) shall require information needed
4 to complete the applicable minimum infor-
5 mation set for the chemical substance re-
6 quired under section 4(a);

7 “(iii) may require, by regulation or
8 order pursuant to section 4(b) or 8(e),
9 manufacturers or processors of the chem-
10 ical substance to develop and submit any
11 additional information the Administrator
12 determines is needed to conduct the safety
13 standard determination of the chemical
14 substance; and

15 “(iv) shall take into consideration, but
16 not rely on, assessments of safety or anal-
17 yses of the effectiveness of existing control
18 measures—

19 “(I) submitted to the Adminis-
20 trator by any party; or

21 “(II) conducted by a govern-
22 mental entity in another jurisdiction.

23 “(4) TIMING OF SAFETY STANDARD DETER-
24 MINATIONS.—

25 “(A) PRIORITY CLASS 1.—

1 “(i) IN GENERAL.—Beginning with
2 chemical substances initially designated as
3 Priority Class 1 under subsection
4 (b)(4)(C)(i), the Administrator shall con-
5 duct safety standard determinations of all
6 chemical substances assigned to the cat-
7 egory of substances to undergo safety
8 standard determinations pursuant to sub-
9 section (b)(3)(B)(iii).

10 “(ii) INITIAL BATCH.—Not later than
11 5 years after the date of enactment of the
12 Safe Chemicals Act of 2011, the Adminis-
13 trator shall complete and publish safety
14 standard determinations for all chemical
15 substances designated as Priority Class 1
16 substances in the initial batch of chemical
17 substances identified under subsection
18 (a)(3).

19 “(iii) SUBSEQUENT BATCHES.—Not
20 later than 5 years after the date on which
21 the Administrator designates chemical sub-
22 stances as Priority Class 1 in each subse-
23 quent batch of chemical substances under
24 subsection (a)(2)(A), the Administrator
25 shall complete and publish safety standard

1 determinations for those Priority Class 1
2 substances in the batch.

3 “(B) PRIORITY CLASSES 2 AND 3.—

4 “(i) IN GENERAL.—Each chemical
5 substance initially designated as Priority
6 Class 2 or 3 shall become subject to
7 reprioritization and safety standard deter-
8 minations in accordance with subsection
9 (b)(4).

10 “(ii) REPRIORITIZATION.—Not later
11 than 5 years after the date on which the
12 Administrator designates a Priority Class
13 2 or 3 substance to be Priority Class 1, the
14 Administrator shall complete and publish
15 the safety standard determination on the
16 chemical substance.

17 “(C) NOTICE OF OVERDUE DETERMINA-
18 TION.—If the Administrator fails to act by an
19 applicable deadline under subparagraph (A) or
20 (B), each manufacturer and processor of a
21 chemical substance for which the Administrator
22 has failed to act shall provide to the Adminis-
23 trator, the public, employees and recognized
24 bargaining agents of any employees who are
25 represented by bargaining agents of the manu-

1 factorer or processor, and each known customer
2 who has purchased the chemical substance with-
3 in a reasonable timeframe, as determined by
4 the Administrator by regulation or order, a
5 written notice that a determination by the Ad-
6 ministrator of the safety of the chemical sub-
7 stance is pending.

8 “(D) FAILURE OF MANUFACTURER OR
9 PROCESSOR TO MEET DUTIES.—If a manufac-
10 turer or processor fails to meet any duty under
11 this paragraph for a chemical substance, the
12 Administrator, by order, may take any action
13 authorized under subsection (f).

14 “(5) OUTCOME OF SAFETY STANDARD DETER-
15 MINATIONS.—

16 “(A) DETERMINATION.—

17 “(i) IN GENERAL.—In making a safe-
18 ty standard determination for a chemical
19 substance, the Administrator, by order,
20 shall determine or redetermine, as appro-
21 priate, whether the manufacturers and
22 processors of the chemical substance have
23 established that the chemical substance
24 meets the safety standard.

1 “(ii) CONCURRENT PUBLICATION.—

2 The Administrator—

3 “(I) shall seek to publish safety
4 standard determination and risk man-
5 agement decisions concurrently, to the
6 maximum extent practicable; but

7 “(II) shall not unduly delay the
8 issuance of any safety standard deter-
9 mination if more information or anal-
10 ysis is required to make a determina-
11 tion regarding risk management.

12 “(iii) OTHER REQUIREMENTS.—The
13 Administrator—

14 “(I) may publish safety standard
15 determinations for chemical sub-
16 stances individually or in groups; but

17 “(II) shall publish completed de-
18 terminations—

19 “(aa) not less frequently
20 than annually; and

21 “(bb) at a pace sufficient to
22 demonstrate steady progress to-
23 ward completing all such safety
24 standard determinations within
25 the required timeframe.

1 “(iv) PUBLIC NOTICE AND COM-
2 MENT.—The Administrator shall provide
3 reasonable public notice and opportunity
4 for comment on all published safety stand-
5 ard determinations through any reasonable
6 means of publication and solicitation of
7 comments, including electronic means.

8 “(B) POSITIVE SAFETY STANDARD DETER-
9 MINATION WITHOUT NEW CONDITIONS.—If the
10 Administrator determines that a chemical sub-
11 stance meets the safety standard for all current
12 uses and under conditions currently used, the
13 Administrator shall specify in the order—

14 “(i) the allowed uses of the chemical
15 substance, which shall be limited to the
16 uses evaluated in the determination; and

17 “(ii) conditions on the specified uses
18 that are currently used and are to be fol-
19 lowed to ensure the safety standard is met,
20 including conditions relating to the manu-
21 facture, processing, use, distribution in
22 commerce, or disposal of a chemical sub-
23 stance or mixture or article containing the
24 chemical substance.

1 “(C) POSITIVE SAFETY STANDARD DETER-
2 MINATION WITH NEW CONDITIONS.—If the Ad-
3 ministrators determine that a chemical sub-
4 stance can only meet the safety standard for a
5 subset of all current uses or only under condi-
6 tions beyond those currently used, the Adminis-
7 trator shall specify in the order—

8 “(i) the allowed uses of the chemical
9 substance, which shall be limited to the
10 uses evaluated in the determination that
11 the Administrator determines meet the
12 safety standard; and

13 “(ii) all current and all newly required
14 conditions on the specified uses needed to
15 ensure the safety standard is met, includ-
16 ing conditions relating to the manufacture,
17 processing, use, distribution in commerce,
18 or disposal of a chemical substance or mix-
19 ture or article containing the chemical sub-
20 stance, and any conditions described in
21 subsection (f).

22 “(D) EFFECTIVE DATE FOR POSITIVE
23 SAFETY STANDARD DETERMINATION.—

24 “(i) WITHOUT NEW CONDITIONS.—
25 Effective beginning on the date that is 90

1 days after the date of a determination by
2 the Administrator under subparagraph
3 (B), no person shall manufacture, process,
4 or distribute in commerce the chemical
5 substance subject to the determination, or
6 any mixture or article containing the
7 chemical substance, for any use or under
8 any condition other than those specified in
9 the determination order.

10 “(ii) WITH NEW CONDITIONS.—Effec-
11 tive beginning on the date that is 18
12 months after the date of a determination
13 by the Administrator under subparagraph
14 (C), except as provided in clause (iii), no
15 person shall manufacture, process, or dis-
16 tribute in commerce the chemical sub-
17 stance subject to the determination, or any
18 mixture or article containing the chemical
19 substance, for any use or under any condi-
20 tion other than those specified in the deter-
21 mination order.

22 “(iii) EXCEPTIONAL CIR-
23 CUMSTANCE.—The Administrator may
24 grant a manufacturer or processor of a
25 chemical substance a 1-time extension of

1 the deadline for complying with a restric-
2 tion under clause (ii), for a period of not
3 longer than 5 years after the date of the
4 determination by the Administrator under
5 subparagraph (C), if the manufacturer or
6 processor demonstrates—

7 “(I) a compelling technological
8 need to continue a restricted activity
9 beyond the applicable 18-month time
10 period; or

11 “(II) that a factor wholly beyond
12 the control of the manufacturer or
13 processor prevents compliance with
14 the restriction within that 18-month
15 time period.

16 “(E) REDETERMINATION.—

17 “(i) IN GENERAL.—The Administrator
18 shall initiate a redetermination of whether
19 a chemical substance meets the safety
20 standard if new information or significant
21 changes in manufacture, processing, use,
22 or distribution in commerce of the chem-
23 ical substance, or mixtures or articles con-
24 taining the chemical substance, raise a
25 credible question as to whether the chem-

1 ical substance continues to meet the safety
2 standard.

3 “(ii) NEW METHODOLOGIES.—The
4 Administrator may initiate a redetermina-
5 tion of whether a chemical substance meets
6 the safety standard if significant changes
7 have occurred in the methodologies used in
8 the initial safety standard determination
9 such that a redetermination using the
10 newer methodologies would provide a sig-
11 nificantly improved determination of the
12 safety of the chemical substance.

13 “(iii) NEW INFORMATION.—For a
14 chemical substance for which a safety
15 standard determination has been com-
16 pleted, the Administrator shall assess, on
17 an ongoing basis, new information, includ-
18 ing that obtained from reporting under
19 section 8, to decide whether such informa-
20 tion raises a credible question as to wheth-
21 er a chemical substance continues to meet
22 the safety standard

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

101

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

6 “(II) BASIS.—A person shall in-
7 clude in a petition under this clause a
8 description of the basis for requesting
9 the redetermination.

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

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

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

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

1 due consideration to any com-
2 ments received;

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

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

11 “(v) DEADLINE FOR COMPLETION.—
12 Each redetermination carried out under
13 this subparagraph shall be completed by
14 not later than 3 years after the date of the
15 decision to make the redetermination.

16 “(F) NEGATIVE SAFETY STANDARD DE-
17 TERMINATION.—

18 “(i) RESTRICTION.—Except as pro-
19 vided in clause (ii) and subsection (h), ef-
20 fective beginning on the date that is 18
21 months after the date on which the Admin-
22 istrator makes a determination under this
23 subsection that a chemical substance fails
24 to meet the safety standard, regardless of
25 whether additional restrictions on use or

1 risk management conditions are imposed,
2 no person shall manufacture, process, or
3 distribute in commerce that chemical sub-
4 stance or any mixture or article containing
5 the chemical substance.

6 “(ii) EXCEPTIONAL CIRCUMSTANCE.—
7 The Administrator may grant a manufac-
8 turer or processor of a chemical substance
9 a 1-time extension of the deadline for com-
10 plying with the restriction under clause (i),
11 for a period of not longer than 5 years
12 after the date of the determination by the
13 Administrator under this subparagraph, if
14 the manufacturer or processor dem-
15 onstrates—

16 “(I) a compelling technological
17 need to continue a restricted activity
18 beyond the applicable 18-month time
19 period; or

20 “(II) that a factor wholly beyond
21 the control of the manufacturer or
22 processor prevents compliance with
23 the restriction within that 18-month
24 time period.

1 “(e) EXPEDITED ACTION FOR SUBSTANCES OF VERY
2 HIGH CONCERN.—

3 “(1) USE AND EXPOSURE ASSESSMENT.—

4 “(A) IN GENERAL.—Not later than 180
5 days after the date on which a chemical sub-
6 stance is assigned to the category of substances
7 of very high concern under subsection
8 (b)(3)(B)(i), the Administrator may require, by
9 order pursuant to section 8(g), the submission
10 by manufacturers or processors of the chemical
11 substance of any additional information the Ad-
12 ministrator determines to be necessary to con-
13 duct an expedited assessment of the known uses
14 of, and exposures to, the chemical substance.

15 “(B) PUBLICATION.—Not later than 1
16 year after the date on which a chemical sub-
17 stance is assigned to the category of substances
18 of very high concern under subsection
19 (b)(3)(B)(i), the Administrator shall complete
20 and publish an identification and assessment of
21 the known uses of, and exposures to, the chem-
22 ical substance.

23 “(2) EXPOSURE REDUCTION.—

24 “(A) USE RESTRICTIONS AND OTHER CON-
25 DITIONS.—As soon as practicable, but not later

1 than 18 months, after the date on which a
2 chemical substance is assigned to the category
3 of substances of very high concern under sub-
4 section (b)(3)(B)(i), the Administrator shall im-
5 pose, by order, use restrictions and other condi-
6 tions, including the conditions specified in sub-
7 section (f), on the manufacturing, processing,
8 use, distribution in commerce, and disposal of
9 the chemical substance that the Administrator
10 determines to be necessary to achieve the max-
11 imum practicable reduction in human or envi-
12 ronmental exposure to the chemical substance.

13 “(B) TIMING.—Except as provided in sub-
14 paragraph (C) and subsection (h), effective be-
15 ginning on the date that is 18 months after the
16 date of issuance by the Administrator of the
17 order described in subparagraph (A), no person
18 shall manufacture, process, or distribute in
19 commerce the chemical substance subject to the
20 determination, or any mixture or article con-
21 taining the chemical substance, for any use or
22 under any condition other than those specified
23 in the order issued under subparagraph (A).

24 “(C) EXCEPTIONAL CIRCUMSTANCE.—The
25 Administrator may grant a manufacturer or

1 processor of a chemical substance a 1-time ex-
2 tension of the deadline for complying with the
3 restriction under subparagraph (B), for a pe-
4 riod of not longer than 5 years after the date
5 of the determination by the Administrator
6 under this paragraph, if the manufacturer or
7 processor demonstrates—

8 “(i) a compelling technological need to
9 continue a restricted activity beyond the
10 applicable 18-month time period; or

11 “(ii) that a factor wholly beyond the
12 control of the manufacturer or processor
13 prevents compliance with the restriction
14 within that 18-month time period.

15 “(3) RESIDUAL RISK ASSESSMENT.—Not later
16 than 1 year after the deadline specified in paragraph
17 (2)(B), or of an alternative deadline provided under
18 paragraph (2)(C), the Administrator shall—

19 “(A) determine whether the chemical sub-
20 stance meets the safety standard for the chem-
21 ical substance, taking into account the residual
22 risk posed by continued exposure to the chem-
23 ical substance; and

24 “(B) impose any additional restrictions on
25 use or other conditions under subsection (f)

1 that the Administrator determines to be nec-
2 essary to ensure that the chemical substance
3 meets the safety standard.

4 “(f) RISK MANAGEMENT.—In issuing an order under
5 subsection (d) or (e), the Administrator may impose condi-
6 tions on the manufacture, processing, use, distribution in
7 commerce, or disposal of a chemical substance, or mixture
8 or article containing a chemical substance, including a re-
9 quirement—

10 “(1) limiting the quantity of the chemical sub-
11 stance (or mixture or article containing that chem-
12 ical substance) that may be manufactured, proc-
13 essed, or distributed in commerce;

14 “(2)(A) prohibiting the manufacturing, proc-
15 essing, or distribution in commerce of the chemical
16 substance (or mixture or article containing that
17 chemical substance) for a particular use in a con-
18 centration in excess of a level specified by the Ad-
19 ministrator; or

20 “(B) limiting the quantity of the chemical sub-
21 stance (or mixture or article containing that chem-
22 ical substance) that may be manufactured, proc-
23 essed, or distributed in commerce for—

24 “(i) a particular use; or

1 “(ii) a particular use in a concentration in
2 excess of a level specified by the Administrator;

3 “(3) that the chemical substance (or mixture,
4 or article containing that chemical substance) be
5 marked with, or accompanied by, clear and adequate
6 warnings and instructions with respect to use, dis-
7 tribution in commerce, or disposal, or any combina-
8 tion of such activities, with the form and content of
9 the warnings and instructions prescribed by the Ad-
10 ministrator;

11 “(4) that manufacturers and processors of the
12 chemical substance (or mixture or article containing
13 that chemical substance)—

14 “(A) make and retain records of the proc-
15 esses used to manufacture or process the chem-
16 ical substance (or mixture or article containing
17 that chemical substance); and

18 “(B) monitor or conduct tests that are rea-
19 sonable and necessary to ensure compliance
20 with this Act;

21 “(5) prohibiting or otherwise regulating any
22 manner or method of commercial use of the chemical
23 substance (or mixture or article containing that
24 chemical substance);

1 “(6) prohibiting or otherwise regulating any
2 manner or method of disposal of the chemical sub-
3 stance, mixture, or article, by—

4 “(A) the manufacturer or processor of the
5 chemical substance (or mixture or article con-
6 taining that chemical substance); or

7 “(B) any other person that uses or dis-
8 poses of the chemical substance (or mixture or
9 article containing that chemical substance) for
10 commercial purposes;

11 “(7) that the manufacturers and processors of
12 the chemical substance, mixture, or article develop a
13 risk reduction management plan, under subsection
14 (h) or (e) of this section, to achieve a risk reduction
15 specified by the Administrator; or

16 “(8) that the Administrator otherwise deter-
17 mines is appropriate.

18 “(g) QUALITY CONTROL ORDERS.—

19 “(1) IN GENERAL.—If the Administrator has a
20 reasonable basis to conclude that a particular manu-
21 facturer or processor is manufacturing or processing
22 a chemical substance in a manner that may present
23 a substantial endangerment to health or the environ-
24 ment, the Administrator may require, by order, that
25 the manufacturer or processor submit to the Admin-

1 istrator a description of the quality control proce-
2 dures followed in the manufacturing or processing of
3 the chemical substance or mixture.

4 “(2) ORDERS.—

5 “(A) IN GENERAL.—If the Administrator
6 determines that quality control procedures de-
7 scribed in paragraph (1) are inadequate to pre-
8 vent a chemical substance from presenting a
9 risk of injury to human health or the environ-
10 ment, the Administrator may order the manu-
11 facturer or processor to revise the quality con-
12 trol procedures to the extent necessary to rem-
13 edy the inadequacy.

14 “(B) SUBSTANTIAL ENDANGERMENT.—If
15 the Administrator determines that quality con-
16 trol procedures described in paragraph (1) have
17 resulted in the distribution in commerce of a
18 chemical substance that may present a substan-
19 tial endangerment to human health or the envi-
20 ronment, the Administrator may order the man-
21 ufacturer or processor—

22 “(i) to give notice of the
23 endangerment to—

1 “(I) processors or distributors (or
2 both) in commerce of the chemical
3 substance or mixture; and

4 “(II) to the extent reasonably as-
5 certainable, any other person in pos-
6 session of or exposed to the chemical
7 substance or mixture;

8 “(ii) to give public notice of the
9 endangerment; and

10 “(iii) to provide for the replacement
11 or repurchase, as prescribed by the Admin-
12 istrator, of the chemical substance as the
13 Administrator determines to be necessary
14 to adequately protect human health or the
15 environment.

16 “(h) EXEMPTIONS TO RESTRICTIONS.—

17 “(1) APPLICATION.—This subsection applies to
18 the restrictions established under section
19 5(b)(1)(C)(ii)(I), subsection (d)(5), and subsection
20 (e).

21 “(2) EXEMPTIONS.—

22 “(A) IN GENERAL.—

23 “(i) REQUEST.—A person who manu-
24 facturers, processes, distributes in com-
25 merce, uses, or disposes of a chemical sub-

1 stance, or a mixture or article containing a
2 chemical substance may request an exemp-
3 tion from any restriction referred to in
4 paragraph (1) to which they are subject
5 for a specified use of the chemical sub-
6 stance.

7 “(ii) ORDER.—The Administrator
8 may grant, by order, an exemption from
9 any restriction referred to in paragraph (1)
10 for a period of not longer than 5 years if
11 the person has established by clear and
12 convincing evidence that the uses to be ex-
13 empted meet the exemption criteria de-
14 scribed in subparagraph (B).

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

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

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

23 “(iii) the use for which the exemption
24 is sought is a critical or essential use for
25 which—

1 “(I) no feasible safer alternative
2 for the specified use of the chemical
3 substance is available; or

4 “(II) the specified use of the
5 chemical substance, as compared to
6 all available alternatives, provides a
7 substantial net benefit to human
8 health, the environment, or public
9 safety.

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

13 “(i) the manufacturer or processor of
14 the chemical substance shall provide a no-
15 tice of the exemption to each known pur-
16 chaser of—

17 “(I) the chemical substance; and

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

20 “(ii) the Administrator shall provide
21 the public with a notice of the exemption.

22 “(D) RENEWAL.—The Administrator may
23 renew, by order, an exemption under this para-
24 graph for 1 or more additional 5-year periods
25 if the Administrator concludes, after providing

1 public notice and an opportunity for comment,
2 that the use of the chemical substance con-
3 tinues to meet the criteria described in subpara-
4 graph (B).

5 “(E) CONDITIONS.—

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

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

23 “(3) RESALE OF USED ARTICLES.—

24 “(A) IN GENERAL.—The restrictions re-
25 ferred to in paragraph (1) shall not apply to the

1 resale of an article subject to a restriction
2 under subsection (b) if the article has pre-
3 viously been used by an end consumer.

4 “(B) COMPLIANCE.—The Administrator
5 may utilize the authorities contained in section
6 7 to address potential threats to public health
7 and the environment from such articles.

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

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), in the case of the retail sale
12 to an end consumer of a chemical substance (or
13 mixture or article containing that chemical sub-
14 stance) that is subject to a restriction described
15 in paragraph (1), the Administrator may ex-
16 tend, by order, the effective date of the restric-
17 tion by a period of not longer than 3 years, if
18 the Administrator determines that the exten-
19 sion—

20 “(i) is necessary and appropriate to
21 allow for depletion of the existing retail in-
22 ventory; and

23 “(ii) will not present a substantial
24 endangerment to human health or the en-
25 vironment.

1 “(B) EXCEPTION.—An extension under
2 subparagraph (A) shall not apply to any retailer
3 that the Administrator determines has failed to
4 comply with an order requesting information
5 issued by the Administrator pursuant to section
6 8.”;

7 (4) in subsection (i) (as redesignated by para-
8 graph (2))—

9 (A) by striking paragraph (4); and

10 (B) by redesignating paragraph (5) as
11 paragraph (4); and

12 (5) by inserting after subsection (i) (as redesign-
13 ated by paragraph (2)) the following:

14 “(j) MERCURY.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), no Federal agency shall convey, sell, or
17 distribute to any other Federal agency, any State or
18 local government agency, or any private individual or
19 entity any elemental mercury, other than mercury
20 contained within an article, under the control or ju-
21 risdiction of the Federal agency.

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

24 “(A) a transfer between Federal agencies
25 of elemental mercury for the sole purpose of fa-

1 facilitating storage of mercury to carry out this
2 Act; or

3 “(B) a conveyance, sale, distribution, or
4 transfer of coal.

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

7 “(k) ASBESTOS.—

8 “(1) EXPOSURE REDUCTION.—

9 “(A) CATEGORY.—Not later than 90 days
10 after the enactment of the Safe Chemicals Act
11 of 2011, the Administrator shall designate as-
12 bestos as a chemical substance of very high con-
13 cern under subsection (b)(3)(B)(i).

14 “(B) USE AND EXPOSURE ASSESSMENT.—
15 Not later than 90 days after the date on which
16 asbestos is assigned to the category of sub-
17 stances of very high concern under subsection
18 (b)(3)(B)(i), the Administrator shall complete
19 and publish an identification and assessment of
20 the known uses of, and exposures to asbestos.

21 “(C) EXPOSURE REDUCTION.—As soon as
22 practicable, but not later than 12 months after
23 the date of enactment of the Safe Chemicals
24 Act of 2011, the Administrator shall impose, by
25 order, use restrictions and other conditions, in-

1 including the conditions specified in subsection (f)
2 on the manufacturing, processing, use, distribu-
3 tion in commerce, and disposal of asbestos that
4 the Administrator determines to be necessary to
5 achieve the maximum practicable reduction in
6 human or environmental exposure to asbestos.
7 The Administrator shall select conditions that
8 permanently reduce or eliminate the possibility
9 of exposures to the maximum extent prac-
10 ticable.

11 “(D) TIMING OF EXPOSURE REDUC-
12 TIONS.—Except as provided in clauses (i) and
13 (ii) of subsection (h)(2)(B), effective beginning
14 on the date that is 12 months after the date of
15 issuance by the Administrator of the order de-
16 scribed in subparagraph (C), no person shall
17 manufacture, process, or distribute in commerce
18 asbestos subject to the determination, or any
19 mixture or article containing asbestos, for any
20 use or under any condition other than those
21 specified in the order issued under subpara-
22 graph (C).

23 “(2) MANAGEMENT OF MATERIAL.—

24 “(A) DRAFT GUIDANCE.—Not later than
25 180 days after the date of enactment of the

1 Safe Chemicals Act of 2011, the Administrator,
2 in consultation with the Director of the Na-
3 tional Institutes of Occupational Safety and
4 Health, shall publish draft guidance describing
5 the steps that Federal agencies and contractors
6 of Federal agencies shall take to enhance pro-
7 tections for public health and safety and the en-
8 vironment, and to better solicit information
9 from members of the public who may poten-
10 tially be affected by asbestos, when Federal
11 agencies and contractors of Federal Agencies
12 handle or dispose of asbestos. The Adminis-
13 trator shall allow 30 days of public comment on
14 this draft guidance and hold no fewer than two
15 public meetings on this draft guidance in com-
16 munities impacted by asbestos contamination.

17 “(B) FINAL GUIDANCE.—Not later than
18 12 months after the date of enactment of the
19 Safe Chemicals Act of 2011, the Administrator,
20 in consultation with the Director of the Na-
21 tional Institutes of Occupational Safety and
22 Health, shall publish final guidance describing
23 the steps that Federal agencies and contractors
24 of Federal Agencies shall take to enhance pro-
25 tections for public health and safety and the en-

1 vironment when handling and disposing of as-
2 bestos. The final guidance shall also include
3 steps that shall be taken to better solicit infor-
4 mation from and protect the health and safety
5 of people located near areas where asbestos is
6 located, where asbestos is transported, and
7 where asbestos disposal occurs.

8 “(3) DEFINITION.—For purposes of this sec-
9 tion, the term ‘asbestos’ has the meaning given such
10 term under section 202(3).

11 “(4) NO EFFECT ON COMPLIANCE WITH ENVI-
12 RONMENTAL LAWS.—Nothing in paragraph (2) or
13 any amendment made by paragraph (2) shall be con-
14 strued to affect or limit the application of or obliga-
15 tion to comply with any environmental law, including
16 the Comprehensive Environmental Response, Com-
17 pensation, and Liability Act of 1980 (42 U.S.C.
18 9601 et seq.).

19 “(1) CERTIFICATION.—Each submission required
20 under this section (or a regulation or order promulgated
21 or issued by the Administrator pursuant to this section)
22 shall be accompanied by a certification signed by a respon-
23 sible official of the manufacturer or processor that each
24 statement contained in the submission—

25 “(1) is accurate and reliable; and

1 “(2) includes all material facts required by the
2 applicable provision of this section or rule or order
3 under this section.

4 “(m) EFFECTIVE DATE.—In any regulation or order
5 under this section, the Administrator shall specify the date
6 on which the regulation or order shall take effect, which
7 date shall be as soon as practicable after the date of pro-
8 mulgation or issuance of the regulation or order.”.

9 (b) DEFINITION OF ASBESTOS.—Section 202(3) of
10 the Toxic Substances Control Act (15 U.S.C. 2642(3)) is
11 amended—

12 (1) in subparagraph (E), by striking “or”;

13 (2) in subparagraph (F), by striking the period
14 at the end and inserting “, and”; and

15 (3) by adding at the end the following

16 “(G) any material formally classified as
17 tremolite, including—

18 “(i) winchire asbestos, and

19 “(ii) richterite asbestos, and

20 “(H) any asbestiform amphibole mineral.”.

21 Beginning on page 98, strike line 10 and all that fol-
22 lows through page 110, line 2, and insert the following:

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

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

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

5 “(a) DEFINITIONS.—In this section:

6 “(1) KNOWN TO, OR REASONABLY ASCERTAIN-
7 ABLE BY.—The term ‘known to, or reasonably ascer-
8 tainable by’ has the meaning given the term in sec-
9 tion 704.3 of title 40, Code of Federal Regulations
10 (or successor regulations).

11 “(2) MANUFACTURE AND PROCESS.—The terms
12 ‘manufacture’ and ‘process’ mean manufacture and
13 process, respectively, for commercial purposes.

14 “(b) DECLARATIONS OF CHEMICAL SUBSTANCES IN
15 COMMERCE.—

16 “(1) SCOPE AND CRITERIA.—

17 “(A) SCOPE.—The declarations described
18 in this subsection shall apply only to chemical
19 substances in commerce as of the date of enact-
20 ment of the Safe Chemicals Act of 2011.

21 “(B) CRITERIA.—The following criteria
22 shall apply in identifying chemical substances to
23 which the declarations described in this sub-
24 section apply:

25 “(i) CURRENT COMMERCIAL INTER-
26 EST.—A chemical substance in which a

1 manufacturer or processor has a current
2 commercial interest shall include only
3 chemical substances that the manufacturer
4 or processor—

5 “(I) is currently manufacturing
6 or processing; or

7 “(II) has manufactured or proc-
8 essed in the recent past and expects
9 to manufacture or process again in
10 the near future.

11 “(ii) POTENTIAL COMMERCIAL INTER-
12 EST.—A chemical substance in which a
13 manufacturer or processor has a potential
14 commercial interest shall include only a
15 chemical substance that may serve as a
16 reasonable substitute for a chemical sub-
17 stance in which the manufacturer or proc-
18 essor has declared a current commercial
19 interest.

20 “(C) GUIDANCE.—Not later than 90 days
21 after the date of enactment of the Safe Chemi-
22 cals Act of 2011, the Administrator shall issue
23 guidance further describing the criteria de-
24 scribed in subparagraph (B) and specifying the
25 supporting information manufacturers and

1 processors are to include in declarations they
2 submit pursuant to paragraph (2) or (3) for
3 chemical substances in which they have a cur-
4 rent or potential commercial interest.

5 “(2) DECLARATION OF CURRENT COMMERCIAL
6 INTEREST IN A CHEMICAL SUBSTANCE.—

7 “(A) IN GENERAL.—Notwithstanding any
8 other provision of law, not later than 180 days
9 after the date of enactment of the Safe Chemi-
10 cals Act of 2011, each manufacturer of a chem-
11 ical substance in which the manufacturer has a
12 current commercial interest shall submit to the
13 Administrator a declaration of the interest for
14 the chemical substance.

15 “(B) EXCLUSIONS OR EXEMPTIONS.—Dec-
16 larations are required for all chemical sub-
17 stances in which a manufacturer has a current
18 commercial interest, notwithstanding any exclu-
19 sions or exemptions from other notification or
20 reporting requirements provided in any other
21 provision of this Act.

22 “(C) PROCESSORS.—A processor of a
23 chemical substance in which the processor has
24 a current commercial interest that meets the
25 criteria described in paragraph (1)(B)(i) may

1 voluntarily submit to the Administrator a dec-
2 laration for the chemical substance. Such a dec-
3 laration shall be submitted not later than 1
4 year after the date of enactment of the Safe
5 Chemicals Act of 2011.

6 “(3) DECLARATION OF POTENTIAL COMMER-
7 CIAL INTEREST IN A CHEMICAL SUBSTANCE.—

8 “(A) A manufacturer or processor may vol-
9 untarily submit to the Administrator, not later
10 than 180 days after the date of enactment of
11 the Safe Chemicals Act of 2011, a declaration
12 for a chemical substance in which the manufac-
13 turer or processor—

14 “(i) does not have a current commer-
15 cial interest; but

16 “(ii) has a potential commercial inter-
17 est that meets the criteria described in
18 paragraph (1)(B)(ii).

19 “(B) If a manufacturer or processor com-
20 mences the manufacture or processing of a
21 chemical substance for which it submitted a
22 declaration under this paragraph, the manufac-
23 turer or processor shall comply with the re-
24 quirements of subsection (h)(5)(B).

1 “(4) DECLARATION OF CESSATION OF MANU-
2 FACTURING OR PROCESSING.—A former or current
3 manufacturer or processor of a chemical substance
4 in which the manufacturer or processor no longer
5 has a commercial interest may voluntarily submit to
6 the Administrator, not later than 180 days after the
7 date of enactment of the Safe Chemicals Act of
8 2011, a declaration that the manufacturer or proc-
9 essor has ceased, or will cease not later than 180
10 days after the date on which the declaration is sub-
11 mitted, all production, importation, processing, and
12 export of the chemical substance.

13 “(5) CONTENTS.—A declaration submitted
14 under this subsection shall include for each chemical
15 substance—

16 “(A) the chemical identity and any special
17 substance characteristics of the chemical sub-
18 stance;

19 “(B) the identity and primary business lo-
20 cation of the manufacturer or processor; and

21 “(C) information supporting the declar-
22 ant’s basis for meeting the applicable criteria
23 under paragraph (1)(B).

24 “(6) REVIEW BY ADMINISTRATOR.—

1 “(A) IN GENERAL.—The Administrator
2 shall—

3 “(i) review each declaration received
4 under this subsection to determine whether
5 the declaration conforms to the criteria
6 and requirements of this subsection; and

7 “(ii)(I) for a chemical substance for
8 which 1 or more conforming declarations
9 are submitted under paragraph (2), add
10 the chemical substance to the list of active
11 chemical substances in the inventory estab-
12 lished under subsection (h)(1);

13 “(II) for a chemical substance for
14 which the only conforming declarations
15 submitted for the substance are submitted
16 under paragraph (3), add the chemical
17 substance to the list of inactive chemical
18 substances in the inventory established
19 under subsection (h)(5); and

20 “(III) for a chemical substance for
21 which the only conforming declarations
22 submitted for the substance are submitted
23 under paragraph (4), or for which no dec-
24 laration has been submitted, remove the

1 chemical substance from the inventories es-
2 tablished under subsection (h).

3 “(B) REVISIONS.—The Administrator shall
4 allow a manufacturer or processor, as applica-
5 ble, to promptly revise and resubmit any dec-
6 laration submitted to the Administrator under
7 this subsection if the Administrator determines
8 that any omission or error in the original dec-
9 laration was not intentional.

10 “(c) PERIODIC REPORTING BY MANUFACTURERS.—

11 “(1) IN GENERAL.—The Administrator shall—

12 “(A) maintain the periodic reporting pro-
13 gram of the agency applicable to manufacturers
14 of chemical substances set forth in part 711 of
15 title 40, Code of Federal Regulations (as in ef-
16 fect on the date of enactment of the Safe
17 Chemicals Act of 2011), unless such reporting
18 requirements are superseded pursuant to sub-
19 paragraph (B); or

20 “(B) establish a new periodic reporting
21 program consistent with this subsection.

22 “(2) RULEMAKING.—

23 “(A) IN GENERAL.—Not later than 180
24 days after the date of enactment of the Safe

1 “(C) CONTENTS.—The rule promulgated
2 under subparagraph (A) shall, at a minimum,
3 require each manufacturer of a chemical sub-
4 stance included in the periodic reporting pro-
5 gram to submit to the Administrator—

6 “(i) the chemical identity and any
7 special substance characteristics of the
8 chemical substance, the identity and pri-
9 mary business location of the manufac-
10 turer, and any updates to the supporting
11 information submitted by the manufacturer
12 in any declaration for an included chemical
13 substance submitted under subsection (b);

14 “(ii) a list of health and safety studies
15 conducted or initiated by or for, known to,
16 or reasonably ascertainable by, the manu-
17 facturer with respect to each included
18 chemical substance;

19 “(iii) a copy of each study described
20 in clause (ii) in the possession or control of
21 the manufacturer that has not previously
22 been submitted to the Administrator; and

23 “(iv) all other information specified by
24 the Administrator in the rules promulgated
25 under this subsection that is known to, in

1 the possession or control of, or reasonably
2 ascertainable by, the manufacturer or proc-
3 essor that has not previously been sub-
4 mitted to the Administrator regarding—

5 “(I) the physical, chemical, and
6 toxicological properties of the chemical
7 substance;

8 “(II) the manufacturer’s annual
9 production volume of the chemical
10 substance;

11 “(III) the uses of, and exposure
12 and fate information relating to the
13 manufacturer’s production or import
14 of the chemical substance; and

15 “(IV) the name and location of
16 each facility to which the manufac-
17 turer sends the chemical substance
18 after manufacture for subsequent
19 processing, distribution, or use.

20 “(d) RECORDS TO SUPPORT DECLARATIONS AND
21 PERIODIC REPORTS.—

22 “(1) IN GENERAL.—Each manufacturer and
23 processor of a chemical substance that is distributed
24 in commerce shall—

1 “(A) maintain records of the information
2 submitted to the Administrator under sub-
3 sections (b) and (c), as well as supporting infor-
4 mation; and

5 “(B) submit those records or that informa-
6 tion to the Administrator upon request by the
7 Administrator.

8 “(2) BURDEN OF PROOF.—Each manufacturer
9 and processor that submits to the Administrator a
10 declaration under subsection (b) or a notice under
11 subsection (h)(5)(B) shall at all times bear the bur-
12 den of proving that the manufacturer or processor—

13 “(A) has a current or potential commercial
14 interest in the applicable chemical substance; or

15 “(B) has ceased the production, importa-
16 tion, processing, and export of, the applicable
17 chemical substance.

18 “(e) SUBSTANCE IDENTIFICATION AND INFORMA-
19 TION FOR CHEMICAL PROCESSORS.—

20 “(1) RULEMAKING.—

21 “(A) IN GENERAL.—Not later than 1 year
22 after the date of enactment of the Safe Chemi-
23 cals Act of 2011, the Administrator shall speci-
24 fy, by rule, the information that chemical proc-
25 essors are required to submit for chemical sub-

1 stances under this subsection as will assist the
2 Administrator in the administration of this Act.

3 “(B) EXEMPTIONS.—The rule promulgated
4 under this paragraph may exempt certain proc-
5 essors, including small processors, from—

6 “(i) a requirement to participate in
7 the periodic reporting program, if the Ad-
8 ministrator determines that the partici-
9 tion of those processors would not assist in
10 the administration of this Act; or

11 “(ii) specific reporting requirements,
12 if the Administrator determines that the
13 value of a particular reporting require-
14 ment, for the administration of this Act,
15 would not be commensurate with the bur-
16 den of the requirement on submitters.

17 “(2) INFORMATION REQUIREMENTS.—The rule
18 promulgated under paragraph (1) shall—

19 “(A) specify the information that proc-
20 essors are required to submit for chemical sub-
21 stances that are—

22 “(i) processed for use in 1 or more
23 consumer or commercial product cat-
24 egories, as determined by the Adminis-
25 trator; and

1 “(ii) intentionally added to 1 or more
2 products during processing and not inci-
3 dental to the end uses of the products;

4 “(B) require each processor of a chemical
5 substance identified under subparagraph (A) to
6 submit the information specified in clauses (i)
7 through (iii) of subparagraph (C) for the chem-
8 ical substance, and to submit the information
9 specified in clauses (iv) through (viii) of sub-
10 paragraph (C)—

11 “(i) separately for each applicable
12 consumer and commercial product cat-
13 egory; and

14 “(ii) in aggregate form, taking into
15 account the use by the processor of the
16 chemical substance in all product cat-
17 egories;

18 “(C) require each processor of a chemical
19 substance identified under subparagraph (A) to
20 identify in the submission of the processor—

21 “(i) the corporate name and primary
22 business location of the processor;

23 “(ii) the chemical identity and any
24 special substance characteristics of the
25 chemical substance;

1 “(iii) the applicable consumer or com-
2 mercial product category or categories for
3 which the processor processes the chemical
4 substance;

5 “(iv) the annual volume of the chem-
6 ical substance processed by the submitter;

7 “(v) any products intended for use by
8 children aged 14 years or younger for use
9 in which the processor processes the chem-
10 ical substance;

11 “(vi) the concentration range within
12 which the maximum concentration of the
13 substance used in each consumer and com-
14 mercial product category falls;

15 “(vii) the range within which the total
16 number of commercial workers reasonably
17 likely to be exposed to the chemical sub-
18 stance at the processing site falls; and

19 “(viii) any other information regard-
20 ing processing activities or product
21 descriptors relating to the processor’s proc-
22 essing of the chemical substance identified
23 by the Administrator as necessary to un-
24 derstand the potential exposure from proc-
25 essed chemical substances or products in

1 which the chemical substances are used;
2 and

3 “(D) require each processor to periodically
4 report the information described in subpara-
5 graphs (B) and (C) for the chemical substances
6 described in subparagraph (A).

7 “(3) RECORDS.—The rules promulgated under
8 paragraph (1) shall require processors of chemical
9 substances to which those rules apply—

10 “(A) to maintain records of the informa-
11 tion described in paragraph (2); and

12 “(B) to submit those records to the Ad-
13 ministrator upon request by the Administrator.

14 “(f) UPDATING OF INFORMATION.—

15 “(1) IN GENERAL.—Each manufacturer or
16 processor of a chemical substance that submits in-
17 formation to the Administrator under subsection (c)
18 or (e) shall update the information—

19 “(A) at a minimum every 4 years; and

20 “(B) at any time that—

21 “(i) the manufacturer or processor ob-
22 tains knowledge of, comes into possession
23 of, or generates significant new informa-
24 tion regarding the production, processing,

1 use, distribution, hazard, or exposure po-
2 tential of the chemical substance; or

3 “(ii) there is a significant change in
4 the production, distribution in commerce,
5 or use of the chemical substance by or
6 known to the manufacturer or processor.

7 “(2) GUIDANCE.—Not later than 1 year after
8 the date of enactment of the Safe Chemicals Act of
9 2011, the Administrator shall issue guidance on
10 what constitutes significant new information regard-
11 ing or significant changes in the production, dis-
12 tribution in commerce, or use of a chemical sub-
13 stance.

14 “(g) REPORTS.—

15 “(1) REQUIREMENT.—

16 “(A) IN GENERAL.—Except as provided in
17 paragraph (2), the Administrator may by rule
18 or order require any person who manufactures,
19 processes, distributes in commerce, uses, or dis-
20 poses of a chemical substance, or a mixture or
21 article containing the chemical substance to
22 maintain records of and report by a specified
23 date any existing information concerning the
24 substance that, in the judgment of the Adminis-
25 trator, would assist the Administrator in—

1 “(i) making a safety standard deter-
2 mination with respect to a chemical sub-
3 stance;

4 “(ii) determining testing or informa-
5 tion needs for a chemical substance;

6 “(iii) assigning a chemical substance
7 to a batch, category, or priority class pur-
8 suant to section 6;

9 “(iv) evaluating, developing, and im-
10 plementing risk management conditions for
11 a chemical substance;

12 “(v) assessing hazards, exposures, or
13 risks related to the manufacture, use, dis-
14 tribution, processing, or disposal of a
15 chemical substance;

16 “(vi) determining compliance with any
17 provision of this Act; or

18 “(vii) any other aspect of admin-
19 istering this Act.

20 “(B) CHARACTERISTICS.—The Adminis-
21 trator may by rule or order require that any re-
22 port or information submitted pursuant to this
23 Act include chemical identity and special sub-
24 stance characteristics, as appropriate to the

1 chemical substance that is the subject of the re-
2 port or information.

3 “(C) REQUIRED INFORMATION.—The Ad-
4 ministrator shall by rule or order specify or
5 modify the information that is required to be
6 submitted with a particular report or informa-
7 tion submission to establish the chemical iden-
8 tity and special substance characteristics of the
9 subject chemical substance (or mixture or arti-
10 cle containing that chemical substance) for the
11 purposes of the report or information submis-
12 sion.

13 “(2) EXEMPTIONS.—

14 “(A) SMALL QUANTITIES FOR RESEARCH
15 OR ANALYSIS.—In the case of the manufacture,
16 processing, distribution in commerce, use, or
17 disposal of a chemical substance in small quan-
18 tities (as defined by the Administrator by rule)
19 solely for purposes of scientific experimentation
20 or analysis or chemical research (including any
21 such research or analysis for the development of
22 a product), the Administrator may promulgate
23 a rule or order under paragraph (1) only to the
24 extent that the Administrator determines that
25 the maintenance of records, submission of re-

1 ports, or both, is necessary for the effective en-
2 forcement of this Act.

3 “(B) SMALL BUSINESS.—The rules pro-
4 mulgated under this subsection may exempt
5 certain small businesses from the rules promul-
6 gated under this subsection, if the Adminis-
7 trator determines that the participation of those
8 small businesses would not assist in the admin-
9 istration of this Act.

10 “(h) INVENTORIES.—

11 “(1) ACTIVE INVENTORY.—The Administrator
12 shall compile, keep current, and, subject to section
13 14, publish a list of each chemical substance that is
14 manufactured or processed in the United States.

15 “(2) CONTENTS.—

16 “(A) IN GENERAL.—The list shall consist
17 of those chemical substances for which—

18 “(i) a notice is submitted under sec-
19 tion 5(d), consistent with the requirements
20 of section 5(b); or

21 “(ii) a valid declaration is submitted
22 under paragraph (2) of subsection (b).

23 “(B) EXCLUSIONS.—The list shall not in-
24 clude—

1 “(i) any chemical substance for which
2 the only declarations submitted are sub-
3 mitted under paragraph (3) or (4) of sub-
4 section (b), or for which no declaration has
5 been submitted; or

6 “(ii) any chemical substance for which
7 an exemption has been granted under sec-
8 tion 5(b)(1)(C)(ii) or section 6(h)(2).

9 “(3) TIMING.—

10 “(A) IN GENERAL.—Except as provided in
11 paragraph (2)(B), for a chemical substance for
12 which a notice is submitted under section 5(d),
13 the chemical substance shall be included in the
14 list established under paragraph (1) as of the
15 earliest date (as determined by the Adminis-
16 trator) on which the substance was manufac-
17 tured or processed in the United States.

18 “(B) PUBLICATION.—The Administrator
19 shall first publish a list under paragraph (1)
20 not later than 1 year after the date of enact-
21 ment of the Safe Chemicals Act of 2011.

22 “(4) SMALL QUANTITIES FOR RESEARCH OR
23 ANALYSIS.—The Administrator shall not include in
24 the list established under paragraph (1) any chem-
25 ical substance that is manufactured or processed

1 only in small quantities (as defined by the Adminis-
2 trator by rule) solely for purposes of scientific ex-
3 perimentation or analysis or chemical research on, or
4 analysis of, the substance or another substance, in-
5 cluding research or analysis for the development of
6 a product.

7 “(5) INACTIVE INVENTORY.—

8 “(A) IN GENERAL.—The Administrator
9 shall compile, keep current, and, subject to sec-
10 tion 14, publish an inactive list on which the
11 Administrator shall include each chemical sub-
12 stance for which the only declarations sub-
13 mitted for the substance are submitted under
14 subsection (b)(3).

15 “(B) REQUIREMENTS.—If a manufacturer
16 or processor commences the manufacture or
17 processing of a chemical substance on the inac-
18 tive list, the manufacturer or processor shall—

19 “(i) not less than 30 days before re-
20 commencing the manufacture or processing
21 of the chemical substance, notify the Ad-
22 ministrator; and

23 “(ii) provide with the notification
24 under clause (i)—

1 “(I) the chemical identity and
2 any special substance characteristics
3 of the chemical substance;

4 “(II) the identity and primary
5 business location of the manufacturer;

6 “(III) a list of health and safety
7 studies conducted or initiated by or
8 for, known to, or reasonably ascer-
9 tainable by, the manufacturer or proc-
10 essor with respect to the chemical
11 substance;

12 “(IV) upon request of the Ad-
13 ministrator, a copy of each study de-
14 scribed in subclause (III) in the pos-
15 session or control of the manufacturer
16 that has not previously been sub-
17 mitted to the Administrator;

18 “(V) the projected annual manu-
19 facturing or processing volume for the
20 chemical substance for each of the
21 subsequent 3 years;

22 “(VI) the name and location of
23 each facility to which the chemical
24 substance is expected to be sent, after
25 manufacture or processing, for subse-

1 quent processing, distribution in com-
2 merce, or use; and

3 “ (VII) all other existing informa-
4 tion known to, in the possession or
5 control of, or reasonably ascertainable
6 by the manufacturer or processor that
7 has not previously been submitted to
8 the Administrator regarding—

9 “ (aa) the toxicological prop-
10 erties of the chemical substance;
11 and

12 “ (bb) the uses of, and expo-
13 sure and fate information relat-
14 ing to, the chemical substance.

15 “ (C) ADMINISTRATOR ACTIONS.—For any
16 chemical substance for which the Administrator
17 receives a valid notification under subparagraph
18 (B), the Administrator shall promptly—

19 “ (i) move the chemical substance to
20 the active inventory established under
21 paragraph (1); and

22 “ (ii) add the chemical substance to
23 the current batch of chemical substances
24 identified pursuant to section 6(a), and
25 categorize the chemical substance with

1 “(B) procedures for use in maintaining
2 and updating the database.

3 “(2) PUBLIC ACCESS.—Not later than 18
4 months after the date of enactment of the Safe
5 Chemicals Act of 2011 or for decisions made or in-
6 formation submitted after that 18-month period, not
7 later than 90 days after the date on which a decision
8 is made by the Administrator or information sub-
9 mitted under this title is received by the Adminis-
10 trator, the Administrator shall, subject to section 14,
11 make available to the public via the Internet-acces-
12 sible database described in paragraph (1) a descrip-
13 tion of all significant—

14 “(A) decisions made by the Administrator
15 under this title; and

16 “(B) information submitted pursuant to
17 this title.

18 “(j) RECORDS OF SIGNIFICANT ADVERSE REAC-
19 TIONS.—

20 “(1) IN GENERAL.—Any person that manufac-
21 tures, processes, or distributes in commerce any
22 chemical substance shall maintain, and on request
23 submit to the Administrator, records of significant
24 adverse reactions to human health or the environ-
25 ment, as determined by the Administrator by rule,

1 alleged to have been caused by the substance or mix-
2 ture.

3 “(2) DURATION.—

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

10 “(B) OTHER RECORDS.—Any record of
11 other adverse reactions shall be retained for a
12 period of 5 years after the date on which infor-
13 mation contained in the record was first re-
14 ported to or known by the person maintaining
15 the record.

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

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

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

22 “(C) reports or complaints of injury to the
23 environment submitted to the manufacturer,
24 processor, or distributor in commerce from any
25 source.

1 “(k) INFORMATION IN THE POSSESSION OF OTHER
2 FEDERAL AGENCIES.—

3 “(1) SYNOPSES.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of law, from time to time, each
6 Federal agency and Federal institution shall
7 submit to the Administrator a synopsis of the
8 data and records in the possession or control of
9 the agency or institution, respectively, that may
10 be useful to the Administrator in carrying out
11 this Act.

12 “(B) FORMAT AND CONTENT.—Not later
13 than 1 year after the date of enactment of the
14 Safe Chemicals Act of 2011, the Administrator
15 shall prescribe, by order, the format, content,
16 and level of detail of the synopses.

17 “(C) INITIAL SUBMISSION.—Not later than
18 18 months after the date of enactment of the
19 Safe Chemicals Act of 2011, each Federal agen-
20 cy and Federal institution shall make the initial
21 submission of a synopsis of the agency and in-
22 stitution, respectively, to the Administrator.

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

1 “(i) update the synopsis of the agency
2 and institution, respectively; and

3 “(ii) submit the updated synopsis to
4 the Administrator.

5 “(2) REQUESTS BY THE ADMINISTRATOR.—

6 Notwithstanding any other provision of law, on the
7 request of the Administrator, any information in the
8 possession or control of an agency or institution re-
9 lating to a hazard of, use of, exposure to, or risk of,
10 a chemical substance (or mixture or article con-
11 taining that chemical substance) shall be submitted
12 to the Administrator.

13 “(l) NOTICE TO ADMINISTRATOR OF SUBSTANTIAL
14 RISKS.—Any person that manufactures, processes, or dis-
15 tributes in commerce a chemical substance and that ob-
16 tains information that reasonably supports the conclusion
17 that the substance presents a substantial risk of injury
18 to health or the environment shall immediately inform the
19 Administrator of the information unless the person has ac-
20 tual knowledge that the Administrator has been ade-
21 quately informed of the information.

22 “(m) CERTIFICATION.—Each submission required
23 pursuant to this section or pursuant to a rule or an order
24 promulgated or issued by the Administrator under this
25 section, other than a submission under subsection (k),

1 shall be accompanied by a certification signed by a respon-
2 sible official of the manufacturer, processor, distributor,
3 user, or disposer of a chemical substance that each state-
4 ment contained in the submission—

5 “(1) is accurate and reliable; and

6 “(2) includes all material facts required by the
7 applicable provision of this section or rule or order
8 under this section.

9 “(n) ADMINISTRATION.—

10 “(1) IN GENERAL.—Nothing in this section lim-
11 its the authority of the Administrator to require re-
12 porting under any other provision of this Act by any
13 person who manufactures, processes, distributes in
14 commerce, uses, or disposes of a chemical substance,
15 or a mixture or article containing a chemical sub-
16 stance.

17 “(2) VIOLATIONS.—In addition to all other au-
18 thorities available for the enforcement of this Act,
19 the Administrator may, by order, take any action
20 authorized under section 6(f) if a person who manu-
21 factures, processes, distributes in commerce, uses, or
22 disposes of a chemical substance, or a mixture or ar-
23 ticle containing a chemical substance violates any
24 provision of this section.”.

1 Beginning on page 121, strike line 17 and all that
2 follows through page 131, line 19, and insert the following:

3 **SEC. 14. DISCLOSURE OF DATA.**

4 Section 14 of the Toxic Substances Control Act (15
5 U.S.C. 2613) is amended to read as follows:

6 **“SEC. 14. DISCLOSURE OF DATA.**

7 “(a) APPLICABILITY.—

8 “(1) IN GENERAL.—Subject to paragraph (2)
9 and except as provided under subsections (b) and
10 (e), any information reported to, or otherwise ob-
11 tained by, the Administrator (or any representative
12 of the Administrator) that is exempt from disclosure
13 under subsection (a) of section 552 of title 5, United
14 States Code, (commonly known as the ‘Freedom of
15 Information Act’) under subsection (b)(4) of that
16 section, shall not be disclosed by the Administrator
17 or by any officer or employee of the United States,
18 unless the designation of the information as exempt
19 from disclosure is prohibited under Federal law.

20 “(2) EXEMPTIONS.—

21 “(A) MANDATORY EXEMPTIONS.—Notwith-
22 standing any other provision of law, the Admin-
23 istrator shall disclose the information described
24 in paragraph (1)—

1 “(i) to any officer or employee of the
2 United States—

3 “(I) in connection with the offi-
4 cial duties of that officer or employee
5 under any law for the protection of
6 human health or the environment; or

7 “(II) for specific law enforcement
8 purposes;

9 “(ii) to a contractor with the United
10 States and employees of that contractor if,
11 in the opinion of the Administrator, the
12 disclosure is necessary for the satisfactory
13 performance by the contractor of a con-
14 tract with the United States entered into
15 on or after the date of enactment of the
16 Safe Chemicals Act of 2011 for the per-
17 formance of work in connection with this
18 Act and under such conditions as the Ad-
19 ministrator may specify;

20 “(iii) if the Administrator determines
21 that the disclosure is necessary to protect
22 human health or the environment;

23 “(iv) on request, to a State or tribal
24 government for the purpose of development
25 or potential development, administration,

1 or enforcement of a law, if 1 or more ap-
2 plicable agreements ensure that the recipi-
3 ent government will take appropriate steps,
4 and has adequate authority, to maintain
5 the confidentiality of the information in ac-
6 cordance with procedures comparable to
7 those which the Administrator uses to
8 safeguard the information;

9 “(v) on request, to public health or
10 environmental health professionals or med-
11 ical personnel if the Administrator deter-
12 mines that—

13 “(I) disclosure is in the public in-
14 terest;

15 “(II) the recipient does not have
16 a conflict of interest or competitive in-
17 terest with respect to the submitter of
18 the information; and

19 “(III) 1 or more applicable
20 agreements are in place to ensure that
21 the recipient of the information pro-
22 vides comparable protections to those
23 provided by the Administrator to
24 maintain the confidentiality of the in-
25 formation.

1 “(B) OPTIONAL EXEMPTIONS.—Notwith-
2 standing any other provision of law, the Admin-
3 istrator may disclose the information described
4 in paragraph (1) if relevant, in any proceeding
5 under this Act, except that disclosure in such a
6 proceeding shall be made in such manner as to
7 preserve confidentiality to the maximum extent
8 practicable without impairing the proceeding.

9 “(3) EFFECT ON OTHER LAWS.—In any pro-
10 ceeding under section 552(a) of title 5, United
11 States Code (commonly referred to as the ‘Freedom
12 of Information Act’), to obtain information, the dis-
13 closure of which has been denied pursuant to this
14 section, the Administrator may not rely on sub-
15 section (b)(3) of that section to sustain the action of
16 the Administrator.

17 “(b) CATEGORIES OF CONFIDENTIAL BUSINESS IN-
18 FORMATION.—

19 “(1) INFORMATION THAT IS ALWAYS ELIGIBLE
20 FOR PROTECTION.—Subject to subsection (a)(2) and
21 any other applicable provision of Federal law, the
22 Administrator shall review and approve a request
23 that conforms to the requirements described in sub-
24 section (c)(2) to treat as confidential under this sec-
25 tion the following information:

1 “(A) Precise information describing the
2 manufacture, processing, or distribution of a
3 chemical substance or mixture.

4 “(B) Marketing and sales information.

5 “(C) Information identifying the customers
6 of a manufacturer, processor, or distributor.

7 “(D) Details of the full composition of a
8 mixture of a particular manufacturer or proc-
9 essor.

10 “(E) Precise information about the use,
11 function, or application of a chemical substance
12 or mixture in a process, mixture, or product of
13 a particular manufacturer or processor.

14 “(F) Precise production or import volumes
15 of a particular manufacturer, processor, or dis-
16 tributor.

17 “(2) INFORMATION THAT MAY BE ELIGIBLE
18 FOR PROTECTION.—

19 “(A) IN GENERAL.—Subject to subsection
20 (a) and any other applicable provision of Fed-
21 eral law, and except as provided in paragraphs
22 (1) and (3), information submitted by a manu-
23 facturer, processor, or distributor to the Admin-
24 istrator may be protected if the manufacturer,
25 processor, or distributor complies with sub-

1 section (c)(2) and the Administrator determines
2 that a request to maintain the confidentiality of
3 the information meets the applicable require-
4 ments of this subsection and any rule promul-
5 gated by the Administrator under subsection
6 (c)(1).

7 “(B) IDENTITIES OF CERTAIN CHEMICAL
8 SUBSTANCES.—

9 “(i) IN GENERAL.—Notwithstanding
10 subparagraph (A), the Administrator shall
11 not disclose precise information on the
12 identity of a chemical substance if—

13 “(I) the manufacturer or proc-
14 essor of the substance has, in accord-
15 ance with subsection (c)(2)—

16 “(aa) included in a notice
17 under section 5(b) a request, in-
18 cluding a justification and docu-
19 mentation for the request, that
20 the identity of the substance be
21 treated as confidential business
22 information; or

23 “(bb) submitted to the Ad-
24 ministrator not later than 180
25 days after the date of enactment

1 of the Safe Chemicals Act of
2 2011 a request, including a jus-
3 tification and documentation for
4 the request, that the identity of a
5 substance for which a notice has
6 been submitted under section
7 5(b) as of the date of enactment
8 of the Safe Chemicals Act of
9 2011 be treated as confidential
10 business information; and

11 “(II) the Administrator deter-
12 mines that—

13 “(aa) the request complies
14 with all applicable requirements
15 of this section;

16 “(bb) the chemical identity
17 is not readily discoverable
18 through reverse engineering;

19 “(cc) the manufacturer or
20 processor takes reasonable meas-
21 ures to protect the confidentiality
22 of the chemical substance;

23 “(dd) no other Federal stat-
24 ute requires disclosure;

1 “(ee) disclosure of the iden-
2 tity of the chemical substance
3 would cause financial or competi-
4 tive harm to the manufacturer or
5 processor;

6 “(ff) the chemical substance
7 is not, based on information that
8 is initially available or that later
9 becomes available to the Admin-
10 istrator, a known or probable re-
11 productive, developmental, neuro-
12 logical, or immunological toxi-
13 cant, carcinogen, or mutagen;

14 “(gg) the chemical substance
15 is not persistent, bioaccumula-
16 tive, and toxic; and

17 “(hh) if a safety standard
18 determination has been made for
19 a chemical substance, the Admin-
20 istrator determines that the
21 chemical substance meets the ap-
22 plicable safety standard either
23 under current conditions or
24 under additional conditions re-
25 quired by the Administrator.

1 are considered confidential and the
2 disclosure of which would potentially
3 harm the owner of that information.

4 “(iii) DURATION OF PROTECTION FOR
5 CHEMICAL IDENTITY.—Notwithstanding
6 subsection (c)(1)(B)(iv), the identity of a
7 chemical substance for which a request has
8 been submitted pursuant to clause(i)(I)
9 and meets the requirements of clause (i)
10 shall be protected as confidential business
11 information—

12 “(I) for such period of time as
13 the Administrator, after reviewing the
14 request, determines to be reasonable;
15 and

16 “(II) upon expiration of a time
17 period specified under this clause, for
18 an additional 5-year period, if the Ad-
19 ministrator, after reviewing the re-
20 quest, determines that the request for
21 protection continues to meet the cri-
22 teria established in this subparagraph.

23 “(iv) PUBLICATION REQUIREMENT.—
24 The Administrator shall annually publish a
25 notice that—

1 “(I) includes an updated, cumu-
2 lative list of each new chemical sub-
3 stance for which the Administrator
4 has approved a request to protect in-
5 formation under this paragraph, iden-
6 tified by a unique identifier, other
7 than the precise chemical identity,
8 and including the period of time for
9 which the protection applies; and

10 “(II) for each chemical substance
11 for which the protection provided
12 under this paragraph has expired,
13 provides the precise identity of the
14 chemical substance, and provides pub-
15 lic access to any information that had
16 been submitted to the Administrator
17 which concealed the identity of the
18 chemical substance in accordance with
19 this paragraph.

20 “(C) IMPURITIES.—Notwithstanding sub-
21 paragraph (A), the Administrator may deter-
22 mine not to disclose information relating to the
23 degree of purity or the identity of impurities
24 present in a chemical substance or mixture if
25 the Administrator determines that knowledge of

1 the information would reveal processes used in
2 the manufacturing or processing of the chemical
3 substance or mixture.

4 “(3) INFORMATION THAT IS NEVER ELIGIBLE
5 FOR PROTECTION.—

6 “(A) IN GENERAL.—Except as provided in
7 paragraph (2), the Administrator shall disclose
8 the following information:

9 “(i) The identity of a chemical sub-
10 stance.

11 “(ii) Any safety standard determina-
12 tion developed under section 6, including
13 supporting analysis developed by the Ad-
14 ministrator.

15 “(iii) Any health and safety study
16 data that is submitted under this Act with
17 respect to—

18 “(I) any chemical substance or
19 mixture—

20 “(aa) that has been offered
21 for commercial distribution as of
22 the date on which the study is to
23 be disclosed; or

24 “(bb) for which testing is re-
25 quired under section 4 or for

1 which notification is required
2 under section 5; and

3 “(II) any data reported to, or
4 otherwise obtained by, the Adminis-
5 trator from a health and safety study
6 that relates to a chemical substance
7 or mixture described in subclause (I).

8 “(iv) Health and safety data in no-
9 tices of substantial risk submitted pursu-
10 ant to section 8(1) and in the underlying
11 studies.

12 “(v) General information describing
13 the manufacturing volumes, expressed in
14 ranges, and industrial, commercial, or con-
15 sumer functions and uses of a chemical
16 substance or mixture.

17 “(vi) Any information indicating the
18 presence of a chemical substance in con-
19 sumer products intended for use, or rea-
20 sonably expected to be used, by children
21 aged 14 years or younger, if—

22 “(I) the Administrator, or an-
23 other authoritative body, has deter-
24 mined that the chemical substance—

1 “(aa) is a known or probable
2 reproductive, developmental, neu-
3 rological, or immunological toxic-
4 cant, carcinogen, or mutagen; or

5 “(bb) is persistent, bio-
6 accumulative, and toxic; or

7 “(II) for a chemical substance for
8 which a safety standard determination
9 has been made, the Administrator has
10 not found that the chemical substance
11 meets the safety standard.

12 “(B) PROHIBITION.—Nothing in this para-
13 graph authorizes the release of any data that
14 discloses a process used in the manufacturing
15 or processing of a chemical substance or mix-
16 ture, or in the case of a mixture, the release of
17 data disclosing the portion of the mixture com-
18 prised by any of the chemical substances in the
19 mixture.

20 “(C) APPLICABILITY OF OTHER LAWS.—
21 Except as provided in paragraph (2), if the Ad-
22 ministrator receives a request for information
23 under section 552(a) of title 5, United States
24 Code, (commonly known as the ‘Freedom of In-
25 formation Act’) for information described in

1 subparagraph (A), which is not information de-
2 scribed in subparagraph (B), the Administrator
3 shall not deny the request under subsection
4 (b)(4) of that section.

5 “(c) DESIGNATION AND TREATMENT OF CONFIDEN-
6 TIAL BUSINESS INFORMATION.—

7 “(1) DUTIES OF THE ADMINISTRATOR.—

8 “(A) RULES.—Not later than 1 year after
9 the date of enactment of the Safe Chemicals
10 Act of 2011, the Administrator shall promul-
11 gate rules that specify—

12 “(i) the acceptable bases on which
13 written requests to maintain confidentiality
14 of information may be approved, which
15 shall be consistent with the requirements
16 of this section;

17 “(ii) the nature of the documentation
18 and justification that must accompany
19 such a request; and

20 “(iii) the types of information the Ad-
21 ministrator determines warrant protection
22 for an indefinite period of time, for which
23 the term of confidentiality specified in sub-
24 paragraph (B)(iv)(I) shall not apply.

25 “(B) REVIEW OF REQUESTS.—

1 “(i) IN GENERAL.—Not later than 90
2 days after the date of receipt of informa-
3 tion under paragraph (2), the Adminis-
4 trator shall review a request to maintain
5 confidentiality of information submitted
6 under this Act and determine whether to
7 approve, modify, or deny that request
8 based on the regulations promulgated by
9 the Administrator under subparagraph
10 (A).

11 “(ii) PROCESS.—The Administrator
12 shall, in accordance with clause (i)—

13 “(I) review all requests received
14 to maintain confidentiality of sub-
15 mitted information; or

16 “(II) if it is not feasible for the
17 Administrator to review all of the re-
18 quests—

19 “(aa) review all requests re-
20 lating to information described in
21 subsection (b)(2)(B); and

22 “(bb) review a representa-
23 tive subset that includes not less
24 than 25 percent of all other re-
25 quests received; and

1 “(III) publish in the Federal
2 Register on at least an annual basis a
3 description of the number and types
4 of requests received and reviewed by
5 the Administrator.

6 “(iii) DENIALS.—If a request to main-
7 tain confidentiality of submitted informa-
8 tion is denied in accordance with subpara-
9 graph (D), the Administrator shall
10 promptly make the information available to
11 the public in accordance with section
12 8(i)(2).

13 “(iv) APPROVALS.—If a request to
14 maintain confidentiality of submitted infor-
15 mation is approved, the Administrator
16 shall—

17 “(I) except with respect to re-
18 quests subject to a rule issued pursu-
19 ant to subparagraph (A)(iii) and re-
20 quests submitted pursuant to sub-
21 section (b)(2)(B)(i)(I), specify a time
22 period not to exceed 5 years for which
23 the submitted information shall be
24 kept confidential, unless the informa-

1 tion otherwise becomes available to
2 the public during the period; and

3 “(II) upon the expiration of the
4 protection period, make the informa-
5 tion available to the public unless the
6 manufacturer, processor, or dis-
7 tributor has submitted, documented,
8 and justified to the satisfaction of the
9 Administrator and in accordance with
10 this subsection the basis for a renewal
11 of the protection, for a time period
12 not to exceed 5 years.

13 “(C) AUTHORITY OF THE ADMINIS-
14 TRATOR.—Nothing in subparagraph (A) or (B)
15 limits the authority of the Administrator to de-
16 termine that particular information, previously
17 treated as confidential, is no longer entitled to
18 confidential treatment.

19 “(D) NOTIFICATIONS.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), if the Administrator
22 proposes to release information for which a
23 request for confidential treatment has been
24 approved under this section, the Adminis-
25 trator shall electronically notify the manu-

1 facturer, processor, or distributor in com-
2 merce who submitted the request of the in-
3 tent of the Administrator to release the in-
4 formation not less than 15 days prior to
5 the release of the information.

6 “(ii) ADMINISTRATION.—The Admin-
7 istrator shall release the information de-
8 scribed in clause (i) in accordance with the
9 disclosure and procedural requirements of
10 section 552 of title 5, United States Code
11 (commonly known as the ‘Freedom of In-
12 formation Act’), except that—

13 “(I) if the release of the informa-
14 tion is to be made pursuant to a re-
15 quest made under section 552(a) of
16 title 5, United States Code, the notice
17 shall be given immediately upon ap-
18 proval of the request by the Adminis-
19 trator;

20 “(II) if the Administrator deter-
21 mines that the release of information
22 pursuant to subsection (a)(2)(A)(iii)
23 is necessary to protect against immi-
24 nent and substantial harm to human

1 health or the environment, no notice
2 shall be required; and

3 “(III) the requirements of this
4 subparagraph shall not apply to the
5 release of information under—

6 “(aa) clauses (i) through
7 (iii) of subsection (a)(2)(A); or

8 “(bb) subsection (b)(3)(A).

9 “(2) DUTIES OF MANUFACTURERS, PROC-
10 ESSORS, AND DISTRIBUTORS.—

11 “(A) IN GENERAL.—In submitting data
12 under this Act, a manufacturer, processor, or
13 distributor in commerce may—

14 “(i) designate information, other than
15 information described in subsection (b)(3),
16 for which the manufacturer, processor, or
17 distributor requests confidential treatment
18 under subsection (a) or (b); and

19 “(ii) submit the designated data sepa-
20 rately from other data submitted under
21 this Act.

22 “(B) REQUIREMENTS.—A designation
23 under this paragraph shall be made in writing
24 and in such manner as the Administrator may
25 prescribe, and shall include—

1 “(i) documentation and justification
2 for each request for confidentiality, except
3 for requests relating to the information de-
4 scribed in subsection (b)(1);

5 “(ii) the period of time for which
6 maintenance of confidentiality of the infor-
7 mation is requested except with respect to
8 requests subject to a rule issued pursuant
9 to subsection (c)(1)(A)(iii);

10 “(iii) a certification that the informa-
11 tion is not otherwise publicly available;

12 “(iv) separate copies of all submitted
13 information, with 1 copy containing and 1
14 copy excluding the information to which
15 the request applies; and

16 “(v) any additional information re-
17 quired by the Administrator.

18 “(C) REQUEST FOR RENEWAL.—Prior to
19 the expiration of the specified time period de-
20 termined by the Administrator under paragraph
21 (1)(B)(iv), a manufacturer, processor, or dis-
22 tributor may submit a request for renewal of
23 protection for protected information. This re-
24 quest for renewal shall follow the same proce-

1 dures and requirements as the initial submis-
2 sion under subparagraphs (A) and (B).

3 “(d) CIVIL PENALTY FOR WRONGFUL DISCLOSURE
4 OR WRONGFUL REQUESTS FOR PROTECTION.—

5 “(1) IN GENERAL.—Any officer or employee of
6 the United States or former officer or employee of
7 the United States, who, by virtue of employment or
8 official position has obtained possession of, or has
9 access to, material the disclosure of which is prohib-
10 ited by subsection (a), and who knowing that disclo-
11 sure of the material is prohibited by that subsection,
12 willfully discloses the material in any manner to any
13 person not entitled to receive the information, shall
14 be subject to appropriate disciplinary action and
15 subject to a civil money penalty of not more than
16 \$10,000 for each violation.

17 “(2) APPLICABILITY OF OTHER LAWS.—Section
18 1905 of title 18, United States Code, shall not apply
19 with respect to the publishing, divulging, disclosure,
20 making known, or making available of, information
21 reported or otherwise obtained under this Act.

22 “(3) CONTRACTORS.—For the purposes of
23 paragraph (1), any contractor with the United
24 States who is furnished information as authorized by
25 subsection (a)(2), including any employee of such a

1 contractor, shall be considered to be an employee of
2 the United States.

3 “(4) FALSE REQUESTS.—Any officer or em-
4 ployee of a company that submits information under
5 this Act who willfully designates information as eligi-
6 ble for confidential treatment, knowing that the in-
7 formation is ineligible for such treatment, shall be
8 subject to a civil money penalty of not more than
9 \$10,000 for each such violation.

10 “(e) ACCESS BY CONGRESS.—Notwithstanding this
11 section or any other provision of law, all information re-
12 ported to or otherwise obtained by the Administrator (or
13 any representative of the Administrator) under this Act
14 shall be made available, on written request of any duly
15 authorized committee of Congress, to that committee.

16 “(f) RISK INFORMATION FOR WORKERS.—The Ad-
17 ministrator shall facilitate the sharing of information that
18 pertains to chemical substances or mixtures or articles
19 containing chemical substances that workers may come
20 into contact with or may otherwise be exposed to during
21 the course of work with those workers and representatives
22 of each certified or recognized bargaining agent rep-
23 resenting those workers. Nothing in this subsection au-
24 thORIZES disclosure of information other than those dislo-

1 sures that may be made pursuant to subsections (a)
2 through (e).”.