

114TH CONGRESS  
1ST SESSION

# S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 10, 2015

Mr. UDALL (for himself, Mr. VITTER, Mr. MANCHIN, Mr. INHOFE, Mr. CARPER, Mr. BLUNT, Mr. COONS, Mr. BOOZMAN, Mr. DONNELLY, Mrs. CAPITO, Mr. HEINRICH, Mr. CASSIDY, Ms. HEITKAMP, Mr. CRAPO, Ms. STABENOW, Mr. HOEVEN, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Frank R. Lautenberg  
5 Chemical Safety for the 21st Century Act”.

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

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

1           (1) by striking “It is the intent” and inserting  
2 the following:

3           “(1) ADMINISTRATION.—It is the intent”;

4           (2) in paragraph (1) (as so redesignated), by  
5 inserting “, as provided under this Act” before the  
6 period at the end; and

7           (3) by adding at the following:

8           “(2) REFORM.—It is the intent of Congress  
9 that reform of this Act in accordance with the  
10 amendments made by the Frank R. Lautenberg  
11 Chemical Safety for the 21st Century Act—

12           “(A) shall be administered in a manner  
13 that—

14           “(i) protects the health of children,  
15 pregnant women, the elderly, workers, con-  
16 sumers, the general public, and the envi-  
17 ronment from the risks of harmful expo-  
18 sures to chemical substances and mixtures;  
19 and

20           “(ii) ensures that appropriate infor-  
21 mation on chemical substances and mix-  
22 tures is available to public health officials  
23 and first responders in the event of an  
24 emergency; and

1           “(B) shall not displace or supplant com-  
2           mon law rights of action or remedies for civil  
3           relief.”.

4 **SEC. 3. DEFINITIONS.**

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

7           (1) by redesignating paragraphs (4), (5), (6),  
8           (7), (8), (9), (10), (11), (12), (13), and (14) as  
9           paragraphs (5), (6), (7), (8), (9), (10), (12), (13),  
10          (17), (18), and (19), respectively;

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

13           “(4) CONDITIONS OF USE.—The term ‘condi-  
14          tions of use’ means the intended, known, or reason-  
15          ably foreseeable circumstances the Administrator de-  
16          termines a chemical substance is manufactured,  
17          processed, distributed in commerce, used, or dis-  
18          posed of.”;

19          (3) by inserting after paragraph (10) (as so re-  
20          designated) the following:

21           “(11) POTENTIALLY EXPOSED OR SUSCEPTIBLE  
22          POPULATION.—The term ‘potentially exposed or sus-  
23          ceptible population’ means 1 or more groups—

24           “(A) of individuals within the general pop-  
25          ulation who may be—

1 “(i) differentially exposed to chemical  
2 substances under the conditions of use; or

3 “(ii) susceptible to greater adverse  
4 health consequences from chemical expo-  
5 sures than the general population; and

6 “(B) that when identified by the Adminis-  
7 trator may include such groups as infants, chil-  
8 dren, pregnant women, workers, and the elder-  
9 ly.”; and

10 (4) by inserting after paragraph (13) (as so re-  
11 designated) the following:

12 “(14) SAFETY ASSESSMENT.—The term ‘safety  
13 assessment’ means an assessment of the risk posed  
14 by a chemical substance under the conditions of use,  
15 integrating hazard, use, and exposure information  
16 regarding the chemical substance.

17 “(15) SAFETY DETERMINATION.—The term  
18 ‘safety determination’ means a determination by the  
19 Administrator as to whether a chemical substance  
20 meets the safety standard under the conditions of  
21 use.

22 “(16) SAFETY STANDARD.—The term ‘safety  
23 standard’ means a standard that ensures, without  
24 taking into consideration cost or other nonrisk fac-  
25 tors, that no unreasonable risk of harm to health or

1 the environment will result from exposure to a chem-  
2 ical substance under the conditions of use, including  
3 no unreasonable risk of harm to—

4 “(A) the general population; or

5 “(B) any potentially exposed or susceptible  
6 population that the Administrator has identified  
7 as relevant to the safety assessment and safety  
8 determination for a chemical substance.”.

9 **SEC. 4. POLICIES, PROCEDURES, AND GUIDANCE.**

10 The Toxic Substances Control Act is amended by in-  
11 serting after section 3 (15 U.S.C. 2602) the following:

12 **“SEC. 3A. POLICIES, PROCEDURES, AND GUIDANCE.**

13 “(a) DEFINITION OF GUIDANCE.—In this section, the  
14 term ‘guidance’ includes any significant written guidance  
15 of general applicability prepared by the Administrator.

16 “(b) DEADLINE.—Not later than 2 years after the  
17 date of enactment of the Frank R. Lautenberg Chemical  
18 Safety for the 21st Century Act, the Administrator shall  
19 develop, after providing public notice and an opportunity  
20 for comment, any policies, procedures, and guidance the  
21 Administrator determines to be necessary to carry out sec-  
22 tions 4, 4A, 5, and 6, including the policies, procedures,  
23 and guidance required by this section.

24 “(c) USE OF SCIENCE.—

1           “(1) IN GENERAL.—The Administrator shall es-  
2           tablish policies, procedures, and guidance on the use  
3           of science in making decisions under sections 4, 4A,  
4           5, and 6.

5           “(2) GOAL.—A goal of the policies and proce-  
6           dures described in paragraph (1) shall be to make  
7           the basis of decisions clear to the public.

8           “(3) REQUIREMENTS.—The policies, proce-  
9           dures, and guidance issued under this section shall  
10          describe the manner in which the Administrator  
11          shall ensure that—

12                   “(A) decisions made by the Adminis-  
13                   trator—

14                           “(i) are based on information, proce-  
15                           dures, measures, methods, and models em-  
16                           ployed in a manner consistent with the  
17                           best available science;

18                           “(ii) take into account the extent to  
19                           which—

20                                   “(I) assumptions and methods  
21                                   are clearly and completely described  
22                                   and documented;

23                                   “(II) variability and uncertainty  
24                                   are evaluated and characterized; and

1                   “(III) the information has been  
2                   subject to independent verification  
3                   and peer review; and

4                   “(iii) are based on the weight of the  
5                   scientific evidence, by which the Adminis-  
6                   trator considers all information in a sys-  
7                   tematic and integrative framework to con-  
8                   sider the relevance of different informa-  
9                   tion;

10                  “(B) to the extent practicable and if ap-  
11                  propriate, the use of peer review, standardized  
12                  test design and methods, consistent data eval-  
13                  uation procedures, and good laboratory prac-  
14                  tices will be encouraged;

15                  “(C) a clear description of each individual  
16                  and entity that funded the generation or assess-  
17                  ment of information, and the degree of control  
18                  those individuals and entities had over the gen-  
19                  eration, assessment, and dissemination of infor-  
20                  mation (including control over the design of the  
21                  work and the publication of information) is  
22                  made available; and

23                  “(D) if appropriate, the recommendations  
24                  in reports of the National Academy of Sciences  
25                  that provide advice regarding assessing the haz-

1           ards, exposures, and risks of chemical sub-  
2           stances are considered.

3           “(d) EXISTING EPA POLICIES, PROCEDURES, AND  
4 GUIDANCE.—The policies, procedures, and guidance de-  
5 scribed in subsection (b) shall incorporate, as appropriate,  
6 existing relevant hazard, exposure, and risk assessment  
7 guidelines and methodologies, data evaluation and quality  
8 criteria, testing methodologies, and other relevant guide-  
9 lines and policies of the Environmental Protection Agency.

10          “(e) REVIEW.—Not later than 5 years after the date  
11 of enactment of this section, and not less frequently than  
12 once every 5 years thereafter, the Administrator shall—

13           “(1) review the adequacy of any policies, proce-  
14 dures, and guidance developed under this section, in-  
15 cluding animal, nonanimal, and epidemiological test  
16 methods and procedures for assessing and deter-  
17 mining risk under this Act; and

18           “(2) after providing public notice and an oppor-  
19 tunity for comment, revise the policies, procedures,  
20 and guidance if necessary to reflect new scientific  
21 developments or understandings.

22          “(f) SOURCES OF INFORMATION.—In making any de-  
23 cision with respect to a chemical substance under section  
24 4, 4A, 5, or 6, the Administrator shall take into consider-  
25 ation information relating to the hazards and exposures



1 of a chemical substance under the conditions of use that  
2 is reasonably available to the Administrator, including in-  
3 formation that is—

4 “(1) submitted to the Administrator pursuant  
5 to any rule, consent agreement, order, or other re-  
6 quirement of this Act, or on a voluntary basis, in-  
7 cluding pursuant to any request made under this  
8 Act, by—

9 “(A) manufacturers or processors of a sub-  
10 stance;

11 “(B) the public;

12 “(C) other Federal departments or agen-  
13 cies; or

14 “(D) the Governor of a State or a State  
15 agency with responsibility for protecting health  
16 or the environment;

17 “(2) submitted to a governmental entity in any  
18 jurisdiction pursuant to a governmental requirement  
19 relating to the protection of health or the environ-  
20 ment; or

21 “(3) identified through an active search by the  
22 Administrator of information sources that are pub-  
23 licly available or otherwise accessible by the Admin-  
24 istrator.

1       “(g) TESTING OF CHEMICAL SUBSTANCES AND MIX-  
2 TURES.—

3           “(1) IN GENERAL.—The Administrator shall es-  
4 tablish policies and procedures for the testing of  
5 chemical substances or mixtures under section 4.

6           “(2) GOAL.—A goal of the policies and proce-  
7 dures established under paragraph (1) shall be to  
8 make the basis of decisions clear to the public.

9           “(3) CONTENTS.—The policies and procedures  
10 established under paragraph (1) shall—

11           “(A) address how and when the exposure  
12 level or exposure potential of a chemical sub-  
13 stance would factor into decisions to require  
14 new testing, subject to the condition that the  
15 Administrator shall not interpret the lack of ex-  
16 posure information as a lack of exposure or ex-  
17 posure potential;

18           “(B) describe the manner in which the Ad-  
19 ministrator will determine that additional infor-  
20 mation is necessary to carry out this Act, in-  
21 cluding information relating to potentially ex-  
22 posed or susceptible populations;

23           “(C) require the Administrator to consult  
24 with the Director of the National Institute for

1 Occupational Safety and Health prior to pre-  
2 scribing epidemiologic studies of employees; and

3 “(D) prior to adopting a requirement for  
4 testing using vertebrate animals, require the  
5 Administrator to take into consideration, as ap-  
6 propriate and to the extent practicable, reason-  
7 ably available—

8 “(i) toxicity information;

9 “(ii) computational toxicology and  
10 bioinformatics;

11 “(iii) high-throughput screening meth-  
12 ods and the prediction models of those  
13 methods; and

14 “(iv) scientifically reliable and rel-  
15 evant alternatives to tests on animals that  
16 would provide equivalent information.

17 “(4) TIERED TESTING.—

18 “(A) IN GENERAL.—Except as provided in  
19 subparagraph (D), the Administrator shall em-  
20 ploy a tiered screening and testing process,  
21 under which the results of screening-level tests  
22 or assessments of available information inform  
23 the decision as to whether 1 or more additional  
24 tests are necessary.

25 “(B) SCREENING-LEVEL TESTS.—

1           “(i) IN GENERAL.—The screening-  
2           level tests required for a chemical sub-  
3           stance or mixture may include tests for  
4           hazard (which may include in silico, in  
5           vitro, and in vivo tests), environmental and  
6           biological fate and transport, and measure-  
7           ments or modeling of exposure or exposure  
8           potential, as appropriate.

9           “(ii) USE.—Screening-level tests shall  
10          be used—

11                   “(I) to screen chemical sub-  
12                   stances or mixtures for potential ad-  
13                   verse effects; and

14                   “(II) to inform a decision of the  
15                   Administrator regarding whether  
16                   more complex or targeted additional  
17                   testing is necessary.

18           “(C) ADDITIONAL TESTING.—If the Ad-  
19           ministrator determines under subparagraph (B)  
20           that additional testing is necessary to provide  
21           more definitive information for safety assess-  
22           ments or safety determinations, the Adminis-  
23           trator may require more advanced tests for po-  
24           tential health or environmental effects or expo-  
25           sure potential.

1           “(D) ADVANCED TESTING WITHOUT  
2 SCREENING.—The Administrator may require  
3 more advanced testing without conducting  
4 screening-level testing when other information  
5 available to the Administrator justifies the ad-  
6 vanced testing, pursuant to guidance developed  
7 by the Administrator under this section.

8           “(h) SAFETY ASSESSMENTS AND SAFETY DETER-  
9 MINATIONS.—

10           “(1) SCHEDULE.—

11           “(A) IN GENERAL.—The Administrator  
12 shall inform the public regarding the schedule  
13 for the completion of each safety assessment  
14 and safety determination as soon as practicable  
15 after designation as a high-priority substance  
16 pursuant to section 4A.

17           “(B) DIFFERING TIMES.—The Adminis-  
18 trator may allot different times for different  
19 chemical substances in the schedules under this  
20 paragraph, subject to the condition that all  
21 schedules shall comply with the deadlines estab-  
22 lished under section 6.

23           “(C) ANNUAL PLAN.—At the beginning of  
24 each calendar year, the Administrator shall  
25 identify the substances subject to safety assess-

1           ments and safety determinations to be com-  
2           pleted that year.

3           “(2) POLICIES AND PROCEDURES FOR SAFETY  
4           ASSESSMENTS AND SAFETY DETERMINATIONS.—

5                   “(A) IN GENERAL.—The Administrator  
6           shall establish, by rule, policies and procedures  
7           regarding the manner in which the Adminis-  
8           trator shall carry out section 6.

9                   “(B) GOAL.—A goal of the policies and  
10          procedures under this paragraph shall be to  
11          make the basis of decisions of the Adminis-  
12          trator clear to the public.

13                   “(C) MINIMUM REQUIREMENTS.—At a  
14          minimum, the policies and procedures under  
15          this paragraph shall—

16                           “(i) describe—

17                                   “(I) the manner in which the Ad-  
18                                   ministrators will identify informational  
19                                   needs and seek that information from  
20                                   the public;

21                                   “(II) the information (including  
22                                   draft safety assessments) that may be  
23                                   submitted by interested individuals or  
24                                   entities, including States; and

1 “(III) the criteria by which that  
2 information will be evaluated;

3 “(ii) require the Administrator—

4 “(I)(aa) to define the scope of  
5 the safety assessment and safety de-  
6 termination to be conducted under  
7 section 6, including the hazards, expo-  
8 sures, conditions of use, and poten-  
9 tially exposed and susceptible popu-  
10 lations that the Administrator expects  
11 to consider in a safety assessment;

12 “(bb) to explain the basis for the  
13 scope of the safety assessment and  
14 safety determination; and

15 “(cc) to accept comments regard-  
16 ing the scope of the safety assessment  
17 and safety determination; and

18 “(II)(aa) to identify the items de-  
19 scribed in subclause (I) that the Ad-  
20 ministrator has considered in the final  
21 safety assessment; and

22 “(bb) to explain the basis for the  
23 consideration of those items;

24 “(iii) describe the manner in which  
25 aggregate exposures, or significant subsets

1 of exposures, to a chemical substance  
2 under the conditions of use will be consid-  
3 ered, and explain the basis for that consid-  
4 eration in the final safety assessment;

5 “(iv) require that each safety assess-  
6 ment and safety determination shall in-  
7 clude—

8 “(I) a description of the weight  
9 of the scientific evidence of risk; and

10 “(II) a summary of the informa-  
11 tion regarding the impact on health  
12 and the environment of the chemical  
13 substance that was used to make the  
14 assessment or determination, includ-  
15 ing, as available, mechanistic, animal  
16 toxicity, and epidemiology studies;

17 “(v) establish a timely and trans-  
18 parent process for evaluating whether new  
19 information submitted or obtained after  
20 the date of a final safety assessment or  
21 safety determination warrants reconsider-  
22 ation of the safety assessment or safety de-  
23 termination; and

24 “(vi) when relevant information is  
25 provided or otherwise made available to the



1 Administrator, shall consider the extent of  
2 Federal regulation under other Federal  
3 laws.

4 “(D) GUIDANCE.—

5 “(i) IN GENERAL.—Not later than 1  
6 year after the date of enactment of the  
7 Frank R. Lautenberg Chemical Safety for  
8 the 21st Century Act, the Administrator  
9 shall develop guidance to assist interested  
10 persons in developing draft safety assess-  
11 ments and other information for submis-  
12 sion to the Administrator, which may be  
13 considered at the discretion of the Admin-  
14 istrator.

15 “(ii) REQUIREMENT.—The guidance  
16 shall, at a minimum, address the quality of  
17 the information submitted and the process  
18 to be followed in developing a draft assess-  
19 ment for consideration by the Adminis-  
20 trator.

21 “(3) ARTICLES.—If the Administrator intends  
22 to prohibit or otherwise restrict an article on the  
23 basis of a chemical substance contained in that arti-  
24 cle, the Administrator shall have evidence of signifi-

1 cant exposure to the chemical substance from such  
2 article.

3 “(i) PUBLICLY AVAILABLE INFORMATION.—Subject  
4 to section 14, the Administrator shall—

5 “(1) make publicly available a nontechnical  
6 summary, and the final version, of each safety as-  
7 sessment and safety determination;

8 “(2) provide public notice and an opportunity  
9 for comment on each proposed safety assessment  
10 and safety determination; and

11 “(3) make public in a final safety assessment  
12 and safety determination—

13 “(A) the list of studies considered by the  
14 Administrator in carrying out the safety assess-  
15 ment or safety determination; and

16 “(B) the list of policies, procedures, and  
17 guidance that were followed in carrying out the  
18 safety assessment or safety determination.

19 “(j) CONSULTATION WITH SCIENCE ADVISORY COM-  
20 MITTEE ON CHEMICALS.—

21 “(1) ESTABLISHMENT.—Not later than 1 year  
22 after the date of enactment of this section, the Ad-  
23 ministrator shall establish an advisory committee, to  
24 be known as the ‘Science Advisory Committee on

1 Chemicals' (referred to in this subsection as the  
2 'Committee').

3 “(2) PURPOSE.—The purpose of the Committee  
4 shall be to provide independent advice and expert  
5 consultation, on the request of the Administrator,  
6 with respect to the scientific and technical aspects of  
7 issues relating to the implementation of this title.

8 “(3) COMPOSITION.—The Committee shall be  
9 composed of representatives of such science, govern-  
10 ment, labor, public health, public interest, animal  
11 protection, industry, and other groups as the Admin-  
12 istrator determines to be advisable, including, at a  
13 minimum, representatives that have specific sci-  
14 entific expertise in the relationship of chemical expo-  
15 sures to women, children, and other potentially ex-  
16 posed or susceptible populations.

17 “(4) SCHEDULE.—The Administrator shall con-  
18 vene the Committee in accordance with such sched-  
19 ule as the Administrator determines to be appro-  
20 priate, but not less frequently than once every 2  
21 years.

22 “(5) RELATIONSHIP TO OTHER LAW.—All pro-  
23 ceedings and meetings of the Committee shall be  
24 subject to the Federal Advisory Committee Act (5  
25 U.S.C. App.).”.

1 **SEC. 5. TESTING OF CHEMICAL SUBSTANCES OR MIXTURES.**

2 (a) IN GENERAL.—Section 4 of the Toxic Substances  
3 Control Act (15 U.S.C. 2603) is amended—

4 (1) by striking subsections (a), (b), (c), (d), and  
5 (g);

6 (2) by redesignating subsections (e) and (f) as  
7 subsections (f) and (g), respectively;

8 (3) in subsection (f) (as so redesignated)—

9 (A) by striking “rule” each place it ap-  
10 pears and inserting “rule, testing consent  
11 agreement, or order”;

12 (B) by striking “under subsection (a)”  
13 each place it appears and inserting “under this  
14 subsection”; and

15 (C) in paragraph (1)(B), in the last sen-  
16 tence, by striking “rulemaking”;

17 (4) in subsection (g) (as so redesignated)—

18 (A) in the first sentence, by striking “from  
19 cancer, gene mutations, or birth defects”; and

20 (B) by striking the last sentence; and

21 (5) by inserting before subsection (f) (as so re-  
22 designated) the following:

23 “(a) DEVELOPMENT OF NEW INFORMATION ON  
24 CHEMICAL SUBSTANCES AND MIXTURES.—

25 “(1) IN GENERAL.—The Administrator may re-  
26 quire the development of new information relating to

1 a chemical substance or mixture in accordance with  
2 this section if the Administrator determines that the  
3 information is necessary—

4 “(A) to review a notice under section 5(d)  
5 or to perform a safety assessment or safety de-  
6 termination under section 6;

7 “(B) to implement a requirement imposed  
8 in a consent agreement or order issued under  
9 section 5(d)(4) or under a rule promulgated  
10 under section 6(d)(3);

11 “(C) pursuant to section 12(a)(4); or

12 “(D) at the request of the implementing  
13 authority under another Federal law, to meet  
14 the regulatory testing needs of that authority.

15 “(2) LIMITED TESTING FOR PRIORITIZATION  
16 PURPOSES.—

17 “(A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the Administrator may re-  
19 quire the development of new information for  
20 the purposes of section 4A.

21 “(B) PROHIBITION.—Testing required  
22 under subparagraph (A) shall not be required  
23 for the purpose of establishing or implementing  
24 a minimum information requirement.

1           “(C) LIMITATION.—The Administrator  
2           may require the development of new informa-  
3           tion pursuant to subparagraph (A) only if the  
4           Administrator determines that additional infor-  
5           mation is necessary to establish the priority of  
6           a chemical substance.

7           “(3) FORM.—Subject to section 3A(h), the Ad-  
8           ministrator may require the development of informa-  
9           tion described in paragraph (1) or (2) by—

10                   “(A) promulgating a rule;

11                   “(B) entering into a testing consent agree-  
12           ment; or

13                   “(C) issuing an order.

14           “(4) CONTENTS.—

15                   “(A) IN GENERAL.—A rule, testing con-  
16           sent agreement, or order issued under this sub-  
17           section shall include—

18                           “(i) identification of the chemical sub-  
19           stance or mixture for which testing is re-  
20           quired;

21                           “(ii) identification of the persons re-  
22           quired to conduct the testing;

23                           “(iii) test protocols and methodologies  
24           for the development of test data and infor-  
25           mation for the chemical substance or mix-

1           ture, including specific reference to reliable  
2           nonanimal test procedures; and

3           “(iv) specification of the period within  
4           which individuals and entities required to  
5           conduct the testing shall submit to the Ad-  
6           ministrator the information developed in  
7           accordance with the procedures described  
8           in clause (iii).

9           “(B) CONSIDERATIONS.—In determining  
10          the procedures and period to be required under  
11          subparagraph (A), the Administrator shall take  
12          into consideration—

13           “(i) the relative costs of the various  
14           test protocols and methodologies that may  
15           be required; and

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

19          “(b) STATEMENT OF NEED.—

20           “(1) IN GENERAL.—In promulgating a rule, en-  
21          tering into a testing consent agreement, or issuing  
22          an order for the development of additional informa-  
23          tion (including information on exposure or exposure  
24          potential) pursuant to this section, the Adminis-  
25          trator shall—

1           “(A) identify the need intended to be met  
2           by the rule, agreement, or order;

3           “(B) explain why information reasonably  
4           available to the Administrator at that time is  
5           inadequate to meet that need, including a ref-  
6           erence, as appropriate, to the information iden-  
7           tified in paragraph (2)(B); and

8           “(C) explain the basis for any decision that  
9           requires the use of vertebrate animals.

10          “(2) EXPLANATION IN CASE OF ORDER.—

11           “(A) IN GENERAL.—If the Administrator  
12           issues an order under this section, the Adminis-  
13           trator shall issue a statement providing a jus-  
14           tification for why issuance of an order is war-  
15           ranted instead of promulgating a rule or enter-  
16           ing into a testing consent agreement.

17           “(B) CONTENTS.—A statement described  
18           in subparagraph (A) shall contain a description  
19           of—

20                   “(i) information that is readily acces-  
21                   sible to the Administrator, including infor-  
22                   mation submitted under any other provi-  
23                   sion of law;

24                   “(ii) the extent to which the Adminis-  
25                   trator has obtained or attempted to obtain



1 the information through voluntary submis-  
2 sions; and

3 “(iii) any information relied on in  
4 safety assessments for other chemical sub-  
5 stances relevant to the chemical substances  
6 that would be the subject of the order.

7 “(c) REDUCTION OF TESTING ON VERTEBRATES.—

8 “(1) IN GENERAL.—The Administrator shall  
9 minimize, to the extent practicable, the use of  
10 vertebrate animals in testing of chemical substances  
11 or mixtures, by—

12 “(A) encouraging and facilitating—

13 “(i) the use of integrated and tiered  
14 testing and assessment strategies;

15 “(ii) the use of best available science  
16 in existence on the date on which the test  
17 is conducted;

18 “(iii) the use of test methods that  
19 eliminate or reduce the use of animals  
20 while providing information of high sci-  
21 entific quality;

22 “(iv) the grouping of 2 or more chem-  
23 ical substances into scientifically appro-  
24 priate categories in cases in which testing  
25 of a chemical substance would provide reli-

1           able and useful information on other chem-  
2           ical substances in the category;

3           “(v) the formation of industry con-  
4           sortia to jointly conduct testing to avoid  
5           unnecessary duplication of tests; and

6           “(vi) the submission of information  
7           from—

8                     “(I) animal-based studies; and

9                     “(II) emerging methods and  
10           models; and

11           “(B) funding research and validation stud-  
12           ies to reduce, refine, and replace the use of ani-  
13           mal tests in accordance with this subsection.

14           “(2) IMPLEMENTATION OF ALTERNATIVE TEST-  
15           ING METHODS.—To promote the development and  
16           timely incorporation of new testing methods that are  
17           not based on vertebrate animals, the Administrator  
18           shall—

19                     “(A) after providing an opportunity for  
20           public comment, develop a strategic plan to pro-  
21           mote the development and implementation of al-  
22           ternative test methods and testing strategies to  
23           generate information under this title that can  
24           reduce, refine, or replace the use of vertebrate  
25           animals, including toxicity pathway-based risk

1 assessment, in vitro studies, systems biology,  
2 computational toxicology, bioinformatics, and  
3 high-throughput screening;

4 “(B) as practicable, ensure that the stra-  
5 tegic plan developed under subparagraph (A) is  
6 reflected in the development of requirements for  
7 testing under this section;

8 “(C) beginning on the date that is 5 years  
9 after the date of enactment of the Frank R.  
10 Lautenberg Chemical Safety for the 21st Cen-  
11 tury Act and every 5 years thereafter, submit to  
12 Congress a report that describes the progress  
13 made in implementing this subsection and goals  
14 for future alternative test methods implementa-  
15 tion; and

16 “(D) fund and carry out research, develop-  
17 ment, performance assessment, and  
18 translational studies to accelerate the develop-  
19 ment of test methods and testing strategies that  
20 reduce, refine, or replace the use of vertebrate  
21 animals in any testing under this title.

22 “(3) CRITERIA FOR ADAPTING OR WAIVING ANI-  
23 MAL TESTING REQUIREMENTS.—On request from a  
24 manufacturer or processor that is required to con-  
25 duct testing of a chemical substance or mixture on

1 vertebrate animals under this section, the Adminis-  
2 trator may adapt or waive the requirement, if the  
3 Administrator determines that—

4 “(A) there is sufficient evidence from sev-  
5 eral independent sources of information to sup-  
6 port a conclusion that a chemical substance or  
7 mixture has, or does not have, a particular  
8 property if the information from each individual  
9 source alone is insufficient to support the con-  
10 clusion;

11 “(B) as a result of 1 or more physical or  
12 chemical properties of the chemical substance  
13 or mixture or other toxicokinetic consider-  
14 ations—

15 “(i) the substance cannot be absorbed;

16 or

17 “(ii) testing for a specific endpoint is  
18 technically not practicable to conduct; or

19 “(C) a chemical substance or mixture can-  
20 not be tested in vertebrate animals at con-  
21 centrations that do not result in significant  
22 pain or distress, because of physical or chemical  
23 properties of the chemical substance or mixture,  
24 such as a potential to cause severe corrosion or  
25 severe irritation to the tissues of the animal.

1 “(d) TESTING REQUIREMENTS.—

2 “(1) IN GENERAL.—The Administrator may re-  
3 quire the development of information by—

4 “(A) manufacturers and processors of the  
5 chemical substance or mixture; and

6 “(B) persons that begin to manufacture or  
7 process the chemical substance or mixture—

8 “(i) after the effective date of the  
9 rule, testing consent agreement, or order;  
10 but

11 “(ii) subject to paragraph (3), before  
12 the period ending on the date that is 180  
13 days after the end of the period described  
14 in this section.

15 “(2) DESIGNATION.—The Administrator may  
16 permit 2 or more persons identified in subparagraph  
17 (A) or (B) of paragraph (1) to designate 1 of the  
18 persons or a qualified third party—

19 “(A) to develop the information; and

20 “(B) to submit the information on behalf  
21 of the persons making the designation.

22 “(3) EXEMPTIONS.—

23 “(A) IN GENERAL.—A person otherwise  
24 subject to a rule, testing consent agreement, or  
25 order under this section may submit to the Ad-

1            administrator an application for an exemption on  
2            the basis that the information is being devel-  
3            oped by a person designated under paragraph  
4            (2).

5            “(B) FAIR AND EQUITABLE REIMBURSE-  
6            MENT TO DESIGNEE.—

7            “(i) IN GENERAL.—If the Adminis-  
8            trator accepts an application submitted  
9            under subparagraph (A), the Adminis-  
10          trator shall direct the applicant to provide  
11          to the person designated under paragraph  
12          (2) fair and equitable reimbursement, as  
13          agreed to between the applicant and the  
14          designee.

15          “(ii) ARBITRATION.—If the applicant  
16          and a person designated under paragraph  
17          (2) cannot reach agreement on the amount  
18          of fair and equitable reimbursement, the  
19          amount shall be determined by arbitration.

20          “(C) TERMINATION.—If, after granting an  
21          exemption under this paragraph, the Adminis-  
22          trator determines that a person covered by the  
23          exemption has failed to comply with the rule,  
24          testing consent agreement, or order, the Admin-  
25          istrator shall—

1                   “(i) by order, terminate the exemp-  
2                   tion; and

3                   “(ii) notify in writing each person  
4                   that received an exemption of the require-  
5                   ments with respect to which the exemption  
6                   was granted.

7           “(e) TRANSPARENCY.—Subject to section 14, the Ad-  
8           ministrators shall make available to the public all testing  
9           consent agreements and orders and all information sub-  
10          mitted under this section.”.

11          (b)           CONFORMING            AMENDMENT.—Section  
12          104(i)(5)(A) of the Comprehensive Environmental Re-  
13          sponse, Compensation, and Liability Act of 1980 (42  
14          U.S.C. 9604(i)(5)(A)) is amended in the third sentence  
15          by striking “section 4(e)” and inserting “section 4(f)”.

16          **SEC. 6. PRIORITIZATION SCREENING.**

17          The Toxic Substances Control Act is amended by in-  
18          serting after section 4 (15 U.S.C. 2603) the following:

19          **“SEC. 4A. PRIORITIZATION SCREENING.**

20          “(a) ESTABLISHMENT AND LIST OF SUBSTANCES.—

21                  “(1) IN GENERAL.—Not later than 1 year after  
22                  the date of enactment of this section, the Adminis-  
23                  trator shall establish, by rule, a risk-based screening  
24                  process and explicit criteria for identifying existing  
25                  chemical substances that are—

1           “(A) a high priority for a safety assess-  
2           ment and safety determination under section 6  
3           (referred to in this Act as ‘high-priority sub-  
4           stances’); and

5           “(B) a low priority for a safety assessment  
6           and safety determination (referred to in this  
7           Act as ‘low-priority substances’).

8           “(2) INITIAL LIST OF HIGH- AND LOW-PRIORITY  
9           SUBSTANCES.—

10           “(A) IN GENERAL.—Before the date of  
11           promulgation of the rule under paragraph (1)  
12           and not later than 180 days after the date of  
13           enactment of this section, the Administrator—

14           “(i) shall take into consideration and  
15           publish an initial list of high-priority sub-  
16           stances and low-priority substances; and

17           “(ii) pursuant to section 6(b), may  
18           initiate or continue safety assessments and  
19           safety determinations for those high-pri-  
20           ority substances.

21           “(B) REQUIREMENTS.—

22           “(i) IN GENERAL.—The initial list of  
23           chemical substances shall contain at least  
24           10 high-priority substances, at least 5 of  
25           which are drawn from the list of chemical



1 substances identified by the Administrator  
2 in the October, 2014 TSCA Work Plan  
3 and subsequent updates, and at least 10  
4 low-priority substances.

5 “(ii) SUBSEQUENTLY IDENTIFIED  
6 SUBSTANCES.—Insofar as possible, at least  
7 50 percent of all substances subsequently  
8 identified by the Administrator as high-pri-  
9 ority substances shall be drawn from the  
10 list of chemical substances identified by the  
11 Administrator in the October, 2014 TSCA  
12 Work Plan and subsequent updates, until  
13 all Work Plan chemicals have been des-  
14 ignated under this subsection.

15 “(C) ADDITIONAL CHEMICAL REVIEWS.—

16 The Administrator shall—

17 “(i) 3 years after the date of enact-  
18 ment of the Frank R. Lautenberg Chem-  
19 ical Safety for the 21st Century Act, add  
20 additional high-priority substances suffi-  
21 cient to ensure that at least a total of 20  
22 high-priority substances have undergone or  
23 are undergoing the process established in  
24 section 6(a), and additional low-priority  
25 substances sufficient to ensure that at

1 least a total of 20 low-priority substances  
2 have been designated; and

3 “(ii) as soon as practicable and not  
4 later than 5 years after the date of enact-  
5 ment of the Frank R. Lautenberg Chem-  
6 ical Safety for the 21st Century Act, add  
7 additional high-priority substances suffi-  
8 cient to ensure that at least a total of 25  
9 high-priority substances have undergone or  
10 are undergoing the process established in  
11 section 6(a), and additional low-priority  
12 substances sufficient to ensure that at  
13 least a total of 25 low-priority substances  
14 have been designated.

15 “(3) IMPLEMENTATION.—

16 “(A) CONSIDERATION OF ACTIVE AND IN-  
17 ACTIVE SUBSTANCES.—

18 “(i) ACTIVE SUBSTANCES.—In car-  
19 rying out paragraph (1), the Administrator  
20 shall take into consideration active sub-  
21 stances, as determined under section 8,  
22 which may include chemical substances on  
23 the interim list of active substances estab-  
24 lished under that section.

1           “(ii) INACTIVE SUBSTANCES.—In car-  
2 rying out paragraph (1), the Administrator  
3 may take into consideration inactive sub-  
4 stances, as determined under section 8,  
5 that the Administrator determines—

6           “(I)(aa) have not been subject to  
7 a regulatory or other enforceable ac-  
8 tion by the Administrator to ban or  
9 phase out the substances; and

10          “(bb) have the potential for high  
11 hazard and widespread exposure; or

12          “(II)(aa) have been subject to a  
13 regulatory or other enforceable action  
14 by the Administrator to ban or phase  
15 out the substances; and

16          “(bb) with respect to which there  
17 exists the potential for residual high  
18 hazards or widespread exposures not  
19 otherwise addressed by the regulatory  
20 or other action.

21          “(iii) REPOPULATION.—

22          “(I) IN GENERAL.—On the com-  
23 pletion of a safety determination  
24 under section 6 for a chemical sub-  
25 stance, the Administrator shall re-

1 move the chemical substance from the  
2 list of high-priority substances estab-  
3 lished under this subsection.

4 “(II) ADDITIONS.—The Adminis-  
5 trator shall add at least 1 chemical  
6 substance to the list of high-priority  
7 substances for each chemical sub-  
8 stance removed from the list of high-  
9 priority substances established under  
10 this subsection, until a safety assess-  
11 ment and safety determination is com-  
12 pleted for all high-priority substances.

13 “(III) LOW-PRIORITY SUB-  
14 STANCES.—If a low-priority substance  
15 is subsequently designated as a high-  
16 priority substance, the Administrator  
17 shall remove that substance from the  
18 list of low-priority substances.

19 “(B) TIMELY COMPLETION OF  
20 PRIORITIZATION SCREENING PROCESS.—

21 “(i) IN GENERAL.—The Administrator  
22 shall—

23 “(I) not later than 180 days  
24 after the effective date of the final

1 rule under paragraph (1), begin the  
2 prioritization screening process; and

3 “(II) make every effort to com-  
4 plete the designation of all active sub-  
5 stances as high-priority substances or  
6 low-priority substances in a timely  
7 manner.

8 “(ii) DECISIONS ON SUBSTANCES SUB-  
9 JECT TO TESTING FOR PRIORITIZATION  
10 PURPOSES.—Not later than 90 days after  
11 the date of receipt of information regard-  
12 ing a chemical substance complying with a  
13 rule, testing consent agreement, or order  
14 issued under section 4(a)(2), the Adminis-  
15 trator shall designate the chemical sub-  
16 stance as a high-priority substance or low-  
17 priority substance.

18 “(iii) CONSIDERATION.—

19 “(I) IN GENERAL.—The Admin-  
20 istrator shall screen substances and  
21 designate high-priority substances  
22 taking into consideration the ability of  
23 the Administrator to schedule and  
24 complete safety assessments and safe-

1                   ty determinations under section 6 in a  
2                   timely manner.

3                   “(II) ANNUAL GOAL.—The Ad-  
4                   ministrator shall publish an annual  
5                   goal for the number of chemical sub-  
6                   stances to be subject to the  
7                   prioritization screening process.

8                   “(C) SCREENING OF CATEGORIES OF SUB-  
9                   STANCES.—The Administrator may screen cat-  
10                  egories of chemical substances to ensure an effi-  
11                  cient prioritization screening process to allow  
12                  for timely and adequate designations of high-  
13                  priority substances and low-priority substances  
14                  and safety assessments and safety determina-  
15                  tions for high-priority substances.

16                  “(D) PUBLICATION OF LIST OF CHEMICAL  
17                  SUBSTANCES.—Not less frequently than once  
18                  each year, the Administrator shall publish a list  
19                  of chemical substances that—

20                  “(i) are being considered in the  
21                  prioritization screening process and the  
22                  status of the chemical substances in the  
23                  prioritization process, including those  
24                  chemical substances for which

1 prioritization decisions have been deferred;  
2 and

3 “(ii) are designated as high-priority  
4 substances or low-priority substances, in-  
5 cluding the bases for such designations.

6 “(4) CRITERIA.—The criteria described in para-  
7 graph (1) shall account for—

8 “(A) the recommendation of the Governor  
9 of a State or a State agency with responsibility  
10 for protecting health or the environment from  
11 chemical substances appropriate for  
12 prioritization screening;

13 “(B) the hazard and exposure potential of  
14 the chemical substance (or category of sub-  
15 stances), including specific scientific classifica-  
16 tions and designations by authoritative govern-  
17 mental entities;

18 “(C) the conditions of use or significant  
19 changes in the conditions of use of the chemical  
20 substance;

21 “(D) evidence and indicators of exposure  
22 potential to humans or the environment from  
23 the chemical substance, including potentially ex-  
24 posed or susceptible populations;

1           “(E) the volume of a chemical substance  
2 manufactured or processed;

3           “(F) whether the volume of a chemical  
4 substance as reported under a rule promulgated  
5 pursuant to section 8(a) has significantly in-  
6 creased or decreased during the period begin-  
7 ning on the date of a previous report or the  
8 date on which a notice has been submitted  
9 under section 5(b) for that chemical substance;

10           “(G) the availability of information regard-  
11 ing potential hazards and exposures required  
12 for conducting a safety assessment or safety de-  
13 termination, with limited availability of relevant  
14 information to be a sufficient basis for desig-  
15 nating a chemical substance as a high-priority  
16 substance, subject to the condition that limited  
17 availability shall not require designation as a  
18 high-priority substance; and

19           “(H) the extent of Federal or State regula-  
20 tion of the chemical substance or the extent of  
21 the impact of State regulation of the chemical  
22 substance on the United States, with existing  
23 Federal or State regulation of any uses evalu-  
24 ated in the prioritization screening process as a



1 factor in designating a chemical substance to be  
2 a low-priority substance.

3 “(b) PRIORITIZATION SCREENING PROCESS AND DE-  
4 CISIONS.—

5 “(1) IN GENERAL.—The prioritization screening  
6 process developed under subsection (a) shall include  
7 a requirement that the Administrator shall—

8 “(A) identify the chemical substances  
9 being considered for prioritization;

10 “(B) request interested persons to supply  
11 information regarding the chemical substances  
12 being considered;

13 “(C) apply the criteria identified in sub-  
14 section (a)(4); and

15 “(D) subject to paragraph (5) and using  
16 the information available to the Administrator  
17 at the time of the decision, identify a chemical  
18 substance as a high-priority substance or a low-  
19 priority substance.

20 “(2) INTEGRATION OF INFORMATION.—The  
21 prioritization screening decision regarding a chem-  
22 ical substance shall integrate any hazard and expo-  
23 sure information relating to the chemical substance  
24 that is available to the Administrator.

1           “(3) IDENTIFICATION OF HIGH-PRIORITY SUB-  
2 STANCES.—The Administrator—

3           “(A) shall identify as a high-priority sub-  
4 stance a chemical substance that, relative to  
5 other chemical substances, the Administrator  
6 determines has the potential for high hazard  
7 and widespread exposure;

8           “(B) may identify as a high-priority sub-  
9 stance a chemical substance that, relative to  
10 other chemical substances, the Administrator  
11 determines has the potential for high hazard or  
12 widespread exposure; and

13           “(C) may identify as a high-priority sub-  
14 stance an inactive substance, as determined  
15 under subsection (a)(3)(A)(ii) and section 8(b),  
16 that the Administrator determines warrants a  
17 safety assessment and safety determination  
18 under section 6.

19           “(4) IDENTIFICATION OF LOW-PRIORITY SUB-  
20 STANCES.—The Administrator shall identify as a  
21 low-priority substance a chemical substance that the  
22 Administrator concludes has information sufficient  
23 to establish that the chemical substance is likely to  
24 meet the applicable safety standard.

1           “(5) DEFERRING A DECISION.—If the Adminis-  
2           trator determines that additional information is re-  
3           quired to establish the priority of a chemical sub-  
4           stance under this section, the Administrator may  
5           defer the prioritization screening decision for a rea-  
6           sonable period—

7                   “(A) to allow for the submission of addi-  
8                   tional information by an interested person and  
9                   for the Administrator to evaluate the additional  
10                  information; or

11                  “(B) to require the development of infor-  
12                  mation pursuant to a rule, testing consent  
13                  agreement, or order issued under section  
14                  4(a)(2).

15           “(6) DEADLINES FOR SUBMISSION OF INFOR-  
16           MATION.—If the Administrator requests the develop-  
17           ment or submission of information under this sec-  
18           tion, the Administrator shall establish a deadline for  
19           submission of the information.

20           “(7) NOTICE AND COMMENT.—The Adminis-  
21           trator shall—

22                   “(A) publish the proposed decisions made  
23                   under paragraphs (3), (4), and (5) and the  
24                   basis for the decisions; and

1           “(B) provide an opportunity for public  
2 comment.

3           “(8) REVISIONS OF PRIOR DESIGNATIONS.—

4           “(A) IN GENERAL.—At any time, and at  
5 the discretion of the Administrator, the Admin-  
6 istrator may revise the designation of a chem-  
7 ical substance as a high-priority substance or a  
8 low-priority substance based on information  
9 available to the Administrator after the date of  
10 the determination under paragraph (3) or (4).

11           “(B) LIMITED AVAILABILITY.—If limited  
12 availability of relevant information was a basis  
13 in the designation of a chemical substance as a  
14 high-priority substance, the Administrator shall  
15 reevaluate the prioritization screening of the  
16 chemical substance on receiving the relevant in-  
17 formation.

18           “(9) OTHER INFORMATION RELEVANT TO  
19 PRIORITIZATION.—

20           “(A) IN GENERAL.—If, after the date of  
21 enactment of the Frank R. Lautenberg Chem-  
22 ical Safety for the 21st Century Act, a State  
23 proposes an administrative action or enacts a  
24 statute or takes an administrative action to pro-  
25 hibit or otherwise restrict the manufacturing,

1 processing, distribution in commerce, or use of  
2 a chemical substance that the Administrator  
3 has not as designated a high-priority substance,  
4 the Governor or State agency with responsi-  
5 bility for implementing the statute or adminis-  
6 trative action shall notify the Administrator.

7 “(B) REQUESTS FOR INFORMATION.—Fol-  
8 lowing receipt of a notification provided under  
9 subparagraph (A), the Administrator may re-  
10 quest any available information from the Gov-  
11 ernor or the State agency with respect to—

12 “(i) scientific evidence related to the  
13 hazards, exposures and risks of the chem-  
14 ical substance under the conditions of use  
15 which the statute or administrative action  
16 is intended to address;

17 “(ii) any State or local conditions  
18 which warranted the statute or administra-  
19 tive action;

20 “(iii) the statutory or administrative  
21 authority on which the action is based; and

22 “(iv) any other available information  
23 relevant to the prohibition or other restric-  
24 tion, including information on any alter-

1 natives considered and their hazards, expo-  
2 sures, and risks.

3 “(C) PRIORITIZATION SCREENING.—The  
4 Administrator shall conduct a prioritization  
5 screening under this subsection for all sub-  
6 stances that—

7 “(i) are the subject of notifications re-  
8 ceived under subparagraph (A); and

9 “(ii) the Administrator determines—

10 “(I) are likely to have significant  
11 health or environmental impacts;

12 “(II) are likely to have signifi-  
13 cant impact on interstate commerce;  
14 or

15 “(III) have been subject to a pro-  
16 hibition or other restriction under a  
17 statute or administrative action in 2  
18 or more States.

19 “(D) AVAILABILITY TO PUBLIC.—Subject  
20 to section 14 and any applicable State law re-  
21 garding the protection of confidential informa-  
22 tion provided to the State or to the Adminis-  
23 trator, the Administrator shall make informa-  
24 tion received from a Governor or State agency  
25 under subparagraph (A) publicly available.

1           “(E) EFFECT OF PARAGRAPH.—Nothing  
2           in this paragraph shall preempt a State statute  
3           or administrative action, require approval of a  
4           State statute or administrative action, or apply  
5           section 15 to a State.

6           “(10) REVIEW.—Not less frequently than once  
7           every 5 years after the date on which the process  
8           under this subsection is established, the Adminis-  
9           trator shall—

10           “(A) review the process on the basis of ex-  
11           perience and taking into consideration resources  
12           available to efficiently and effectively screen and  
13           prioritize chemical substances; and

14           “(B) if necessary, modify the prioritization  
15           screening process.

16           “(11) EFFECT.—Subject to section 18, a des-  
17           ignation by the Administrator under this section  
18           with respect to a chemical substance shall not af-  
19           fect—

20           “(A) the manufacture, processing, distribu-  
21           tion in commerce, use, or disposal of the chem-  
22           ical substance; or

23           “(B) the regulation of those activities.

24           “(c) ADDITIONAL PRIORITIES FOR SAFETY ASSESS-  
25           MENTS AND DETERMINATIONS.—

1           “(1) IN GENERAL.—The prioritization screening  
2 process developed under subsection (a) shall—

3           “(A) include a process by which a manu-  
4 facturer or processor of an active chemical sub-  
5 stance that has not been designated a high-pri-  
6 ority substance, or that has not been subject to  
7 or is not in the process of a prioritization  
8 screening by the Administrator, may request  
9 that the Administrator designate the substance  
10 for a safety assessment and safety determina-  
11 tion, subject to the payment of fees pursuant to  
12 section 26(b)(3)(E); and

13           “(B) provide guidance to submitters on the  
14 information to be provided in such requests,  
15 and specify the criteria the Administrator shall  
16 use to determine whether or not to grant such  
17 a request, which shall include whether the sub-  
18 stance is subject to restrictions imposed by stat-  
19 utes enacted or administrative actions taken by  
20 1 or more States on the manufacture, proc-  
21 essing, distribution in commerce, or use of the  
22 substance.

23           “(2) PREFERENCE.—Subject to paragraph (3),  
24 in deciding whether to grant requests under this  
25 subsection the Administrator shall give a preference



1 to requests concerning substances for which the Ad-  
2 ministrator determines that restrictions imposed by  
3 1 or more States have the potential to have a signifi-  
4 cant impact on interstate commerce or health or the  
5 environment.

6 “(3) LIMITATIONS.—In considering whether to  
7 grant a request submitted under paragraph (1), the  
8 Administrator shall ensure that—

9 “(A) not more than 15 percent of the total  
10 number of substances designated to undergo  
11 safety assessments and safety determinations  
12 under this section are substances designated  
13 under the process and criteria pursuant to  
14 paragraph (1); and

15 “(B) the resources allocated to conducting  
16 safety assessments and safety determinations  
17 for additional priorities designated under this  
18 subsection are proportionate to the number of  
19 such substances relative to the total number of  
20 substances designated to undergo safety assess-  
21 ments and safety determinations under this sec-  
22 tion.

23 “(4) REQUIREMENTS.—

1           “(A) IN GENERAL.—The public shall be  
2 provided notice and an opportunity to comment  
3 on requests submitted under this subsection.

4           “(B) DECISION BY ADMINISTRATOR.—Not  
5 later than 180 days after the date on which the  
6 Administrator receives a request under this  
7 subsection, the Administrator shall decide  
8 whether or not to grant the request.

9           “(C) ASSESSMENT AND DETERMINA-  
10 TION.—If the Administrator grants a request  
11 under this subsection, the safety assessment  
12 and safety determination—

13                   “(i) shall be conducted in accordance  
14 with the deadlines and other requirements  
15 of sections 3A(i) and 6; and

16                   “(ii) shall not be expedited or other-  
17 wise subject to special treatment relative to  
18 high-priority substances designated pursu-  
19 ant to subsection (b)(3) that are under-  
20 going safety assessments and safety deter-  
21 minations.

22           “(5) EXCEPTIONS.—Requests granted under  
23 this subsection shall not be subject to subsection  
24 (a)(3)(A)(iii) or section 18(b).”.

1 **SEC. 7. NEW CHEMICALS AND SIGNIFICANT NEW USES.**

2 Section 5 of the Toxic Substances Control Act (15  
3 U.S.C. 2604) is amended—

4 (1) by striking the section designation and  
5 heading and inserting the following:

6 **“SEC. 5. NEW CHEMICALS AND SIGNIFICANT NEW USES.”;**

7 (2) by striking subsection (b);

8 (3) by redesignating subsection (a) as sub-  
9 section (b);

10 (4) by redesignating subsection (i) as subsection  
11 (a) and moving the subsection so as to appear at the  
12 beginning of the section;

13 (5) in subsection (b) (as so redesignated)—

14 (A) in the subsection heading, by striking  
15 “IN GENERAL” and inserting “NOTICES”; and

16 (B) in paragraph (1), in the matter fol-  
17 lowing subparagraph (B)—

18 (i) by striking “subsection (d)” and  
19 inserting “subsection (b)”; and

20 (ii) by striking “and such person com-  
21 plies with any applicable requirement of  
22 subsection (b)”;

23 (6) by redesignating subsections (c) and (d) as  
24 subsection (d) and (c), respectively, and moving sub-  
25 section (c) (as so redesigned) so as appear after sub-  
26 section (b) (as redesignated by paragraph (3));

1 (7) in subsection (c) (as so redesignated)—

2 (A) by striking paragraph (1) and insert-  
3 ing the following:

4 “(1) IN GENERAL.—The notice required by sub-  
5 section (a) shall include, with respect to a chemical  
6 substance—

7 “(A) the information required by sections  
8 720.45 and 720.50 of title 40, Code of Federal  
9 Regulations (or successor regulations); and

10 “(B) information regarding conditions of  
11 use and reasonably anticipated exposures.”;

12 (B) in paragraph (2)—

13 (i) in the matter preceding subpara-  
14 graph (A), by striking “or of data under  
15 subsection (b)”;

16 (ii) in subparagraph (A), by adding  
17 “and” after the semicolon at the end;

18 (iii) in subparagraph (B), by striking  
19 “; and” and inserting a period; and

20 (iv) by striking subparagraph (C); and

21 (C) in paragraph (3), by striking “sub-  
22 section (a) and for which the notification period  
23 prescribed by subsection (a), (b), or (c)” and  
24 inserting “subsection (b) and for which the no-

1           tification period prescribed by subsection (b) or  
2           (d)”;

3           (8) by striking subsection (d) (as redesignated  
4           by paragraph (6)) and inserting the following:

5           “(d) REVIEW OF NOTICE.—

6           “(1) INITIAL REVIEW.—

7                   “(A) IN GENERAL.—Subject to subpara-  
8                   graph (B), not later than 90 days after the date  
9                   of receipt of a notice submitted under sub-  
10                  section (b), the Administrator shall—

11                           “(i) conduct an initial review of the  
12                           notice;

13                           “(ii) as needed, develop a profile of  
14                           the relevant chemical substance and the  
15                           potential for exposure to humans and the  
16                           environment; and

17                           “(iii) make any necessary determina-  
18                           tion under paragraph (3).

19                   “(B) EXTENSION.—Except as provided in  
20                   paragraph (5), the Administrator may extend  
21                   the period described in subparagraph (A) for  
22                   good cause for 1 or more periods, the total of  
23                   which shall be not more than 90 days.

1           “(2) INFORMATION SOURCES.—In evaluating a  
2 notice under paragraph (1), the Administrator shall  
3 take into consideration—

4                   “(A) any relevant information identified in  
5 subsection (c)(1); and

6                   “(B) any other relevant additional infor-  
7 mation available to the Administrator.

8           “(3) DETERMINATIONS.—Before the end of the  
9 applicable period for review under paragraph (1),  
10 based on the information described in paragraph (2),  
11 and subject to section 18(g), the Administrator shall  
12 determine that—

13                   “(A) the relevant chemical substance or  
14 significant new use is not likely to meet the  
15 safety standard, in which case the Adminis-  
16 trator shall take appropriate action under para-  
17 graph (4);

18                   “(B) the relevant chemical substance or  
19 significant new use is likely to meet the safety  
20 standard, in which case the Administrator shall  
21 allow the review period to expire without addi-  
22 tional restrictions; or

23                   “(C) additional information is necessary in  
24 order to make a determination under subpara-  
25 graph (A) or (B), in which case the Adminis-

1           trator shall take appropriate action under para-  
2           graph (5).

3           “(4) RESTRICTIONS.—

4                 “(A) DETERMINATION BY ADMINIS-  
5           TRATOR.—

6                 “(i) IN GENERAL.—If the Adminis-  
7           trator makes a determination under sub-  
8           paragraph (A) or (C) of paragraph (3)  
9           with respect to a notice submitted under  
10          subsection (b)—

11                 “(I) the Administrator, before  
12          the end of the applicable period for re-  
13          view under paragraph (1) and by con-  
14          sent agreement or order, as appro-  
15          priate, shall prohibit or otherwise re-  
16          strict the manufacture, processing,  
17          use, distribution in commerce, or dis-  
18          posal (as applicable) of the chemical  
19          substance, or of the chemical sub-  
20          stance for a significant new use, with-  
21          out compliance with the restrictions  
22          specified in the consent agreement or  
23          order that the Administrator deter-  
24          mines are sufficient to ensure that the  
25          chemical substance or significant new

1 use is likely to meet the safety stand-  
2 ard; and

3 “(II) no person may commence  
4 manufacture of the chemical sub-  
5 stance, or manufacture or processing  
6 of the chemical substance for a sig-  
7 nificant new use, except in compliance  
8 with the restrictions specified in the  
9 consent agreement or order.

10 “(ii) LIKELY TO MEET STANDARD.—If  
11 the Administrator makes a determination  
12 under subparagraph (B) of paragraph (3)  
13 with respect to a chemical substance or  
14 significant new use for which a notice was  
15 submitted under subsection (b), at the end  
16 of the applicable period for review under  
17 paragraph (1), the submitter of the notice  
18 may commence manufacture for commer-  
19 cial purposes of the chemical substance or  
20 manufacture or processing of the chemical  
21 substance for a significant new use.

22 “(B) REQUIREMENTS.—Not later than 90  
23 days after issuing a consent agreement or order  
24 under subparagraph (A), the Administrator  
25 shall—



1           “(i) take into consideration whether to  
2           promulgate a rule pursuant to subsection  
3           (b)(2) that identifies as a significant new  
4           use any manufacturing, processing, use,  
5           distribution in commerce, or disposal of  
6           the chemical substance, or of the chemical  
7           substance for a new use, that is not in  
8           compliance with the restrictions imposed  
9           by the consent agreement or order; and

10           “(ii)(I) initiate a rulemaking described  
11           in clause (i); or

12           “(II) publish a statement describing  
13           the reasons of the Administrator for not  
14           initiating a rulemaking.

15           “(C) INCLUSIONS.—A prohibition or other  
16           restriction under subparagraph (A) may in-  
17           clude, as appropriate—

18           “(i) subject to section 18(g), a re-  
19           quirement that a chemical substance shall  
20           be marked with, or accompanied by, clear  
21           and adequate minimum warnings and in-  
22           structions with respect to use, distribution  
23           in commerce, or disposal, or any combina-  
24           tion of those activities, with the form and  
25           content of the minimum warnings and in-

1 instructions to be prescribed by the Adminis-  
2 trator;

3 “(ii) a requirement that manufactur-  
4 ers or processors of the chemical substance  
5 shall—

6 “(I) make and retain records of  
7 the processes used to manufacture or  
8 process, as applicable, the chemical  
9 substance; or

10 “(II) monitor or conduct such  
11 additional tests as are reasonably nec-  
12 essary to address potential risks from  
13 the manufacture, processing, distribu-  
14 tion in commerce, use, or disposal, as  
15 applicable, of the chemical substance,  
16 subject to section 4;

17 “(iii) a restriction on the quantity of  
18 the chemical substance that may be manu-  
19 factured, processed, or distributed in com-  
20 merce—

21 “(I) in general; or

22 “(II) for a particular use;

23 “(iv) a prohibition or other restriction  
24 of—

1                   “(I) the manufacture, processing,  
2                   or distribution in commerce of the  
3                   chemical substance for a significant  
4                   new use;

5                   “(II) any method of commercial  
6                   use of the chemical substance; or

7                   “(III) any method of disposal of  
8                   the chemical substance; or

9                   “(v) a prohibition or other restriction  
10                  on the manufacture, processing, or dis-  
11                  tribution in commerce of the chemical sub-  
12                  stance—

13                           “(I) in general; or

14                           “(II) for a particular use.

15                   “(D) WORKPLACE EXPOSURES.—The Ad-  
16                  ministrators shall consult with the Assistant Sec-  
17                  retary of Labor for Occupational Safety and  
18                  Health prior to adopting any prohibition or  
19                  other restriction under this subsection to ad-  
20                  dress workplace exposures.

21                   “(E) DEFINITION OF REQUIREMENT.—For  
22                  purposes of this Act, the term ‘requirement’ as  
23                  used in this section does not displace common  
24                  law.

1           “(5) ADDITIONAL INFORMATION.—If the Ad-  
2           ministrators determine under paragraph (3)(C) that  
3           additional information is necessary to conduct a re-  
4           view under this subsection, the Administrator—

5                   “(A) shall provide an opportunity for the  
6                   submitter of the notice to submit the additional  
7                   information;

8                   “(B) may, by agreement with the sub-  
9                   mitter, extend the review period for a reason-  
10                  able time to allow the development and submis-  
11                  sion of the additional information;

12                  “(C) may promulgate a rule, enter into a  
13                  testing consent agreement, or issue an order  
14                  under section 4 to require the development of  
15                  the information; and

16                  “(D) on receipt of information the Admin-  
17                  istrator finds supports the determination under  
18                  paragraph (3), shall promptly make the deter-  
19                  mination.”;

20           (9) by striking subsections (e) through (g) and  
21           inserting the following:

22           “(e) NOTICE OF COMMENCEMENT.—

23                   “(1) IN GENERAL.—Not later than 30 days  
24                   after the date on which a manufacturer that has  
25                   submitted a notice under subsection (b) commences

1 nonexempt commercial manufacture of a chemical  
2 substance, the manufacturer shall submit to the Ad-  
3 ministrator a notice of commencement that identi-  
4 fies—

5 “(A) the name of the manufacturer; and

6 “(B) the initial date of nonexempt com-  
7 mercial manufacture.

8 “(2) WITHDRAWAL.—A manufacturer or proc-  
9 essor that has submitted a notice under subsection  
10 (b), but that has not commenced nonexempt com-  
11 mercial manufacture or processing of the chemical  
12 substance, may withdraw the notice.

13 “(f) FURTHER EVALUATION.—The Administrator  
14 may review a chemical substance under section 4A at any  
15 time after the Administrator receives—

16 “(1) a notice of commencement for a chemical  
17 substance under subsection (c); or

18 “(2) new information regarding the chemical  
19 substance.

20 “(g) TRANSPARENCY.—Subject to section 14, the Ad-  
21 ministrator shall make available to the public—

22 “(1) all notices, determinations, consent agree-  
23 ments, rules, and orders of the Administrator; and

24 “(2) all information submitted or issued under  
25 this section.”; and

1 (10) in subsection (h)—

2 (A) in paragraph (1), in the matter pre-  
3 ceding subparagraph (A), by striking “(a) or”;

4 (B) by striking paragraph (2);

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

8 (D) in paragraph (2) (as so redesignated),  
9 in the matter preceding subparagraph (A), by  
10 striking “subsections (a) and (b)” and inserting  
11 “subsection (b)”;

12 (E) in paragraph (3) (as so redesign-  
13 ated)—

14 (i) in the first sentence, by striking  
15 “will not present an unreasonable risk of  
16 injury to health or the environment” and  
17 inserting “will meet the safety standard”;  
18 and

19 (ii) by striking the second sentence;

20 (F) in paragraph (4) (as so redesignated),  
21 by striking “subsections (a) and (b)” and in-  
22 serting “subsection (b)”;

23 (G) in paragraph (5) (as so redesignated),  
24 in the first sentence, by striking “paragraph (1)  
25 or (5)” and inserting “paragraph (1) or (4)”.

1 **SEC. 8. SAFETY ASSESSMENTS AND SAFETY DETERMINA-**  
2 **TIONS.**

3 Section 6 of the Toxic Substances Control Act (15  
4 U.S.C. 2605) is amended—

5 (1) by striking the section designation and  
6 heading and inserting the following:

7 **“SEC. 6. SAFETY ASSESSMENTS AND SAFETY DETERMINA-**  
8 **TIONS.”;**

9 (2) by redesignating subsections (e) and (f) as  
10 subsections (g) and (h), respectively;

11 (3) by striking subsections (a) through (d) and  
12 inserting the following:

13 “(a) IN GENERAL.—The Administrator—

14 “(1) shall conduct a safety assessment and  
15 make a safety determination of each high-priority  
16 substance in accordance with subsections (b) and  
17 (c);

18 “(2) shall, as soon as practicable and not later  
19 than 6 months after the date on which a chemical  
20 substance is designated as a high-priority substance,  
21 define the scope of the safety assessment and safety  
22 determination to be conducted pursuant to this sec-  
23 tion, including the hazards, exposures, conditions of  
24 use, and potentially exposed or susceptible popu-  
25 lations that the Administrator expects to consider;

1           “(3) as appropriate based on the results of a  
2 safety determination, shall establish restrictions pur-  
3 suant to subsection (d);

4           “(4) shall complete a safety assessment and  
5 safety determination not later than 3 years after the  
6 date on which a chemical substance is designated as  
7 a high-priority substance;

8           “(5) shall promulgate a final rule pursuant to  
9 subsection (d) by not later than 2 years after the  
10 date on which the safety determination is completed;  
11 and

12           “(6) may extend any deadline under this sub-  
13 section for a reasonable period of time after an ade-  
14 quate public justification, subject to the condition  
15 that the aggregate length of all extensions of dead-  
16 lines under paragraphs (4) and (5) and any deferral  
17 under subsection (c)(2) does not exceed 2 years.

18           “(b) PRIOR ACTIONS.—

19           “(1) PRIOR-INITIATED ASSESSMENTS.—

20           “(A) IN GENERAL.—Nothing in this Act  
21 prevents the Administrator from initiating a  
22 safety assessment or safety determination re-  
23 garding a chemical substance, or from con-  
24 tinuing or completing such a safety assessment  
25 or safety determination that was initiated be-



1 fore the date of enactment of the Frank R.  
2 Lautenberg Chemical Safety for the 21st Cen-  
3 tury Act, prior to the effective date of the poli-  
4 cies and procedures required to be established  
5 by the Administrator under section 3A or 4A.

6 “(B) INTEGRATION OF PRIOR POLICIES  
7 AND PROCEDURES.—As policies and procedures  
8 under section 3A and 4A are established, to the  
9 maximum extent practicable, the Administrator  
10 shall integrate the policies and procedures into  
11 ongoing safety assessments and safety deter-  
12 minations.

13 “(2) ACTIONS COMPLETED PRIOR TO COMPLE-  
14 TION OF POLICIES AND PROCEDURES.—Nothing in  
15 this Act requires the Administrator to revise or with-  
16 draw a completed safety assessment, safety deter-  
17 mination, or rule solely because the action was com-  
18 pleted prior to the completion of a policy or proce-  
19 dure established under section 3A or 4A, and the va-  
20 lidity of a completed assessment, determination, or  
21 rule shall not be determined based on the content of  
22 such a policy or procedure.

23 “(c) SAFETY DETERMINATIONS.—

24 “(1) IN GENERAL.—Based on a review of the  
25 information available to the Administrator, including

1 draft safety assessments submitted by interested  
2 persons, and subject to section 18, the Adminis-  
3 trator shall determine that—

4 “(A) the relevant chemical substance meets  
5 the safety standard;

6 “(B) the relevant chemical substance does  
7 not meet the safety standard, in which case the  
8 Administrator shall, by rule under subsection  
9 (d)—

10 “(i) impose restrictions necessary to  
11 ensure that the chemical substance meets  
12 the safety standard under the conditions of  
13 use; or

14 “(ii) if the safety standard cannot be  
15 met with the application of restrictions,  
16 ban or phase out the chemical substance,  
17 as appropriate; or

18 “(C) additional information is necessary in  
19 order to make a determination under subpara-  
20 graph (A) or (B), in which case the Adminis-  
21 trator shall take appropriate action under para-  
22 graph (2).

23 “(2) ADDITIONAL INFORMATION.—If the Ad-  
24 ministrator determines that additional information is  
25 necessary to make a safety assessment or safety de-

1 termination for a high-priority substance, the Ad-  
2 ministrator—

3 “(A) shall provide an opportunity for inter-  
4 ested persons to submit the additional informa-  
5 tion;

6 “(B) may promulgate a rule, enter into a  
7 testing consent agreement, or issue an order  
8 under section 4 to require the development of  
9 the information;

10 “(C) may defer, for a reasonable period  
11 consistent with the deadlines described in sub-  
12 section (a), a safety assessment and safety de-  
13 termination until after receipt of the informa-  
14 tion; and

15 “(D) consistent with the deadlines de-  
16 scribed in subsection (a), on receipt of informa-  
17 tion the Administrator finds supports the safety  
18 assessment and safety determination, shall  
19 make a determination under paragraph (1).

20 “(3) ESTABLISHMENT OF DEADLINE.—In re-  
21 questing the development or submission of informa-  
22 tion under this section, the Administrator shall es-  
23 tablish a deadline for the submission of the informa-  
24 tion.

25 “(d) RULE.—

1           “(1) IMPLEMENTATION.—If the Administrator  
2 makes a determination under subsection (c)(1)(B)  
3 with respect to a chemical substance, the Adminis-  
4 trator shall promulgate a rule establishing restric-  
5 tions necessary to ensure that the chemical sub-  
6 stance meets the safety standard.

7           “(2) SCOPE.—The rule promulgated pursuant  
8 to this subsection—

9                   “(A) may—

10                           “(i) apply to mixtures containing the  
11 chemical substance, as appropriate; and

12                           “(ii) exempt replacement parts for ar-  
13 ticles manufactured prior to the applicable  
14 compliance deadline; and

15                   “(B) shall include dates by which compli-  
16 ance is mandatory, which—

17                           “(i) shall be as soon as practicable;  
18 and

19                           “(ii) as determined by the Adminis-  
20 trator, may vary for different affected per-  
21 sons.

22                   “(C) WORKPLACE EXPOSURES.—The Ad-  
23 ministrator shall consult with the Assistant Sec-  
24 retary of Labor for Occupational Safety and  
25 Health before adopting any prohibition or other

1 restriction under this subsection to address  
2 workplace exposures.

3 “(D) DEFINITION OF REQUIREMENT.—For  
4 the purposes of this Act, the term ‘requirement’  
5 as used in this section does not displace com-  
6 mon law.

7 “(3) RESTRICTIONS.—A restriction under para-  
8 graph (1) may include, as appropriate—

9 “(A) subject to section 18, a requirement  
10 that a chemical substance shall be marked with,  
11 or accompanied by, clear and adequate min-  
12 imum warnings and instructions with respect to  
13 use, distribution in commerce, or disposal, or  
14 any combination of those activities, with the  
15 form and content of the minimum warnings and  
16 instructions to be prescribed by the Adminis-  
17 trator;

18 “(B) a requirement that manufacturers or  
19 processors of the chemical substance shall—

20 “(i) make and retain records of the  
21 processes used to manufacture or process  
22 the chemical substance;

23 “(ii) describe and apply the relevant  
24 quality control procedures followed in the

1 manufacturing or processing of the sub-  
2 stance; or

3 “(iii) monitor or conduct tests that  
4 are reasonably necessary to ensure compli-  
5 ance with the requirements of any rule  
6 under this subsection;

7 “(C) a restriction on the quantity of the  
8 chemical substance that may be manufactured,  
9 processed, or distributed in commerce;

10 “(D) a requirement to ban or phase out, or  
11 any other rule regarding, the manufacture,  
12 processing, or distribution in commerce of the  
13 chemical substance for—

14 “(i) a particular use;

15 “(ii) a particular use at a concentra-  
16 tion in excess of a level specified by the  
17 Administrator; or

18 “(iii) all uses;

19 “(E) a restriction on the quantity of the  
20 chemical substance that may be manufactured,  
21 processed, or distributed in commerce for—

22 “(i) a particular use; or

23 “(ii) a particular use at a concentra-  
24 tion in excess of a level specified by the  
25 Administrator;

1           “(F) a requirement to ban, phase out, or  
2 otherwise restrict any method of commercial  
3 use of the chemical substance;

4           “(G) a requirement to ban, phase out, or  
5 otherwise restrict any method of disposal of the  
6 chemical substance or any article containing the  
7 chemical substance; and

8           “(H) a requirement directing manufactur-  
9 ers or processors of the chemical substance to  
10 give notice of the Administrator’s determination  
11 under subsection (c)(1)(B) to distributors in  
12 commerce of the chemical substance and, to the  
13 extent reasonably ascertainable, to other per-  
14 sons in the chain of commerce in possession of  
15 the chemical substance.

16           “(4) ANALYSIS FOR RULEMAKING.—

17           “(A) CONSIDERATIONS.—In deciding  
18 which restrictions to impose under paragraph  
19 (3) as part of developing a rule under para-  
20 graph (1), the Administrator shall take into  
21 consideration, to the extent practicable based on  
22 reasonably available information, the quantifi-  
23 able and nonquantifiable costs and benefits of  
24 the proposed regulatory action and of the 1 or

1 more primary alternative regulatory actions  
2 considered by the Administrator.

3 “(B) ALTERNATIVES.—As part of the  
4 analysis, the Administrator shall review any 1  
5 or more technically and economically feasible al-  
6 ternatives to the chemical substance that the  
7 Administrator determines are relevant to the  
8 rulemaking.

9 “(C) PUBLIC AVAILABILITY.—In proposing  
10 a rule under paragraph (1), the Administrator  
11 shall make publicly available any analysis con-  
12 ducted under this paragraph.

13 “(D) STATEMENT REQUIRED.—In making  
14 final a rule under paragraph (1), the Adminis-  
15 trator shall include a statement describing how  
16 the analysis considered under subparagraph (A)  
17 was taken into account.

18 “(5) EXEMPTIONS.—

19 “(A) IN GENERAL.—The Administrator  
20 may exempt 1 or more uses of a chemical sub-  
21 stance from any restriction in a rule promul-  
22 gated under paragraph (1) if the Administrator  
23 determines that—

24 “(i) the rule cannot be complied with,  
25 without—



1 “(I) harming national security;

2 “(II) causing significant disrup-  
3 tion in the national economy due to  
4 the lack of availability of a chemical  
5 substance; or

6 “(III) interfering with a critical  
7 or essential use for which no tech-  
8 nically and economically feasible safer  
9 alternative is available, taking into  
10 consideration hazard and exposure; or

11 “(ii) the use of the chemical sub-  
12 stance, as compared to reasonably available  
13 alternatives, provides a substantial benefit  
14 to health, the environment, or public safe-  
15 ty.

16 “(B) EXEMPTION ANALYSIS.—In pro-  
17 posing a rule under paragraph (1) that includes  
18 an exemption under this paragraph, the Admin-  
19 istrator shall make publicly available any anal-  
20 ysis conducted under this paragraph to assess  
21 the need for the exemption.

22 “(C) STATEMENT REQUIRED.—In making  
23 final a rule under paragraph (1) that includes  
24 an exemption under this paragraph, the Admin-  
25 istrator shall include a statement describing

1           how the analysis considered under subpara-  
2           graph (B) was taken into account.

3           “(D) ANALYSIS IN CASE OF BAN OR  
4           PHASE-OUT.—In determining whether an ex-  
5           emption should be granted under this para-  
6           graph for a chemical substance for which a ban  
7           or phase-out is proposed, the Administrator  
8           shall take into consideration, to the extent prac-  
9           ticable based on reasonably available informa-  
10          tion, the quantifiable and nonquantifiable costs  
11          and benefits of the 1 or more technically and  
12          economically feasible alternatives to the chem-  
13          ical substance most likely to be used in place of  
14          the chemical substance under the conditions of  
15          use if the rule is promulgated.

16          “(E) CONDITIONS.—As part of a rule pro-  
17          mulgated under paragraph (1), the Adminis-  
18          trator shall include conditions in any exemption  
19          established under this paragraph, including rea-  
20          sonable recordkeeping, monitoring, and report-  
21          ing requirements, to the extent that the Admin-  
22          istrator determines the conditions are necessary  
23          to protect health and the environment while  
24          achieving the purposes of the exemption.

25          “(F) DURATION.—

1           “(i) IN GENERAL.—The Administrator  
2 shall establish, as part of a rule under  
3 paragraph (1) that contains an exemption  
4 under this paragraph, a time limit on any  
5 exemption for a time to be determined by  
6 the Administrator as reasonable on a case-  
7 by-case basis.

8           “(ii) AUTHORITY OF ADMINIS-  
9 TRATOR.—The Administrator, by rule, may  
10 extend, modify, or eliminate the exemption  
11 if the Administrator determines, on the  
12 basis of reasonably available information  
13 and after adequate public justification, the  
14 exemption warrants extension or is no  
15 longer necessary.

16           “(iii) CONSIDERATIONS.—

17           “(I) IN GENERAL.—Subject to  
18 subclause (II), the Administrator shall  
19 issue exemptions and establish time  
20 periods by considering factors deter-  
21 mined by the Administrator to be rel-  
22 evant to the goals of fostering innova-  
23 tion and the development of alter-  
24 natives that meet the safety standard.

1                   “(II) LIMITATION.—Any renewal  
2                   of an exemption in the case of a rule  
3                   requiring the ban or phase-out of a  
4                   chemical substance shall not exceed 5  
5                   years.

6           “(e) IMMEDIATE EFFECT.—The Administrator may  
7   declare a proposed rule under subsection (d) to be effective  
8   on publication of the rule in the Federal Register and until  
9   the effective date of final action taken respecting the rule,  
10 if—

11                   “(1) the Administrator determines that—

12                           “(A) the manufacture, processing, distribu-  
13                           tion in commerce, use, or disposal of the chem-  
14                           ical substance or mixture subject to the pro-  
15                           posed rule or any combination of those activi-  
16                           ties is likely to result in an unreasonable risk  
17                           of serious or widespread harm to health or the  
18                           environment before the effective date; and

19                           “(B) making the proposed rule so effective  
20                           is necessary to protect the public interest; and

21                   “(2) in the case of a proposed rule to prohibit  
22   the manufacture, processing, or distribution of a  
23   chemical substance or mixture because of the risk  
24   determined under paragraph (1)(A), a court has  
25   granted relief in an action under section 7 with re-

1       spect to that risk associated with the chemical sub-  
2       stance or mixture.

3       “(f) FINAL AGENCY ACTION.—Under this section  
4 and subject to section 18—

5               “(1) a safety determination, and the associated  
6       safety assessment, for a chemical substance that the  
7       Administrator determines under subsection (c) meets  
8       the safety standard, shall be considered to be a final  
9       agency action, effective beginning on the date of  
10      issuance of the final safety determination; and

11              “(2) a final rule promulgated under subsection  
12      (d), and the associated safety assessment and safety  
13      determination that a chemical substance does not  
14      meet the safety standard, shall be considered to be  
15      a final agency action, effective beginning on the date  
16      of promulgation of the final rule.”; and

17              (4) in subsection (g) (as redesignated by para-  
18      graph (2))—

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

20                      (B) by redesignating paragraph (5) as  
21              paragraph (4).

22 **SEC. 9. IMMINENT HAZARDS.**

23       Section 7 of the Toxic Substances Control Act (15  
24 U.S.C. 2606) is amended—

1           (1) by striking subsection (a) and inserting the  
2 following:

3           “(a) CIVIL ACTIONS.—

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

7           “(A) seizure of an imminently hazardous  
8 chemical substance or mixture or any article  
9 containing the chemical substance or mixture;

10           “(B) relief (as authorized by subsection  
11 (b)) against any person that manufactures,  
12 processes, distributes in commerce, uses, or dis-  
13 poses of, an imminently hazardous chemical  
14 substance or mixture or any article containing  
15 the chemical substance or mixture; or

16           “(C) both seizure described in subpara-  
17 graph (A) and relief described in subparagraph  
18 (B).

19           “(2) RULE, ORDER, OR OTHER PROCEEDING.—  
20 A civil action may be commenced under this para-  
21 graph, notwithstanding—

22           “(A) the existence of—

23           “(i) a decision by the Administrator  
24 under section 4A, 5(d)(3), or 6(c)(1); or

1           “(ii) a rule, testing consent agree-  
2           ment, or order under section 4, 5(d)(4),  
3           6(d), or 6(h); or

4           “(B) the pendency of any administrative or  
5           judicial proceeding under any provision of this  
6           Act.”;

7           (2) in subsection (d), by striking “section 6(a)”  
8           and inserting “section 6(c)”; and

9           (3) in subsection (f), in the first sentence, by  
10          striking “and unreasonable”.

11 **SEC. 10. INFORMATION COLLECTION AND REPORTING.**

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

14           (1) in subsection (a)—

15           (A) in paragraph (3)(A)(ii)(I)—

16           (i) by striking “5(b)(4)” and inserting  
17           “5”;

18           (ii) by inserting “section 4 or” after  
19           “in effect under”; and

20           (iii) by striking “5(e),” and inserting  
21           “5(d)(4);”; and

22           (B) by adding at the end the following:

23           “(4) RULES.—

24           “(A) DEADLINE.—

1           “(i) IN GENERAL.—Not later than 2  
2           years after the date of enactment of the  
3           Frank R. Lautenberg Chemical Safety for  
4           the 21st Century Act, the Administrator  
5           shall promulgate rules requiring the main-  
6           tenance of records and the reporting of in-  
7           formation known or reasonably ascertain-  
8           able by the person making the report, in-  
9           cluding rules requiring processors to report  
10          information, so that the Administrator has  
11          the information necessary to carry out sec-  
12          tions 4 and 6.

13          “(ii) MODIFICATION OF PRIOR  
14          RULES.—In carrying out this subpara-  
15          graph, the Administrator may modify, as  
16          appropriate, rules promulgated before the  
17          date of enactment of the Frank R. Lauten-  
18          berg Chemical Safety for the 21st Century  
19          Act.

20          “(B) CONTENTS.—The rules promulgated  
21          pursuant to subparagraph (A)—

22                 “(i) may impose different reporting  
23                 and recordkeeping requirements on manu-  
24                 facturers and processors; and



1           “(ii) shall include the level of detail  
2           necessary to be reported, including the  
3           manner by which use and exposure infor-  
4           mation may be reported.

5           “(C) ADMINISTRATION.—In implementing  
6           the reporting and recordkeeping requirements  
7           under this paragraph, the Administrator shall  
8           take measures—

9                   “(i) to limit the potential for duplica-  
10                  tion in reporting requirements;

11                   “(ii) to minimize the impact of the  
12                  rules on small manufacturers and proc-  
13                  essors; and

14                   “(iii) to apply any reporting obliga-  
15                  tions to those persons likely to have infor-  
16                  mation relevant to the effective implemen-  
17                  tation of this title.

18           “(5) GUIDANCE.—The Administrator shall de-  
19           velop guidance relating to the information required  
20           to be reported under the rules promulgated under  
21           this subsection.”;

22           (2) in subsection (b), by adding at the end the  
23           following:

24                   “(3) NOMENCLATURE.—

1           “(A) IN GENERAL.—In carrying out para-  
2 graph (1), the Administrator shall—

3           “(i) maintain the use of Class 2 no-  
4 menclature in use on the date of enact-  
5 ment of the Frank R. Lautenberg Chem-  
6 ical Safety for the 21st Century Act;

7           “(ii) maintain the use of the Soap and  
8 Detergent Association Nomenclature Sys-  
9 tem, published in March 1978 by the Ad-  
10 ministrator in section 1 of addendum III  
11 of the document entitled ‘Candidate List of  
12 Chemical Substances’, and further de-  
13 scribed in the appendix A of volume I of  
14 the 1985 edition of the Toxic Substances  
15 Control Act Substances Inventory (EPA  
16 Document No. EPA-560/7-85-002a); and

17           “(iii) treat all components of cat-  
18 egories that are considered to be statutory  
19 mixtures under this Act as being included  
20 on the list published under paragraph (1)  
21 under the Chemical Abstracts Service  
22 numbers for the respective categories, in-  
23 cluding, without limitation—

24           “(I) cement, Portland, chemicals,  
25 CAS No. 65997-15-1;

1 “(II) cement, alumina, chemicals,  
2 CAS No. 65997-16-2;

3 “(III) glass, oxide, chemicals,  
4 CAS No. 65997-17-3;

5 “(IV) frits, chemicals, CAS No.  
6 65997-18-4;

7 “(V) steel manufacture, chemi-  
8 cals, CAS No. 65997-19-5; and

9 “(VI) ceramic materials and  
10 wares, chemicals, CAS No. 66402-  
11 68-4.

12 “(B) MULTIPLE NOMENCLATURE CONVEN-  
13 TIONS.—

14 “(i) IN GENERAL.—If an existing  
15 guidance allows for multiple nomenclature  
16 conventions, the Administrator shall—

17 “(I) maintain the nomenclature  
18 conventions for substances; and

19 “(II) develop new guidance  
20 that—

21 “(aa) establishes equivalency  
22 between the nomenclature con-  
23 ventions for chemical substances  
24 on the list published under para-  
25 graph (1); and

1                   “(bb) permits persons to  
2                   rely on the new guidance for pur-  
3                   poses of determining whether a  
4                   chemical substance is on the list  
5                   published under paragraph (1).

6                   “(ii) MULTIPLE CAS NUMBERS.—For  
7                   any chemical substance appearing multiple  
8                   times on the list under different Chemical  
9                   Abstracts Service numbers, the Adminis-  
10                  trator shall develop guidance recognizing  
11                  the multiple listings as a single chemical  
12                  substance.

13                  “(4) CHEMICAL SUBSTANCES IN COMMERCE.—

14                  “(A) RULES.—

15                  “(i) IN GENERAL.—Not later than 1  
16                  year after the date of enactment of the  
17                  Frank R. Lautenberg Chemical Safety for  
18                  the 21st Century Act, the Administrator,  
19                  by rule, shall require manufacturers and  
20                  processors to notify the Administrator, by  
21                  not later than 180 days after the date of  
22                  promulgation of the rule, of each chemical  
23                  substance on the list published under para-  
24                  graph (1) that the manufacturer or proc-  
25                  essor, as applicable, has manufactured or

1 processed for a nonexempt commercial pur-  
2 pose during the 10-year period ending on  
3 the day before the date of enactment of the  
4 Frank R. Lautenberg Chemical Safety for  
5 the 21st Century Act.

6 “(ii) ACTIVE SUBSTANCES.—The Ad-  
7 ministrator shall, pursuant to paragraph  
8 (5)(A), designate chemical substances for  
9 which notices are received under clause (i)  
10 to be active substances on the list pub-  
11 lished under paragraph (1).

12 “(B) CONFIDENTIAL CHEMICAL SUB-  
13 STANCES.—The rule promulgated by the Ad-  
14 ministrator pursuant to subparagraph (A) shall  
15 require—

16 “(i) the Administrator to maintain the  
17 list under paragraph (1), which shall in-  
18 clude a confidential portion and a noncon-  
19 fidential portion consistent with this sec-  
20 tion and section 14;

21 “(ii) a manufacturer or processor that  
22 is submitting a notice pursuant to sub-  
23 paragraph (A) for a chemical substance on  
24 the confidential portion of the list pub-  
25 lished under paragraph (1) to indicate in

1 the notice whether the manufacturer or  
2 processor seeks to maintain any existing  
3 claim for protection against disclosure of  
4 the specific identity of the substance as  
5 confidential pursuant to section 14; and

6 “(iii) the substantiation of those  
7 claims pursuant to section 14 and in ac-  
8 cordance with the review plan described in  
9 subparagraph (C).

10 “(C) REVIEW PLAN.—Not later than 1  
11 year after the date on which the Administrator  
12 compiles the initial list of active substances pur-  
13 suant to subparagraph (A), the Administrator  
14 shall promulgate a rule that establishes a plan  
15 to review all claims to protect the specific iden-  
16 tities of chemical substances on the confidential  
17 portion of the list published under paragraph  
18 (1) that are notified pursuant to subparagraph  
19 (A) or identified as active substances under  
20 subsection (f)(1).

21 “(D) REQUIREMENTS OF REVIEW PLAN.—  
22 The review plan under subparagraph (C)  
23 shall—

24 “(i) require, at the time requested by  
25 the Administrator, all manufacturers or

1 processors asserting claims under subpara-  
2 graph (B) to substantiate the claim unless  
3 the manufacturer or processor has sub-  
4 stantiated the claim in a submission made  
5 to the Administrator during the 5-year pe-  
6 riod ending on the date of the request by  
7 the Administrator;

8 “(ii) require the Administrator, in ac-  
9 cordance with section 14—

10 “(I) to review each substan-  
11 tiation—

12 “(aa) submitted pursuant to  
13 clause (i) to determine if the  
14 claim warrants protection from  
15 disclosure; and

16 “(bb) submitted previously  
17 by a manufacturer or processor  
18 and relied on in lieu of the sub-  
19 stantiation required pursuant to  
20 clause (i), if the substantiation  
21 has not been previously reviewed  
22 by the Administrator, to deter-  
23 mine if the claim warrants pro-  
24 tection from disclosure;

1           “(II) approve, modify, or deny  
2 each claim; and

3           “(III) except as provided in this  
4 section and section 14, protect from  
5 disclosure information for which the  
6 Administrator approves such a claim  
7 for a period of 10 years, unless, prior  
8 to the expiration of the period—

9           “(aa) the person notifies the  
10 Administrator that the person is  
11 withdrawing the confidentiality  
12 claim, in which case the Adminis-  
13 trator shall promptly make the  
14 information available to the pub-  
15 lic; or

16           “(bb) the Administrator oth-  
17 erwise becomes aware that the  
18 need for protection from diselo-  
19 sure can no longer be substan-  
20 tiated, in which case the Admin-  
21 istrator shall take the actions de-  
22 scribed in section 14(g)(2); and

23           “(iii) encourage manufacturers or  
24 processors that have previously made  
25 claims to protect the specific identities of



1 chemical substances identified as inactive  
2 pursuant to subsection (f)(2) to review and  
3 either withdraw or substantiate the claims.

4 “(E) TIMELINE FOR COMPLETION OF RE-  
5 VIEWS.—

6 “(i) IN GENERAL.—The Administrator  
7 shall implement the review plan so as to  
8 complete reviews of all claims specified in  
9 subparagraph (C) not later than 5 years  
10 after the date on which the Administrator  
11 compiles the initial list of active substances  
12 pursuant to subparagraph (A).

13 “(ii) CONSIDERATIONS.—

14 “(I) IN GENERAL.—The Admin-  
15 istrator may extend the deadline for  
16 completion of the reviews for not more  
17 than 2 additional years, after an ade-  
18 quate public justification, if the Ad-  
19 ministrator determines that the exten-  
20 sion is necessary based on the number  
21 of applicable claims needing review  
22 and the available resources.

23 “(II) ANNUAL GOAL.—The Ad-  
24 ministrator shall publish an annual  
25 goal for the number of reviews to be

1 completed over the course of imple-  
2 mentation of the plan.

3 “(5) ACTIVE AND INACTIVE SUBSTANCES.—

4 “(A) IN GENERAL.—The Administrator  
5 shall maintain and keep current designations of  
6 active substances and inactive substances on  
7 the list published under paragraph (1).

8 “(B) UPDATE.—The Administrator shall  
9 update the list of chemical substances des-  
10 ignated as active substances as soon as prac-  
11 ticable after the date of publication of the most  
12 recent data reported under—

13 “(i) part 711 of title 40, Code of Fed-  
14 eral Regulations (or successor regulations);  
15 and

16 “(ii) the rules promulgated pursuant  
17 to subsection (a)(4).

18 “(C) CHANGE TO ACTIVE STATUS.—

19 “(i) IN GENERAL.—Any person that  
20 intends to manufacture or process for a  
21 nonexempt commercial purpose a chemical  
22 substance that is designated as an inactive  
23 substance shall notify the Administrator  
24 before the date on which the inactive sub-  
25 stance is manufactured or processed.

1           “(ii) CONFIDENTIAL CHEMICAL IDEN-  
2           TITY CLAIMS.—If a person submitting a  
3           notice under clause (i) for an inactive sub-  
4           stance on the confidential portion of the  
5           list published under paragraph (1) seeks to  
6           maintain an existing claim for protection  
7           against disclosure of the specific identity of  
8           the inactive substance as confidential, the  
9           person shall—

10                   “(I) in the notice submitted  
11                   under clause (i), assert the claim; and

12                   “(II) by not later than 30 days  
13                   after providing the notice under clause  
14                   (i), substantiate the claim.

15           “(iii) ACTIVE STATUS.—On receiving  
16           a notification under clause (i), the Admin-  
17           istrator shall—

18                   “(I) designate the applicable  
19                   chemical substance as an active sub-  
20                   stance;

21                   “(II) pursuant to section 14,  
22                   promptly review any claim and associ-  
23                   ated substantiation submitted pursu-  
24                   ant to clause (ii) for protection  
25                   against disclosure of the specific iden-

1           tivity of the chemical substance and ap-  
2           prove, modify, or deny the claim;

3           “(III) except as provided in this  
4           section and section 14, protect from  
5           disclosure the specific identity of the  
6           chemical substance for which the Ad-  
7           ministrator approves a claim under  
8           subclause (II) for a period of not less  
9           than 10 years, unless, prior to the ex-  
10          piration of the period—

11           “(aa) the person notifies the  
12          Administrator that the person is  
13          withdrawing the confidentiality  
14          claim, in which case the Adminis-  
15          trator shall promptly make the  
16          information available to the pub-  
17          lic; or

18           “(bb) the Administrator oth-  
19          erwise becomes aware that the  
20          need for protection from disclo-  
21          sure can no longer be substan-  
22          tiated, in which case the Admin-  
23          istrator shall take the actions de-  
24          scribed in section 14(g)(2); and

1                   “(IV) pursuant to section 4A, re-  
2                   view the priority of the chemical sub-  
3                   stance as the Administrator deter-  
4                   mines to be necessary.

5                   “(D) CATEGORY STATUS.—The list of in-  
6                   active substances shall not be considered to be  
7                   a category for purposes of section 26(c).

8                   “(6) INTERIM LIST OF ACTIVE SUBSTANCES.—  
9                   Prior to the promulgation of the rule required under  
10                  this subsection, the Administrator shall designate  
11                  the chemical substances reported under part 711 of  
12                  title 40, Code of Federal Regulations (or successor  
13                  regulations), during the reporting period that most  
14                  closely preceded the date of enactment of the Frank  
15                  R. Lautenberg Chemical Safety for the 21st Century  
16                  Act, as the interim list of active substances for the  
17                  purposes of section 4A.

18                  “(7) PUBLIC PARTICIPATION.—Subject to this  
19                  subsection, the Administrator shall make available to  
20                  the public—

21                         “(A) the specific identity of each chemical  
22                         substance on the nonconfidential portion of the  
23                         list published under paragraph (1) that the Ad-  
24                         ministrators has designated as—

25                                 “(i) an active substance; or

1                   “(ii) an inactive substance;

2                   “(B) the accession number, generic name,  
3 and, if applicable, premanufacture notice case  
4 number for each chemical substance on the con-  
5 fidential portion of the list published under  
6 paragraph (1) for which a claim of confiden-  
7 tiality was received and approved by the Admin-  
8 istrator pursuant to section 14; and

9                   “(C) subject to section 14(g), the specific  
10 identity of any active substance for which—

11                   “(i) no claim of protection against dis-  
12 closure of the specific identity of the active  
13 substance pursuant to this subsection was  
14 received;

15                   “(ii) a claim for protection against  
16 disclosure of the specific identity of the ac-  
17 tive substance has been denied by the Ad-  
18 ministrator; or

19                   “(iii) the time period for protection  
20 against disclosure of the specific identity of  
21 the active substance has expired.

22                   “(8) LIMITATION.—No person may assert a  
23 new claim under this subsection for protection from  
24 disclosure of a specific identity of any active or inac-  
25 tive chemical substance for which a notice is received

1 under paragraph (4)(A)(i) or (5)(C)(i) that is not on  
2 the confidential portion of the list published under  
3 paragraph (1).

4 “(9) CERTIFICATION.—Under the rule promul-  
5 gated under this subsection, manufacturers and  
6 processors shall be required—

7 “(A) to certify that each report the manu-  
8 facturer or processor submits complies with the  
9 requirements of the rule, and that any confiden-  
10 tiality claims are true and correct; and

11 “(B) to retain a record supporting the cer-  
12 tification for a period of 5 years beginning on  
13 the last day of the submission period.”;

14 (3) in subsection (e)—

15 (A) by striking “Any person” and inserting  
16 the following:

17 “(1) IN GENERAL.—Any person”; and

18 (B) by adding at the end the following:

19 “(2) APPLICABILITY.—Any person may submit  
20 to the Administrator information reasonably sup-  
21 porting the conclusion that a chemical substance or  
22 mixture presents, will present, or does not present a  
23 substantial risk of harm to health and the environ-  
24 ment.”; and

1 (4) in subsection (f), by striking “For purposes  
2 of this section, the” and inserting the following: “In  
3 this section:

4 “(1) ACTIVE SUBSTANCE.—The term ‘active  
5 substance’ means a chemical substance—

6 “(A) that has been manufactured or proc-  
7 essed for a nonexempt commercial purpose at  
8 any point during the 10-year period ending on  
9 the date of enactment of the Frank R. Lauten-  
10 berg Chemical Safety for the 21st Century Act;

11 “(B) that is added to the list published  
12 under subsection (b)(1) after that date of en-  
13 actment; or

14 “(C) for which a notice is received under  
15 subsection (b)(5)(C).

16 “(2) INACTIVE SUBSTANCE.—The term ‘inactive  
17 substance’ means a chemical substance on the list  
18 published under subsection (b)(1) that does not meet  
19 any of the criteria described in paragraph (1).

20 “(3) MANUFACTURE; PROCESS.—The”.

21 **SEC. 11. RELATIONSHIP TO OTHER FEDERAL LAWS.**

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

24 (1) in subsection (a)—



1 (A) in paragraph (1), in the first sen-  
2 tence—

3 (i) by striking “presents or will  
4 present an unreasonable risk to health or  
5 the environment” and inserting “does not  
6 meet the safety standard”; and

7 (ii) by striking “such risk” the first  
8 place it appears and inserting “the risk  
9 posed by the substance or mixture”;

10 (B) in paragraph (2), in the matter fol-  
11 lowing subparagraph (B), by striking “section 6  
12 or 7” and inserting “section 6(d) or section 7”;  
13 and

14 (C) in paragraph (3), by striking “section  
15 6 or 7” and inserting “section 6(d) or 7”;

16 (2) in subsection (d), in the first sentence, by  
17 striking “Health, Education, and Welfare” and in-  
18 serting “Health and Human Services”; and

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

20 “(e) EXPOSURE INFORMATION.—If the Adminis-  
21 trator obtains information related to exposures or releases  
22 of a chemical substance that may be prevented or reduced  
23 under another Federal law, including laws not adminis-  
24 tered by the Administrator, the Administrator shall make

1 such information available to the relevant Federal agency  
2 or office of the Environmental Protection Agency.”.

3 **SEC. 12. RESEARCH, DEVELOPMENT, COLLECTION, DIS-**  
4 **SEMINATION, AND UTILIZATION OF DATA.**

5 Section 10 of the Toxic Substances Control Act (15  
6 U.S.C. 2609) is amended by striking “Health, Education,  
7 and Welfare” each place it appears and inserting “Health  
8 and Human Services”.

9 **SEC. 13. EXPORTS.**

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

12 (1) in subsection (a), by striking paragraph (2)  
13 and inserting the following:

14 “(2) EXCEPTION.—Paragraph (1) shall not  
15 apply to any chemical substance that the Adminis-  
16 trator determines—

17 “(A) under section 5 is not likely to meet  
18 the safety standard; or

19 “(B) under section 6 does not meet the  
20 safety standard.

21 “(3) WAIVERS.—For a mixture or article con-  
22 taining a chemical substance described in paragraph  
23 (2), the Administrator may—

24 “(A) determine that paragraph (1) shall  
25 not apply to the mixture or article; or

1           “(B) establish a threshold concentration in  
2           a mixture or article at which paragraph (1)  
3           shall not apply.

4           “(4) TESTING.—The Administrator may re-  
5           quire testing under section 4 of any chemical sub-  
6           stance or mixture exempted from this Act under  
7           paragraph (1) for the purpose of determining wheth-  
8           er the chemical substance or mixture meets the safe-  
9           ty standard within the United States.”;

10           (2) by striking subsection (b) and inserting the  
11           following:

12           “(b) NOTICE.—

13           “(1) IN GENERAL.—A person shall notify the  
14           Administrator that the person is exporting or in-  
15           tends to export to a foreign country—

16           “(A) a chemical substance or a mixture  
17           containing a chemical substance that the Ad-  
18           ministrator has determined under section 5 is  
19           not likely to meet the safety standard and for  
20           which a prohibition or other restriction has  
21           been proposed or established under that section;

22           “(B) a chemical substance or a mixture  
23           containing a chemical substance that the Ad-  
24           ministrator has determined under section 6  
25           does not meet the safety standard and for

1           which a prohibition or other restriction has  
2           been proposed or established under that section;

3           “(C) a chemical substance for which the  
4           United States is obligated by treaty to provide  
5           export notification;

6           “(D) a chemical substance or mixture sub-  
7           ject to a prohibition or other restriction pursu-  
8           ant to a rule, order, or consent agreement in ef-  
9           fect under this Act; or

10          “(E) a chemical substance or mixture for  
11          which the submission of information is required  
12          under section 4.

13          “(2) RULES.—

14          “(A) IN GENERAL.—The Administrator  
15          shall promulgate rules to carry out paragraph  
16          (1).

17          “(B) CONTENTS.—The rules promulgated  
18          pursuant to subparagraph (A) shall—

19                  “(i) include such exemptions as the  
20                  Administrator determines to be appro-  
21                  priate, which may include exemptions iden-  
22                  tified under section 5(h); and

23                  “(ii) indicate whether, or to what ex-  
24                  tent, the rules apply to articles containing

1 a chemical substance or mixture described  
2 in paragraph (1).

3 “(3) NOTIFICATION.—The Administrator shall  
4 submit to the government of each country to which  
5 a chemical substance or mixture is exported—

6 “(A) for a chemical substance or mixture  
7 described in subparagraph (A), (B), or (D) of  
8 paragraph (1), a notice of the determination,  
9 rule, order, consent agreement, requirement, or  
10 designation;

11 “(B) for a chemical substance described in  
12 paragraph (1)(C), a notice that satisfies the ob-  
13 ligation of the United States under the applica-  
14 ble treaty; and

15 “(C) for a chemical substance or mixture  
16 described in paragraph (1)(E), a notice of avail-  
17 ability of the information on the chemical sub-  
18 stance or mixture submitted to the Adminis-  
19 trator.”; and

20 (3) in subsection (c)—

21 (A) by striking paragraph (3); and

22 (B) by redesignating paragraphs (4)  
23 through (6) as paragraphs (3) through (5), re-  
24 spectively.

1 **SEC. 14. IMPORTS.**

2 Section 13 of the Toxic Substances Control Act (15  
3 U.S.C. 2612) is amended to read as follows:

4 **“SEC. 13. IMPORTS.**

5 “(a) REFUSAL OF ENTRY.—

6 “(1) IN GENERAL.—The Secretary of Homeland  
7 Security shall refuse entry into the customs territory  
8 of the United States (as defined in general note 2  
9 to the Harmonized Tariff Schedule of the United  
10 States) any chemical substance, mixture, or article  
11 containing a chemical substance or mixture offered  
12 for such entry, if—

13 “(A) the Administrator—

14 “(i) has determined under section 6(c)  
15 that the chemical substance or mixture  
16 does not meet the safety standard; and

17 “(ii) has promulgated a rule pursuant  
18 to section 6(d) banning the chemical sub-  
19 stance or mixture, as of the effective date  
20 of the rule;

21 “(B) the chemical substance—

22 “(i) is not included on the list under  
23 section 8(b)(1); and

24 “(ii) is not exempt from any require-  
25 ment to be included on that list by this

1 title or a rule promulgated by the Adminis-  
2 trator pursuant to this title; or

3 “(C) the chemical substance, mixture, or  
4 any article containing the chemical substance or  
5 mixture is offered for entry in violation of—

6 “(i) a rule, consent agreement, or  
7 order in effect under this Act; or

8 “(ii) an order issued in a civil action  
9 brought under section 7 or title IV.

10 “(2) PROCEDURE.—

11 “(A) IN GENERAL.—Subject to subpara-  
12 graph (B), if a chemical substance, mixture, or  
13 article containing a chemical substance or mix-  
14 ture is refused entry under paragraph (1), the  
15 Secretary of Homeland Security—

16 “(i) shall notify the consignee of the  
17 entry of the refusal;

18 “(ii) shall not release the chemical  
19 substance or mixture to the consignee; and

20 “(iii) shall cause the disposal or stor-  
21 age of the chemical substance or mixture  
22 under such rules as the Secretary may pre-  
23 scribe, if the chemical substance or mix-  
24 ture has not been exported by the con-  
25 signee during the 90-day period beginning

1 on the date of receipt of the notice of the  
2 refused entry.

3 “(B) EXCEPTION.—

4 “(i) IN GENERAL.—The Secretary of  
5 Homeland Security, pending a review by  
6 the Administrator, may release to the con-  
7 signee the chemical substance or mixture if  
8 the consignee—

9 “(I) executes a bond for the  
10 amount of the full invoice of the  
11 chemical substance or mixture (as set  
12 forth in the customs entry); and

13 “(II) pays a duty on the chemical  
14 substance or mixture.

15 “(ii) ADMINISTRATION.—If a con-  
16 signee fails to return a chemical substance  
17 or mixture released to that consignee  
18 under clause (i) for any cause to the cus-  
19 tody of the Secretary of Homeland Secu-  
20 rity on demand, the consignee shall be lia-  
21 ble to the United States for liquidated  
22 damages equal to the full amount of the  
23 bond executed under clause (i)(I).

24 “(C) STORAGE.—All charges for storage,  
25 cartage, and labor on or for the disposal of a



1 chemical substance or mixture that is refused  
2 entry or released under this subsection shall be  
3 paid by the owner or consignee, and a default  
4 on that payment shall constitute a lien against  
5 any future entry made by the owner or con-  
6 signee.

7 “(b) CERTIFICATION.—

8 “(1) IN GENERAL.—A person offering a chem-  
9 ical substance or mixture subject to this Act for  
10 entry into the customs territory of the United States  
11 shall certify to the Secretary of Homeland Security  
12 that—

13 “(A) after reasonable inquiry and to the  
14 best knowledge and belief of the person, the  
15 chemical substance or mixture is in compliance  
16 with any applicable rule, consent agreement, or  
17 order under section 5 or 6; and

18 “(B) the chemical substance—

19 “(i) is included on the list under sec-  
20 tion 8(b)(1); or

21 “(ii) is exempt from any requirement  
22 to be included on that list by this title or  
23 a rule promulgated by the Administrator  
24 pursuant to this title.

25 “(2) ARTICLES.—

1           “(A) IN GENERAL.—The Administrator, by  
2 rule, may require certification under paragraph  
3 (1) for an article containing a chemical sub-  
4 stance or mixture that is subject to rule under  
5 section 5 or 6.

6           “(B) REQUIREMENT.—The rule under sub-  
7 paragraph (A) shall identify, with reasonable  
8 specificity, the types of articles, including parts  
9 or components of articles, that will be subject to  
10 the certification requirement.

11           “(C) FACTORS FOR CONSIDERATION.—In  
12 determining the need for and content of a cer-  
13 tification rule under this paragraph, the Admin-  
14 istrator shall take into consideration—

15           “(i) the utility of the certification to  
16 enforcement of the applicable rule, consent  
17 agreement, or order under section 5 or 6;

18           “(ii) the contribution of imported arti-  
19 cles to the potential risk presented by ex-  
20 posure to the chemical substance or mix-  
21 ture subject to rule under section 5 or 6;

22           “(iii) the impact on commerce and po-  
23 tential for the certification to impede or  
24 disrupt import of articles;

1           “(iv) the frequency or duration of the  
2           certification requirement; and

3           “(v) specification of the concentration  
4           of a chemical substance in an article that  
5           would subject the article to the certifi-  
6           cation requirement.

7           “(3) REASONABLE INQUIRY.—

8           “(A) IN GENERAL.—For purposes of a cer-  
9           tification under paragraph (1), reasonable in-  
10          quiry shall include good faith reliance by an im-  
11          porter on—

12          “(i) a safety data sheet or similar dec-  
13          laration provided by a supplier that docu-  
14          ments the specific identity of the chemical  
15          substance or the specific identities of all  
16          chemical substances in a mixture; or

17          “(ii) for chemical substances or mix-  
18          tures claimed by the supplier as confiden-  
19          tial, or not otherwise disclosed by the sup-  
20          plier, a certification by the supplier that  
21          the imported chemical substance or mix-  
22          ture satisfies the applicable certification re-  
23          quirements under paragraph (1).

24          “(B) ARTICLES.—For purposes of a cer-  
25          tification under paragraph (2), reasonable in-

1           quiry shall include good faith reliance by an im-  
2           porter on a certification by the supplier that the  
3           imported article satisfies the applicable certifi-  
4           cation requirements in a rule promulgated pur-  
5           suant to paragraph (2).

6           “(4) INFORMATION REGARDING IDENTITY.—  
7           For purposes of this subsection, the Administrator  
8           shall provide publicly accessible information regard-  
9           ing the identity of a chemical substance or mixture  
10          subject to rule under this Act that would be readily  
11          understood in import transactions.

12          “(c) NOTICE.—A person offering a chemical sub-  
13          stance for entry into the customs territory of the United  
14          States shall notify the Secretary of Homeland Security  
15          if—

16                 “(1) the chemical substance or chemical sub-  
17                 stance in a mixture is a high-priority substance;

18                 “(2) the chemical substance or chemical sub-  
19                 stance in a mixture is 1 for which the United States  
20                 is obligated to provide export notification by treaty;  
21                 or

22                 “(3) the chemical substance or chemical sub-  
23                 stance in a mixture—

1           “(A) is the subject of a safety assessment  
2           and safety determination conducted pursuant to  
3           section 6; and

4           “(B) has been found not to meet the safety  
5           standard.

6           “(d) RULES.—

7           “(1) IN GENERAL.—The Secretary of Homeland  
8           Security, after consultation with the Administrator,  
9           shall promulgate rules to carry out this section.

10           “(2) APPLICATION.—The rules under para-  
11           graph (1) may modify the application of any require-  
12           ment of this section, as appropriate for the efficient  
13           and effective implementation of this Act.”.

14   **SEC. 15. CONFIDENTIAL INFORMATION.**

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

17   **“SEC. 14. CONFIDENTIAL INFORMATION.**

18           “(a) IN GENERAL.—Except as otherwise provided in  
19   this section, the Administrator shall not disclose informa-  
20   tion that is exempt from disclosure pursuant to subsection  
21   (a) of section 552 of title 5, United States Code, under  
22   subsection (b)(4) of that section—

23           “(1) that is reported to, or otherwise obtained  
24   by, the Administrator under this Act; and

1           “(2) for which the requirements of subsection  
2           (d) are met.

3           “(b) INFORMATION GENERALLY PROTECTED FROM  
4 DISCLOSURE.—The following information specific to, and  
5 submitted by, a manufacturer, processor, or distributor  
6 that meets the requirements of subsections (a) and (d)  
7 shall be presumed to be protected from disclosure, subject  
8 to the condition that nothing in this Act prohibits the dis-  
9 closure of any such information through discovery, sub-  
10 poena, other court order, or any other judicial process oth-  
11 erwise allowed under applicable Federal or State law:

12           “(1) Specific information describing the proc-  
13 esses used in manufacture or processing of a chem-  
14 ical substance, mixture, or article.

15           “(2) Marketing and sales information.

16           “(3) Information identifying a supplier or cus-  
17 tomer.

18           “(4) Details of the full composition of a mixture  
19 and the respective percentages of constituents.

20           “(5) Specific information regarding the use,  
21 function, or application of a chemical substance or  
22 mixture in a process, mixture, or product.

23           “(6) Specific production or import volumes of  
24 the manufacturer and specific aggregated volumes  
25 across manufacturers, if the Administrator deter-

1 mines that disclosure of the specific aggregated vol-  
2 umes would reveal confidential information.

3 “(7) Except as otherwise provided in this sec-  
4 tion, the specific identity of a chemical substance  
5 prior to the date on which the chemical substance is  
6 first offered for commercial distribution, including  
7 the chemical name, molecular formula, Chemical Ab-  
8 stracts Service number, and other information that  
9 would identify a specific chemical substance, if—

10 “(A) the specific identity was claimed as  
11 confidential information at the time it was sub-  
12 mitted in a notice under section 5; and

13 “(B) the claim—

14 “(i) is not subject to an exception  
15 under subsection (e); or

16 “(ii) has not subsequently been with-  
17 drawn or found by the Administrator not  
18 to warrant protection as confidential infor-  
19 mation under subsection (f)(2) or (g).

20 “(c) INFORMATION NOT PROTECTED FROM DISCLO-  
21 SURE.—Notwithstanding subsections (a) and (b), the fol-  
22 lowing information shall not be protected from disclosure:

23 “(1) INFORMATION FROM HEALTH AND SAFETY  
24 STUDIES.—

1           “(A) IN GENERAL.—Subject to subpara-  
2 graph (B), subsection (a) does not prohibit the  
3 disclosure of—

4           “(i) any health and safety study that  
5 is submitted under this Act with respect  
6 to—

7           “(I) any chemical substance or  
8 mixture that, on the date on which  
9 the study is to be disclosed, has been  
10 offered for commercial distribution; or

11           “(II) any chemical substance or  
12 mixture for which—

13           “(aa) testing is required  
14 under section 4; or

15           “(bb) a notification is re-  
16 quired under section 5; or

17           “(ii) any information reported to, or  
18 otherwise obtained by, the Administrator  
19 from a health and safety study relating to  
20 a chemical substance or mixture described  
21 in subclause (I) or (II) of clause (i).

22           “(B) EFFECT OF PARAGRAPH.—Nothing  
23 in this paragraph authorizes the release of any  
24 information that discloses—



1           “(i) a process used in the manufac-  
2           turing or processing of a chemical sub-  
3           stance or mixture; or

4           “(ii) in the case of a mixture, the por-  
5           tion of the mixture comprised by any  
6           chemical substance in the mixture.

7           “(2) CERTAIN REQUESTS.—If a request is made  
8           to the Administrator under section 552(a) of title 5,  
9           United States Code, for information that is de-  
10          scribed in paragraph (1) that is not described in  
11          paragraph (1)(B), the Administrator may not deny  
12          the request on the basis of section 552(b)(4) of title  
13          5, United States Code.

14          “(3) OTHER INFORMATION NOT PROTECTED  
15          FROM DISCLOSURE.—The following information is  
16          not protected from disclosure under this section:

17                 “(A) For information submitted after the  
18                 date of enactment of the Frank R. Lautenberg  
19                 Chemical Safety for the 21st Century Act, the  
20                 specific identity of a chemical substance as of  
21                 the date on which the chemical substance is  
22                 first offered for commercial distribution, if the  
23                 person submitting the information does not  
24                 meet the requirements of subsection (d).

1           “(B) A safety assessment developed, or a  
2 safety determination made, under section 6.

3           “(C) Any general information describing  
4 the manufacturing volumes, expressed as spe-  
5 cific aggregated volumes or, if the Adminis-  
6 trator determines that disclosure of specific ag-  
7 gregated volumes would reveal confidential in-  
8 formation, expressed in ranges.

9           “(D) A general description of a process  
10 used in the manufacture or processing and in-  
11 dustrial, commercial, or consumer functions and  
12 uses of a chemical substance, mixture, or article  
13 containing a chemical substance or mixture, in-  
14 cluding information specific to an industry or  
15 industry sector that customarily would be  
16 shared with the general public or within an in-  
17 dustry or industry sector.

18           “(4) MIXED CONFIDENTIAL AND NONCON-  
19 FIDENTIAL INFORMATION.—Any information that is  
20 otherwise eligible for protection under this section  
21 and contained in a submission of information de-  
22 scribed in this subsection shall be protected from  
23 disclosure, if the submitter complies with subsection  
24 (d), subject to the condition that information in the

1 submission that is not eligible for protection against  
2 disclosure shall be disclosed.

3 “(5) BAN OR PHASE-OUT.—If the Adminis-  
4 trator promulgates a rule pursuant to section 6(d)  
5 that establishes a ban or phase-out of the manufac-  
6 ture, processing, or distribution in commerce of a  
7 chemical substance—

8 “(A) any protection from disclosure pro-  
9 vided under this section with respect to infor-  
10 mation relating to the chemical substance shall  
11 no longer apply; and

12 “(B) the Administrator promptly shall  
13 make the information public.

14 “(d) REQUIREMENTS FOR CONFIDENTIALITY  
15 CLAIMS.—

16 “(1) ASSERTION OF CLAIMS.—

17 “(A) IN GENERAL.—A person seeking to  
18 protect any information submitted under this  
19 Act from disclosure (including information de-  
20 scribed in subsection (b)) shall assert to the Ad-  
21 ministrator a claim for protection concurrent  
22 with submission of the information, in accord-  
23 ance with such rules regarding a claim for pro-  
24 tection from disclosure as the Administrator

1 has promulgated or may promulgate pursuant  
2 to this title.

3 “(B) INCLUSION.—An assertion of a claim  
4 under subparagraph (A) shall include a state-  
5 ment that the person has—

6 “(i) taken reasonable measures to pro-  
7 tect the confidentiality of the information;

8 “(ii) determined that the information  
9 is not required to be disclosed or otherwise  
10 made available to the public under any  
11 other Federal law;

12 “(iii) a reasonable basis to conclude  
13 that disclosure of the information is likely  
14 to cause substantial harm to the competi-  
15 tive position of the person; and

16 “(iv) a reasonable basis to believe that  
17 the information is not readily discoverable  
18 through reverse engineering.

19 “(C) SPECIFIC CHEMICAL IDENTITY.—In  
20 the case of a claim under subparagraph (A) for  
21 protection against disclosure of a specific chem-  
22 ical identity, the claim shall include a struc-  
23 turally descriptive generic name for the chem-  
24 ical substance that the Administrator may dis-

1 close to the public, subject to the condition that  
2 the generic name shall—

3 “(i) conform with guidance prescribed  
4 by the Administrator under paragraph  
5 (3)(A); and

6 “(ii) describe the chemical structure  
7 of the substance as specifically as prac-  
8 ticable while protecting those features of  
9 the chemical structure—

10 “(I) that are considered to be  
11 confidential; and

12 “(II) the disclosure of which  
13 would be likely to harm the competi-  
14 tive position of the person.

15 “(D) PUBLIC INFORMATION.—No person  
16 may assert a claim under this section for pro-  
17 tection from disclosure of information that is al-  
18 ready publicly available.

19 “(2) ADDITIONAL REQUIREMENTS FOR CON-  
20 FIDENTIALITY CLAIMS.—Except for information de-  
21 scribed in paragraphs (1) through (7) of subsection  
22 (b), a person asserting a claim to protect informa-  
23 tion from disclosure under this Act shall substan-  
24 tiate the claim, in accordance with the rules promul-  
25 gated and guidance issued by the Administrator.

1           “(3) GUIDANCE.—The Administrator shall de-  
2       velop guidance regarding—

3           “(A) the determination of structurally de-  
4       scriptive generic names, in the case of claims  
5       for the protection against disclosure of specific  
6       chemical identity; and

7           “(B) the content and form of the state-  
8       ments of need and agreements required under  
9       paragraphs (4), (5), and (6) of subsection (e).

10          “(4) CERTIFICATION.—An authorized official of  
11       a person described in paragraph (1)(A) shall certify  
12       that the information that has been submitted is true  
13       and correct.

14          “(e) EXCEPTIONS TO PROTECTION FROM DISCLO-  
15       SURE.—Information described in subsection (a) shall be  
16       disclosed if—

17          “(1) the information is to be disclosed to an of-  
18       ficer or employee of the United States in connection  
19       with the official duties of the officer or employee—

20          “(A) under any law for the protection of  
21       health or the environment; or

22          “(B) for a specific law enforcement pur-  
23       pose;

1           “(2) the information is to be disclosed to a con-  
2           tractor of the United States and employees of that  
3           contractor—

4                   “(A) if, in the opinion of the Adminis-  
5                   trator, the disclosure is necessary for the satis-  
6                   factory performance by the contractor of a con-  
7                   tract with the United States for the perform-  
8                   ance of work in connection with this Act; and

9                   “(B) subject to such conditions as the Ad-  
10                   ministrators may specify;

11           “(3) the Administrator determines that disclo-  
12           sure is necessary to protect health or the environ-  
13           ment;

14           “(4) the information is to be disclosed to a  
15           State or political subdivision of a State, on written  
16           request, for the purpose of development, administra-  
17           tion, or enforcement of a law, if—

18                   “(A) 1 or more applicable agreements with  
19                   the Administrator that conform with the guid-  
20                   ance issued under subsection (d)(3)(B) ensure  
21                   that the recipient will take appropriate meas-  
22                   ures, and has adequate authority, to maintain  
23                   the confidentiality of the information in accord-  
24                   ance with procedures comparable to the proce-

1           dures used by the Administrator to safeguard  
2           the information; and

3           “(B) the Administrator notifies the person  
4           that submitted the information that the infor-  
5           mation has been disclosed to the State or polit-  
6           ical subdivision of a State;

7           “(5) a health or environmental professional em-  
8           ployed by a Federal or State agency or a treating  
9           physician or nurse in a nonemergency situation pro-  
10          vides a written statement of need and agrees to sign  
11          a written confidentiality agreement with the Admin-  
12          istrator, subject to the conditions that—

13                 “(A) the statement of need and confiden-  
14                 tiality agreement shall conform with the guid-  
15                 ance issued under subsection (d)(3)(B);

16                 “(B) the written statement of need shall be  
17                 a statement that the person has a reasonable  
18                 basis to suspect that—

19                         “(i) the information is necessary for,  
20                         or will assist in—

21                                 “(I) the diagnosis or treatment of  
22                                 1 or more individuals; or

23                                 “(II) responding to an environ-  
24                                 mental release or exposure; and



1           “(ii) 1 or more individuals being diag-  
2           nosed or treated have been exposed to the  
3           chemical substance concerned, or an envi-  
4           ronmental release or exposure has oc-  
5           curred; and

6           “(C) the confidentiality agreement shall  
7           provide that the person will not use the infor-  
8           mation for any purpose other than the health or  
9           environmental needs asserted in the statement  
10          of need, except as otherwise may be authorized  
11          by the terms of the agreement or by the person  
12          submitting the information to the Adminis-  
13          trator, except that nothing in this Act prohibits  
14          the disclosure of any such information through  
15          discovery, subpoena, other court order, or any  
16          other judicial process otherwise allowed under  
17          applicable Federal or State law;

18          “(6) in the event of an emergency, a treating  
19          physician, nurse, agent of a poison control center,  
20          public health or environmental official of a State or  
21          political subdivision of a State, or first responder  
22          (including any individual duly authorized by a Fed-  
23          eral agency, State, or political subdivision of a State  
24          who is trained in urgent medical care or other emer-  
25          gency procedures, including a police officer, fire-

1 fighter, or emergency medical technician) requests  
2 the information, subject to the conditions that—

3 “(A) the treating physician, nurse, agent,  
4 public health or environmental official of a  
5 State or a political subdivision of a State, or  
6 first responder shall have a reasonable basis to  
7 suspect that—

8 “(i) a medical or public health or en-  
9 vironmental emergency exists;

10 “(ii) the information is necessary for,  
11 or will assist in, emergency or first-aid di-  
12 agnosis or treatment; or

13 “(iii) 1 or more individuals being di-  
14 agnosed or treated have likely been ex-  
15 posed to the chemical substance concerned,  
16 or a serious environmental release of or ex-  
17 posure to the chemical substance con-  
18 cerned has occurred;

19 “(B) if requested by the person submitting  
20 the information to the Administrator, the treat-  
21 ing physician, nurse, agent, public health or en-  
22 vironmental official of a State or a political sub-  
23 division of a State, or first responder shall, as  
24 described in paragraph (5)—

1                   “(i) provide a written statement of  
2                   need; and

3                   “(ii) agree to sign a confidentiality  
4                   agreement; and

5                   “(C) the written confidentiality agreement  
6                   or statement of need shall be submitted as soon  
7                   as practicable, but not necessarily before the in-  
8                   formation is disclosed;

9                   “(7) the Administrator determines that disclo-  
10                  sure is relevant in a proceeding under this Act, sub-  
11                  ject to the condition that the disclosure shall be  
12                  made in such a manner as to preserve confidentiality  
13                  to the maximum extent practicable without impair-  
14                  ing the proceeding;

15                  “(8) the information is to be disclosed, on writ-  
16                  ten request of any duly authorized congressional  
17                  committee, to that committee; or

18                  “(9) the information is required to be disclosed  
19                  or otherwise made public under any other provision  
20                  of Federal law.

21                  “(f) DURATION OF PROTECTION FROM DISCLO-  
22                  SURE.—

23                         “(1) IN GENERAL.—

24                                 “(A) INFORMATION PROTECTED FROM DIS-  
25                                 CLOSURE.—Subject to paragraph (2), the Ad-

1 administrator shall protect from disclosure infor-  
2 mation that meets the requirements of sub-  
3 section (d) for a period of 10 years, unless,  
4 prior to the expiration of the period—

5 “(i) an affected person notifies the  
6 Administrator that the person is with-  
7 drawing the confidentiality claim, in which  
8 case the Administrator shall promptly  
9 make the information available to the pub-  
10 lic; or

11 “(ii) the Administrator otherwise be-  
12 comes aware that the need for protection  
13 from disclosure can no longer be substan-  
14 tiated, in which case the Administrator  
15 shall take the actions described in sub-  
16 section (g)(2).

17 “(B) EXTENSIONS.—

18 “(i) IN GENERAL.—Not later than the  
19 date that is 60 days before the expiration  
20 of the period described in subparagraph  
21 (A), the Administrator shall provide to the  
22 person that asserted the claim a notice of  
23 the impending expiration of the period.

24 “(ii) STATEMENT.—

1           “(I) IN GENERAL.—Not later  
2 than the date that is 30 days before  
3 the expiration of the period described  
4 in subparagraph (A), a person re-  
5 asserting the relevant claim shall sub-  
6 mit to the Administrator a statement  
7 substantiating, in accordance with  
8 subsection (d)(2), the need to extend  
9 the period.

10           “(II) ACTION BY ADMINIS-  
11 TRATOR.—Not later than the date  
12 that is 30 days after the date of re-  
13 ceipt of a statement under subclause  
14 (I), the Administrator shall—

15                   “(aa) review the request;

16                   “(bb) make a determination  
17 regarding whether the informa-  
18 tion for which the request is  
19 made continues to meet the rel-  
20 evant criteria established under  
21 this section; and

22                   “(cc)(AA) grant an exten-  
23 sion of not more than 10 years;  
24 or

25                   “(BB) deny the claim.

1           “(C) NO LIMIT ON NUMBER OF EXTEN-  
2           SIONS.—There shall be no limit on the number  
3           of extensions granted under subparagraph (B),  
4           if the Administrator determines that the rel-  
5           evant statement under subparagraph  
6           (B)(ii)(I)—

7                   “(i) establishes the need to extend the  
8                   period; and

9                   “(ii) meets the requirements estab-  
10                  lished by the Administrator.

11           “(2) REVIEW AND RESUBSTANTIATION.—

12                   “(A) DISCRETION OF ADMINISTRATOR.—

13           The Administrator may review, at any time, a  
14           claim for protection against disclosure under  
15           subsection (a) for information submitted to the  
16           Administrator regarding a chemical substance  
17           and require any person that has claimed protec-  
18           tion for that information, whether before, on, or  
19           after the date of enactment of the Frank R.  
20           Lautenberg Chemical Safety for the 21st Cen-  
21           tury Act, to withdraw or reassert and substan-  
22           tiate or resubstantiate the claim in accordance  
23           with this section—

1           “(i) after the chemical substance is  
2 identified as a high-priority substance  
3 under section 4A;

4           “(ii) for any chemical substance for  
5 which the Administrator has made a deter-  
6 mination under section 6(c)(1)(C);

7           “(iii) for any inactive chemical sub-  
8 stance identified under section 8(b)(5); or

9           “(iv) in limited circumstances, if the  
10 Administrator determines that disclosure  
11 of certain information currently protected  
12 from disclosure would assist the Adminis-  
13 trator in conducting safety assessments  
14 and safety determinations under sub-  
15 sections (b) and (c) of section 6 or promul-  
16 gating rules pursuant to section 6(d), sub-  
17 ject to the condition that the information  
18 shall not be disclosed unless the claimant  
19 withdraws the claim or the Administrator  
20 determines that the information does not  
21 meet the requirements of subsection (d).

22           “(B) REVIEW REQUIRED.—The Adminis-  
23 trator shall review a claim for protection from  
24 disclosure under subsection (a) for information  
25 submitted to the Administrator regarding a

1 chemical substance and require any person that  
2 has claimed protection for that information,  
3 whether before, on, or after the date of enact-  
4 ment of the Frank R. Lautenberg Chemical  
5 Safety for the 21st Century Act, to withdraw or  
6 reassert and substantiate or resubstantiate the  
7 claim in accordance with this section—

8 “(i) as necessary to comply with a re-  
9 quest for information received by the Ad-  
10 ministrator under section 552 of title 5,  
11 United States Code;

12 “(ii) if information available to the  
13 Administrator provides a basis that the re-  
14 quirements of section 552(b)(4) of title 5,  
15 United States Code, are no longer met; or

16 “(iii) for any substance for which the  
17 Administrator has made a determination  
18 under section 6(c)(1)(B).

19 “(C) ACTION BY RECIPIENT.—If the Ad-  
20 ministrator makes a request under subpara-  
21 graph (A) or (B), the recipient of the request  
22 shall—

23 “(i) reassert and substantiate or re-  
24 substantiate the claim; or

25 “(ii) withdraw the claim.



1           “(D) PERIOD OF PROTECTION.—Protec-  
2           tion from disclosure of information subject to a  
3           claim that is reviewed and approved by the Ad-  
4           ministrator under this paragraph shall be ex-  
5           tended for a period of 10 years from the date  
6           of approval, subject to any subsequent request  
7           by the Administrator under this paragraph.

8           “(3) UNIQUE IDENTIFIER.—The Administrator  
9           shall—

10           “(A)(i) develop a system to assign a  
11           unique identifier to each specific chemical iden-  
12           tity for which the Administrator approves a re-  
13           quest for protection from disclosure, other than  
14           a specific chemical identity or structurally de-  
15           scriptive generic term; and

16           “(ii) apply that identifier consistently to all  
17           information relevant to the applicable chemical  
18           substance;

19           “(B) annually publish and update a list of  
20           chemical substances, referred to by unique iden-  
21           tifier, for which claims to protect the specific  
22           chemical identity from disclosure have been ap-  
23           proved, including the expiration date for each  
24           such claim;

1           “(C) ensure that any nonconfidential infor-  
2 mation received by the Administrator with re-  
3 spect to such a chemical substance during the  
4 period of protection from disclosure—

5                   “(i) is made public; and

6                   “(ii) identifies the chemical substance  
7 using the unique identifier; and

8           “(D) for each claim for protection of spe-  
9 cific chemical identity that has been denied by  
10 the Administrator on expiration of the period  
11 for appeal under subsection (g)(3), that has ex-  
12 pired, or that has been withdrawn by the sub-  
13 mitter, provide public access to the specific  
14 chemical identity clearly linked to all noncon-  
15 fidential information received by the Adminis-  
16 trator with respect to the chemical substance.

17           “(g) DUTIES OF ADMINISTRATOR.—

18                   “(1) DETERMINATION.—

19                   “(A) IN GENERAL.—Except as provided in  
20 subsection (b), the Administrator shall, subject  
21 to subparagraph (C), not later than 90 days  
22 after the receipt of a claim under subsection  
23 (d), and not later than 30 days after the receipt  
24 of a request for extension of a claim under sub-

1 section (f), review and approve, modify, or deny  
2 the claim or request.

3 “(B) DENIAL OR MODIFICATION.—

4 “(i) IN GENERAL.—Except as pro-  
5 vided in subsections (e) and (f), the Ad-  
6 ministrator shall deny a claim to protect a  
7 chemical identity from disclosure only if  
8 the person that has submitted the claim  
9 fails to meet the requirements of sub-  
10 sections (a) and (d).

11 “(ii) REASONS FOR DENIAL OR MODI-  
12 FICATION.—The Administrator shall pro-  
13 vide to a person that has submitted a  
14 claim described in clause (i) a written  
15 statement of the reasons for the denial or  
16 modification of the claim.

17 “(C) SUBSETS.—The Administrator  
18 shall—

19 “(i) except for claims described in  
20 subsection (b)(7), review all claims under  
21 this section for the protection against dis-  
22 closure of the specific identity of a chem-  
23 ical substance; and

1           “(ii) review a representative subset,  
2           comprising at least 25 percent, of all other  
3           claims for protection against disclosure.

4           “(D) EFFECT OF FAILURE TO ACT.—The  
5           failure of the Administrator to make a decision  
6           regarding a claim for protection against disclo-  
7           sure or extension under this section shall not be  
8           the basis for denial or elimination of a claim for  
9           protection against disclosure.

10          “(2) NOTIFICATION.—

11           “(A) IN GENERAL.—Except as provided in  
12           subparagraph (B) and subsections (c), (e), and  
13           (f), if the Administrator denies or modifies a  
14           claim under paragraph (1), the Administrator  
15           shall notify, in writing and by certified mail, the  
16           person that submitted the claim of the intent of  
17           the Administrator to release the information.

18          “(B) RELEASE OF INFORMATION.—

19           “(i) IN GENERAL.—Except as pro-  
20           vided in clause (ii), the Administrator shall  
21           not release information under this sub-  
22           section until the date that is 30 days after  
23           the date on which the person that sub-  
24           mitted the request receives notification  
25           under subparagraph (A).

1 “(ii) EXCEPTIONS.—

2 “(I) IN GENERAL.—For informa-  
3 tion under paragraph (3) or (8) of  
4 subsection (e), the Administrator shall  
5 not release that information until the  
6 date that is 15 days after the date on  
7 which the person that submitted the  
8 claim receives a notification, unless  
9 the Administrator determines that re-  
10 lease of the information is necessary  
11 to protect against an imminent and  
12 substantial harm to health or the en-  
13 vironment, in which case no prior no-  
14 tification shall be necessary.

15 “(II) NO NOTIFICATION.—For  
16 information under paragraph (1), (2),  
17 (6), (7), or (9) of subsection (e), no  
18 prior notification shall be necessary.

19 “(3) APPEALS.—

20 “(A) IN GENERAL.—If a person receives a  
21 notification under paragraph (2) and believes  
22 disclosure of the information is prohibited  
23 under subsection (a), before the date on which  
24 the information is to be released, the person

1           may bring an action to restrain disclosure of  
2           the information in—

3                   “(i) the United States district court of  
4                   the district in which the complainant re-  
5                   sides or has the principal place of business;  
6                   or

7                   “(ii) the United States District Court  
8                   for the District of Columbia.

9                   “(B) NO DISCLOSURE.—The Adminis-  
10                  trator shall not disclose any information that is  
11                  the subject of an appeal under this section be-  
12                  fore the date on which the applicable court  
13                  rules on an action under subparagraph (A).

14                  “(4) ADMINISTRATION.—In carrying out this  
15                  subsection, the Administrator shall use the proce-  
16                  dures described in part 2 of title 40, Code of Fed-  
17                  eral Regulations (or successor regulations).

18                  “(h) CRIMINAL PENALTY FOR WRONGFUL DISCLO-  
19                  SURE.—

20                   “(1) OFFICERS AND EMPLOYEES OF UNITED  
21                   STATES.—

22                   “(A) IN GENERAL.—Subject to paragraph  
23                   (2), a current or former officer or employee of  
24                   the United States described in subparagraph  
25                   (B) shall be guilty of a misdemeanor and fined

1 under title 18, United States Code, or impris-  
2 oned for not more than 1 year, or both.

3 “(B) DESCRIPTION.—A current or former  
4 officer or employee of the United States re-  
5 ferred to in subparagraph (A) is a current or  
6 former officer or employee of the United States  
7 who—

8 “(i) by virtue of that employment or  
9 official position has obtained possession of,  
10 or has access to, material the disclosure of  
11 which is prohibited by subsection (a); and

12 “(ii) knowing that disclosure of that  
13 material is prohibited by subsection (a),  
14 willfully discloses the material in any man-  
15 ner to any person not entitled to receive  
16 that material.

17 “(2) OTHER LAWS.—Section 1905 of title 18,  
18 United States Code, shall not apply with respect to  
19 the publishing, divulging, disclosure, making known  
20 of, or making available, information reported or oth-  
21 erwise obtained under this Act.

22 “(3) CONTRACTORS.—For purposes of this sub-  
23 section, any contractor of the United States that is  
24 provided information in accordance with subsection  
25 (e)(2), including any employee of that contractor,

1 shall be considered to be an employee of the United  
2 States.

3 “(i) APPLICABILITY.—

4 “(1) IN GENERAL.—Except as otherwise pro-  
5 vided in this section, section 8, or any other applica-  
6 ble Federal law, the Administrator shall have no au-  
7 thority—

8 “(A) to require the substantiation or re-  
9 substantiation of a claim for the protection  
10 from disclosure of information submitted to the  
11 Administrator under this Act before the date of  
12 enactment of the Frank R. Lautenberg Chem-  
13 ical Safety for the 21st Century Act; or

14 “(B) to impose substantiation or re-  
15 substantiation requirements under this Act that  
16 are more extensive than those required under  
17 this section.

18 “(2) PRIOR ACTIONS.—Nothing in this Act pre-  
19 vents the Administrator from reviewing, requiring  
20 substantiation or resubstantiation for, or approving,  
21 modifying or denying any claim for the protection  
22 from disclosure of information before the effective  
23 date of such rules applicable to those claims as the  
24 Administrator may promulgate after the date of en-



1 actment of the Frank R. Lautenberg Chemical Safe-  
2 ty for the 21st Century Act.”.

3 **SEC. 16. PROHIBITED ACTS.**

4 Section 15 of the Toxic Substances Control Act (15  
5 U.S.C. 2614) is amended by striking paragraph (1) and  
6 inserting the following:

7 “(1) fail or refuse to comply with—

8 “(A) any rule promulgated, consent agree-  
9 ment entered into, or order issued under section  
10 4;

11 “(B) any requirement under section 5 or 6;

12 “(C) any rule promulgated, consent agree-  
13 ment entered into, or order issued under section  
14 5 or 6; or

15 “(D) any requirement of, or any rule pro-  
16 mulgated or order issued pursuant to title II;”.

17 **SEC. 17. PENALTIES.**

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

20 (1) in subsection (a)(1)—

21 (A) in the first sentence—

22 (i) by inserting “this Act or a rule or  
23 order promulgated or issued pursuant to  
24 this Act, including” after “a provision of”;

25 and

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

3 (B) in the second sentence, by striking“  
4 violation of section 15 or 409” and inserting  
5 “violation of this Act”; and

6 (2) in subsection (b)—

7 (A) by striking “Any person who” and in-  
8 serting the following:

9 “(1) IN GENERAL.—Any person that”;

10 (B) by striking “section 15 or 409” and  
11 inserting “this Act”;

12 (C) by striking “\$25,000” and inserting  
13 “\$50,000”; and

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

15 “(2) IMMINENT DANGER OF DEATH OR SERIOUS  
16 BODILY INJURY.—

17 “(A) IN GENERAL.—Any person that  
18 knowingly or willfully violates any provision of  
19 this Act, and that knows at the time of the vio-  
20 lation that the violation places an individual in  
21 imminent danger of death or serious bodily in-  
22 jury, shall be subject on conviction to a fine of  
23 not more than \$250,000, or imprisonment for  
24 not more than 15 years, or both.

1           “(B) ORGANIZATIONS.—An organization  
2           that commits a violation described in subpara-  
3           graph (A) shall be subject on conviction to a  
4           fine of not more than \$1,000,000 for each vio-  
5           lation.

6           “(3) KNOWLEDGE OF IMMINENT DANGER OR  
7           INJURY.—For purposes of determining whether a  
8           defendant knew that the violation placed another in-  
9           dividual in imminent danger of death or serious bod-  
10          ily injury—

11                   “(A) the defendant shall be responsible  
12                   only for actual awareness or actual belief pos-  
13                   sessed; and

14                   “(B) knowledge possessed by an individual  
15                   may not be attributed to the defendant.”.

16 **SEC. 18. STATE-FEDERAL RELATIONSHIP.**

17           Section 18 of the Toxic Substances Control Act (15  
18           U.S.C. 2617) is amended by striking subsections (a) and  
19           (b) and inserting the following:

20           “(a) IN GENERAL.—

21                   “(1) ESTABLISHMENT OR ENFORCEMENT.—Ex-  
22                   cept as provided in subsections (c), (d), (e), (f), and  
23                   (g), and subject to paragraph (2), no State or polit-  
24                   ical subdivision of a State may establish or continue  
25                   to enforce any of the following:

1           “(A) TESTING AND INFORMATION COLLEC-  
2           TION.—A statute or administrative action to re-  
3           quire the development of information on a  
4           chemical substance or category of substances  
5           that is reasonably likely to produce the same in-  
6           formation required under section 4, 5, or 6 in—

7                   “(i) a rule promulgated by the Admin-  
8                   istrator;

9                   “(ii) a testing consent agreement en-  
10                  tered into by the Administrator; or

11                  “(iii) an order issued by the Adminis-  
12                  trator.

13           “(B) CHEMICAL SUBSTANCES FOUND TO  
14           MEET THE SAFETY STANDARD OR RE-  
15           STRICTED.—A statute or administrative action  
16           to prohibit or otherwise restrict the manufac-  
17           ture, processing, or distribution in commerce or  
18           use of a chemical substance—

19                   “(i) found to meet the safety standard  
20                   and consistent with the scope of the deter-  
21                   mination made under section 6; or

22                   “(ii) found not to meet the safety  
23                   standard, after the effective date of the  
24                   rule issued under section 6(d) for the sub-

1                   stance, consistent with the scope of the de-  
2                   termination made by the Administrator.

3                   “(C) SIGNIFICANT NEW USE.—A statute or  
4                   administrative action requiring the notification  
5                   of a use of a chemical substance that the Ad-  
6                   ministrator has specified as a significant new  
7                   use and for which the Administrator has re-  
8                   quired notification pursuant to a rule promul-  
9                   gated under section 5.

10                  “(2) EFFECTIVE DATE OF PREEMPTION.—  
11                  Under this subsection, Federal preemption of State  
12                  statutes and administrative actions applicable to spe-  
13                  cific substances shall not occur until the effective  
14                  date of the applicable action described in paragraph  
15                  (1) taken by the Administrator.

16                  “(b) NEW STATUTES OR ADMINISTRATIVE ACTIONS  
17                  CREATING PROHIBITIONS OR OTHER RESTRICTIONS.—  
18                  Except as provided in subsections (c), (d), and (e), no  
19                  State or political subdivision of a State may establish  
20                  (after the date of enactment of the Frank R. Lautenberg  
21                  Chemical Safety for the 21st Century Act) a statute or  
22                  administrative action prohibiting or restricting the manu-  
23                  facture, processing, distribution in commerce or use of a  
24                  chemical substance that is a high-priority substance des-  
25                  ignated under section 4A, as of the date on which the Ad-

1 administrator commences a safety assessment under section  
2 6.

3 “(c) SCOPE OF PREEMPTION.—Federal preemption  
4 under subsections (a) and (b) of State statutes and admin-  
5 istrative actions applicable to specific substances shall  
6 apply only to—

7 “(1) the chemical substances or category of  
8 substances subject to a rule, order, or consent agree-  
9 ment under section 4;

10 “(2) the uses or conditions of use of such sub-  
11 stances that are identified by the Administrator as  
12 subject to review in a safety assessment and in-  
13 cluded in the scope of the safety determination made  
14 by the Administrator for the substance, or of any  
15 rule the Administrator promulgates pursuant to sec-  
16 tion 6(d); or

17 “(3) the uses of such substances that the Ad-  
18 ministrator has specified as significant new uses and  
19 for which the Administrator has required notifica-  
20 tion pursuant to a rule promulgated under section 5.

21 “(d) EXCEPTIONS.—

22 “(1) IN GENERAL.—Subsections (a) and (b)  
23 shall not apply to a statute or administrative action  
24 of a State or a political subdivision of a State appli-  
25 cable to a specific chemical substance that—

1           “(A) is adopted under the authority of, or  
2 authorized to comply with, any other Federal  
3 law;

4           “(B) implements a reporting, monitoring,  
5 or other information collection obligation for  
6 the chemical substance not otherwise required  
7 by the Administrator under this Act or required  
8 under any other Federal law; or

9           “(C) is adopted pursuant to authority  
10 under a law of the State or political subdivision  
11 of the State related to water quality, air qual-  
12 ity, or waste treatment or disposal, unless the  
13 action taken by the State or political subdivi-  
14 sion of a State—

15           “(i) imposes a restriction on the man-  
16 ufacture, processing, distribution in com-  
17 merce, or use of a chemical substance; and

18           “(ii)(I) is already required by a deci-  
19 sion by the Administrator under section 5  
20 or 6;

21           “(II) is taken to address a health or  
22 environmental concern that applies to the  
23 uses or conditions of use that are included  
24 in the scope of a safety determination pur-  
25 suant to section 6 or the scope of a signifi-

1 cant new use rule promulgated pursuant to  
2 section 5, but is inconsistent with the ac-  
3 tion of the Administrator; or

4 “(III) would cause a violation of the  
5 applicable action by the Administrator  
6 under section 5 or 6.

7 “(2) NO PREEMPTION OF STATE STATUTES  
8 AND ADMINISTRATIVE ACTIONS.—Nothing in this  
9 Act, nor any amendment made by this Act, nor any  
10 rule, standard of performance, safety determination,  
11 or scientific assessment implemented pursuant to  
12 this Act, shall affect the right of a State or a polit-  
13 ical subdivision of a State to adopt or enforce any  
14 rule, standard of performance, safety determination,  
15 scientific assessment, or any protection for public  
16 health or the environment that—

17 “(A) is adopted under the authority of, or  
18 authorized to comply with, any other Federal  
19 law;

20 “(B) implements a reporting, monitoring,  
21 or other information collection obligation for  
22 the chemical substance not otherwise required  
23 by the Administrator under this Act or required  
24 under any other Federal law; or



1           “(C) is adopted pursuant to authority  
2           under a law of the State or political subdivision  
3           of the State related to water quality, air qual-  
4           ity, or waste treatment or disposal, unless the  
5           action taken by the State or political subdivi-  
6           sion of a State—

7                   “(i) imposes a restriction on the man-  
8                   ufacture, processing, distribution in com-  
9                   merce, or use of a chemical substance; and

10                   “(ii)(I) is already required by a deci-  
11                   sion by the Administrator under section 5  
12                   or 6;

13                   “(II) is taken to address a health or  
14                   environmental concern that applies to the  
15                   uses or conditions of use that are included  
16                   in the scope of a safety determination pur-  
17                   suant to section 6 or the scope of a signifi-  
18                   cant new use rule promulgated pursuant to  
19                   section 5, but is inconsistent with the ac-  
20                   tion of the Administrator; or

21                   “(III) would cause a violation of the  
22                   applicable action by the Administrator  
23                   under section 5 or 6.

24                   “(3) APPLICABILITY TO CERTAIN RULES OR OR-  
25                   DERS.—Notwithstanding subsection (e)—

1           “(A) nothing in this section shall be con-  
2           strued as modifying the effect under this sec-  
3           tion, as in effect on the day before the effective  
4           date of the Frank R. Lautenberg Chemical  
5           Safety for the 21st Century Act, of any rule or  
6           order promulgated or issued under this Act  
7           prior to that effective date; and

8           “(B) with respect to a chemical substance  
9           or mixture for which any rule or order was pro-  
10          mulgated or issued under section 6 prior to the  
11          effective date of the Frank R. Lautenberg  
12          Chemical Safety for the 21st Century Act with  
13          regards to manufacturing, processing, distribu-  
14          tion in commerce, use, or disposal of a chemical  
15          substance, this section (as in effect on the day  
16          before the effective date of the Frank R. Lau-  
17          tenberg Chemical Safety for the 21st Century  
18          Act) shall govern the preemptive effect of any  
19          rule or order that is promulgated or issued re-  
20          specting such chemical substance or mixture  
21          under section 6 of this Act after that effective  
22          date, unless the latter rule or order is with re-  
23          spect to a chemical substance or mixture con-  
24          taining a chemical substance and follows a des-  
25          ignation of that chemical substance as a high-

1 priority substance under subsection (b) or (c) of  
2 section 4A or as an additional priority for safe-  
3 ty assessment and safety determination under  
4 section 4A(d).

5 “(e) PRESERVATION OF CERTAIN STATE LAW.—

6 “(1) IN GENERAL.—Nothing in this Act, sub-  
7 ject to subsection (g) of this section, shall—

8 “(A) be construed to preempt or otherwise  
9 affect any action taken before January 1, 2015,  
10 under the authority of a State law that pro-  
11 hibits or otherwise restricts manufacturing,  
12 processing, distribution in commerce, use, or  
13 disposal of a chemical substance; or

14 “(B) be construed to preempt or otherwise  
15 affect any action taken pursuant to a State law  
16 that was in effect on August 31, 2003.

17 “(2) EFFECT OF SUBSECTION.—This sub-  
18 section does not affect, modify, or alter the relation-  
19 ship between State and Federal law pursuant to any  
20 other Federal law.

21 “(f) STATE WAIVERS.—

22 “(1) IN GENERAL.—Upon application of a State  
23 or political subdivision of a State, the Administrator  
24 may—

1           “(A) by rule, exempt from subsection (a),  
2           under such conditions as may be prescribed in  
3           the rule, a statute or administrative action of  
4           that State or political subdivision of the State  
5           that relates to the effects of, or exposure to, a  
6           chemical substance under the conditions of use  
7           if the Administrator determines that—

8                   “(i) compelling State or local condi-  
9                   tions warrant granting the waiver to pro-  
10                  tect health or the environment;

11                  “(ii) compliance with the proposed re-  
12                  quirement of the State or political subdivi-  
13                  sion of the State would not unduly burden  
14                  interstate commerce in the manufacture,  
15                  processing, distribution in commerce, or  
16                  use of a chemical substance;

17                  “(iii) compliance with the proposed re-  
18                  quirement of the State or political subdivi-  
19                  sion of the State would not cause a viola-  
20                  tion of any applicable Federal law, rule, or  
21                  order; and

22                  “(iv) based on the judgment of the  
23                  Administrator, the proposed requirement  
24                  of the State or political subdivision of the  
25                  State is consistent with sound objective sci-

1           entific practices, the weight of the evi-  
2           dence, and the best available science; or

3           “(B) exempt from subsection (b) a statute  
4           or administrative action of a State or political  
5           subdivision of a State that relates to the effects  
6           of exposure to a chemical substance under the  
7           conditions of use if the Administrator deter-  
8           mines that—

9                   “(i) the State has a compelling local  
10                  interest that warrants granting the waiver  
11                  to protect health or the environment;

12                  “(ii) compliance with the proposed re-  
13                  quirement of the State will not unduly bur-  
14                  den interstate commerce in the manufac-  
15                  ture, processing, distribution in commerce,  
16                  or use of a chemical substance;

17                  “(iii) compliance with the proposed re-  
18                  quirement would not cause a violation of  
19                  any applicable Federal law, rule, or order;  
20                  and

21                  “(iv) the proposed requirement is  
22                  grounded in reasonable scientific concern.

23           “(2) APPROVAL OF A STATE WAIVER RE-  
24           QUEST.—The Administrator shall grant or deny a  
25           waiver application—

1           “(A) not later than 180 days after the date  
2           on which an application under paragraph (1)(A)  
3           is submitted; and

4           “(B) not later than 90 days after the date  
5           on which an application under paragraph  
6           (1)(B) is submitted.

7           “(3) NOTICE AND COMMENT.—The application  
8           of a State or political subdivision of the State shall  
9           be subject to public notice and comment.

10          “(4) FINAL AGENCY ACTION.—The decision of  
11          the Administrator on the application of a State or  
12          political subdivision of the State shall be—

13                 “(A) considered to be a final agency ac-  
14                 tion; and

15                 “(B) subject to judicial review.

16          “(5) DURATION OF WAIVERS.—A waiver grant-  
17          ed under paragraph (1)(B) shall remain in effect  
18          until the later of—

19                 “(A) such time as the safety assessment  
20                 and safety determination is completed; and

21                 “(B) the date on which compliance with an  
22                 applicable rule issued under section 6(d) is re-  
23                 quired.

24          “(6) JUDICIAL REVIEW OF WAIVERS.—Not later  
25          than 60 days after the date on which the Adminis-

1 trator makes a determination on an application of a  
2 State or political subdivision of the State under sub-  
3 paragraph (A) or (B) of paragraph (1), any person  
4 may file a petition for judicial review in the United  
5 States Court of Appeals for the District of Columbia  
6 Circuit, which shall have exclusive jurisdiction over  
7 the determination.

8 “(7) JUDICIAL REVIEW OF PRIORITIZATION  
9 SCREENING DECISION.—Not later than 60 days after  
10 the date on which the Administrator makes a deci-  
11 sion on a recommendation made under section  
12 4A(b)(4) to designate a chemical substance as a low  
13 priority, the Governor of a State or a State agency  
14 with responsibility for protecting health and the en-  
15 vironment that submitted the recommendation under  
16 section 4A(a)(4)(A), as applicable, may file a peti-  
17 tion for judicial review in the United States Court  
18 of Appeals for the District of Columbia Circuit,  
19 which shall have exclusive jurisdiction over the deter-  
20 mination.

21 “(g) SAVINGS.—

22 “(1) NO PREEMPTION OF COMMON LAW OR  
23 STATUTORY CAUSES OF ACTION FOR CIVIL RELIEF  
24 OR CRIMINAL CONDUCT.—

1           “(A) IN GENERAL.—Nothing in this Act,  
2 nor any amendment made by this Act, nor any  
3 safety standard, rule, requirement, standard of  
4 performance, safety determination, or scientific  
5 assessment implemented pursuant to this Act,  
6 shall be construed to preempt, displace, or sup-  
7 plant any state or Federal common law rights  
8 or any state or Federal statute creating a rem-  
9 edy for civil relief, including those for civil dam-  
10 age, or a penalty for a criminal conduct.

11           “(B) CLARIFICATION OF NO PREEMP-  
12 TION.—Notwithstanding any other provision of  
13 this Act, nothing in this Act, nor any amend-  
14 ments made by this Act, shall preempt or pre-  
15 clude any cause of action for personal injury,  
16 wrongful death, property damage, or other in-  
17 jury based on negligence, strict liability, prod-  
18 ucts liability, failure to warn, or any other legal  
19 theory of liability under any State law, mari-  
20 time law, or Federal common law or statutory  
21 theory.

22           “(2) NO EFFECT ON PRIVATE REMEDIES.—

23           “(A) Nothing in this Act, nor any amend-  
24 ments made by this Act, nor any rules, regula-  
25 tions, requirements, safety assessments, safety



1 determinations, scientific assessments, or orders  
2 issued pursuant to this Act shall be interpreted  
3 as, in either the plaintiff’s or defendant’s favor,  
4 dispositive in any civil action.

5 “(B) This Act does not affect the authority  
6 of any court to make a determination in an ad-  
7 judicatory proceeding under applicable State or  
8 Federal law with respect to the admission into  
9 evidence or any other use of this Act or rules,  
10 regulations, requirements, standards of per-  
11 formance, safety assessments, scientific assess-  
12 ments, or orders issued pursuant to this Act.”.

13 **SEC. 19. JUDICIAL REVIEW.**

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

16 (1) in subsection (a)—

17 (A) in paragraph (1)—

18 (i) in subparagraph (A), by striking  
19 “section 4(a), 5(a)(2), 5(b)(4), 6(a), 6(e),  
20 or 8, or under title II or IV” and inserting  
21 “section 4(a), 5(d), 6(c), 6(d), 6(g), or 8,  
22 or title II or IV”; and

23 (ii) in subparagraph (B), by striking  
24 “an order issued under subparagraph (A)

1 or (B) of section 6(b)(1)” and inserting

2 “an order issued under this title”; and

3 (B) in paragraph (2), in the first sentence,

4 by striking “paragraph (1)(A)” and inserting

5 “paragraph (1)”; and

6 (C) by striking paragraph (3); and

7 (2) in subsection (c)(1)(B)—

8 (A) in clause (i)—

9 (i) by striking “section 4(a), 5(b)(4),

10 6(a), or 6(e)” and inserting “section 4(a),

11 5(d), 6(d), or 6(g)”; and

12 (ii) by striking “evidence in the rule-

13 making record (as defined in subsection

14 (a)(3)) taken as a whole;” and inserting

15 “evidence (including any matter) in the

16 rulemaking record, taken as a whole; and”;

17 and

18 (B) by striking clauses (ii) and (iii) and

19 the matter following clause (iii) and inserting

20 the following:

21 “(ii) the court may not review the

22 contents and adequacy of any statement of

23 basis and purpose required by section

24 553(e) of title 5, United States Code, to be

1 incorporated in the rule, except as part of  
2 the rulemaking record, taken as a whole.”.

3 **SEC. 20. CITIZENS’ PETITIONS.**

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

6 (1) in subsection (a), by striking “an order  
7 under section 5(e) or 6(b)(2)” and inserting “an  
8 order under section 4 or 5(d)”;

9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking “an  
11 order under section 5(e), 6(b)(1)(A), or  
12 6(b)(1)(B)” and inserting “an order under sec-  
13 tion 4 or 5(d)”;

14 (B) in paragraph (4), by striking subpara-  
15 graph (B) and inserting the following:

16 “(B) DE NOVO PROCEEDING.—

17 “(i) IN GENERAL.—In an action  
18 under subparagraph (A) to initiate a pro-  
19 ceeding to promulgate a rule pursuant to  
20 section 4, 5, 6, or 8 or an order issued  
21 under section 4 or 5, the petitioner shall be  
22 provided an opportunity to have the peti-  
23 tion considered by the court in a de novo  
24 proceeding.

25 “(ii) DEMONSTRATION.—

1           “(I) IN GENERAL.—The court in  
2 a de novo proceeding under this sub-  
3 paragraph shall order the Adminis-  
4 trator to initiate the action requested  
5 by the petitioner if the petitioner dem-  
6 onstrates to the satisfaction of the  
7 court by a preponderance of the evi-  
8 dence that—

9           “(aa) in the case of a peti-  
10 tion to initiate a proceeding for  
11 the issuance of a rule or order  
12 under section 4, the information  
13 available to the Administrator is  
14 insufficient for the Administrator  
15 to perform an action described in  
16 section 4, 4A, 5, or 6(d);

17           “(bb) in the case of a peti-  
18 tion to issue an order under sec-  
19 tion 5(d), there is a reasonable  
20 basis to conclude that the chem-  
21 ical substance is not likely to  
22 meet the safety standard;

23           “(cc) in the case of a peti-  
24 tion to initiate a proceeding for  
25 the issuance of a rule under sec-

1           tion 6(d), there is a reasonable  
2           basis to conclude that the chem-  
3           ical substance will not meet the  
4           safety standard; or

5           “(dd) in the case of a peti-  
6           tion to initiate a proceeding for  
7           the issuance of a rule under sec-  
8           tion 8, there is a reasonable basis  
9           to conclude that the rule is nec-  
10          essary to protect health or the  
11          environment or ensure that the  
12          chemical substance meets the  
13          safety standard.

14          “(II) DEFERMENT.—The court  
15          in a de novo proceeding under this  
16          subparagraph may permit the Admin-  
17          istrator to defer initiating the action  
18          requested by the petitioner until such  
19          time as the court prescribes, if the  
20          court finds that—

21               “(aa) the extent of the risk  
22               to health or the environment al-  
23               leged by the petitioner is less  
24               than the extent of risks to health  
25               or the environment with respect

1 to which the Administrator is  
2 taking action under this Act; and

3 “(bb) there are insufficient  
4 resources available to the Admin-  
5 istrator to take the action re-  
6 quested by the petitioner.”.

7 **SEC. 21. EMPLOYMENT EFFECTS.**

8 Section 24(b)(2)(B)(ii) of the Toxic Substances Con-  
9 trol Act (15 U.S.C. 2623(b)(2)(B)(ii)) is amended by  
10 striking “section 6(c)(3),” and inserting “the applicable  
11 requirements of this Act;”.

12 **SEC. 22. STUDIES.**

13 Section 25 of the Toxic Substances Control Act (15  
14 U.S.C. 2624) is repealed.

15 **SEC. 23. ADMINISTRATION.**

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

18 (1) by striking subsection (b) and inserting the  
19 following:

20 “(b) FEES.—

21 “(1) IN GENERAL.—The Administrator shall es-  
22 tablish, not later than 1 year after the date of enact-  
23 ment of the Frank R. Lautenberg Chemical Safety  
24 for the 21st Century Act, by rule—

1           “(A) the payment of 1 or more reasonable  
2 fees as a condition of submitting a notice or re-  
3 questing an exemption under section 5; and

4           “(B) the payment of 1 or more reasonable  
5 fees by a manufacturer or processor that—

6               “(i) is required to submit a notice  
7 pursuant to the rule promulgated under  
8 section 8(b)(4)(A)(i) identifying a chemical  
9 substance as active;

10              “(ii) is required to submit a notice  
11 pursuant to section 8(b)(5)(B)(i) changing  
12 the status of a chemical substance from in-  
13 active to active;

14              “(iii) is required to report information  
15 pursuant to the rules promulgated under  
16 section 8(a)(4); and

17              “(iv) manufactures or processes a  
18 chemical substance subject to a safety as-  
19 sessment and safety determination pursu-  
20 ant to section 6.

21           “(2) UTILIZATION AND COLLECTION OF  
22 FEES.—The Administrator shall—

23               “(A) utilize the fees collected under para-  
24 graph (1) only to defray costs associated with  
25 the actions of the Administrator—

1           “(i) to collect, process, review, provide  
2           access to, and protect from disclosure  
3           (where appropriate) information on chem-  
4           ical substances under this Act;

5           “(ii) to review notices and make de-  
6           terminations for chemical substances under  
7           paragraphs (1) and (3) of section 5(d) and  
8           impose any necessary restrictions under  
9           section 5(d)(4);

10          “(iii) to make prioritization decisions  
11          under section 4A;

12          “(iv) to conduct and complete safety  
13          assessments and determinations under sec-  
14          tion 6; and

15          “(v) to conduct any necessary rule-  
16          making pursuant to section 6(d);

17          “(B) insofar as possible, collect the fees  
18          described in paragraph (1) in advance of con-  
19          ducting any fee-supported activity;

20          “(C) deposit the fees in the Fund estab-  
21          lished by paragraph (4)(A); and

22          “(D) not collect excess fees or retain a sig-  
23          nificant amount of unused fees.



1           “(3) AMOUNT AND ADJUSTMENT OF FEES; RE-  
2 FUNDS.—In setting fees under this section, the Ad-  
3 ministrator shall—

4           “(A) take into account the cost to the Ad-  
5 ministrator of conducting the activities de-  
6 scribed in paragraph (2);

7           “(B) prescribe lower fees for small busi-  
8 ness concerns, after consultation with the Ad-  
9 ministrator of the Small Business Administra-  
10 tion;

11           “(C) set the fees established under para-  
12 graph (1) at levels such that the fees will, in  
13 aggregate, provide a sustainable source of funds  
14 to defray approximately 25 percent of the costs  
15 of conducting the activities identified in para-  
16 graph (2)(A), not to exceed \$18,000,000, not  
17 including fees under subparagraph (E) of this  
18 paragraph;

19           “(D) reflect an appropriate balance in the  
20 assessment of fees between manufacturers and  
21 processors, and allow the payment of fees by  
22 consortia of manufacturers or processors;

23           “(E) for substances designated as addi-  
24 tional priorities pursuant to section 4A(c), es-  
25 tablish the fee at a level sufficient to defray the

1 full costs to the Administrator of conducting  
2 the safety assessment and safety determination  
3 under section 6;

4 “(F) prior to the establishment or amend-  
5 ment of any fees under paragraph (1), consult  
6 and meet with parties potentially subject to the  
7 fees or their representatives, subject to the con-  
8 dition that no obligation under the Federal Ad-  
9 visory Committee Act (5 U.S.C. App.) or sub-  
10 chapter III of chapter 5 of title 5, United  
11 States Code, is applicable with respect to such  
12 meetings;

13 “(G) beginning with the fiscal year that is  
14 3 years after the date of enactment of the  
15 Frank R. Lautenberg Chemical Safety for the  
16 21st Century Act, and every 3 years thereafter,  
17 after consultation with parties potentially sub-  
18 ject to the fees and their representatives, in-  
19 crease or decrease the fees established under  
20 paragraph (1) as necessary—

21 “(i) to ensure that funds deposited in  
22 the Fund are sufficient to conduct the ac-  
23 tivities identified in paragraph (2)(A) and  
24 the full costs of safety assessments and

1 safety determinations pursuant to subpara-  
2 graph (E); and

3 “(ii) to account for inflation;

4 “(H) adjust fees established under para-  
5 graph (1) as necessary to vary on account of  
6 differing circumstances, including reduced fees  
7 or waivers in appropriate circumstances, to re-  
8 duce the burden on manufacturing or proc-  
9 essing, remove barriers to innovation, or where  
10 the costs to the Administrator of collecting the  
11 fees exceed the fee revenue anticipated to be  
12 collected; and

13 “(I) if a notice submitted under section 5  
14 is refused or subsequently withdrawn, refund  
15 the fee or a portion of the fee if no substantial  
16 work was performed on the notice.

17 “(4) TSCA IMPLEMENTATION FUND.—

18 “(A) ESTABLISHMENT.—There is estab-  
19 lished in the Treasury of the United States a  
20 fund, to be known as the ‘TSCA Implementa-  
21 tion Fund’ (referred to in this subsection as the  
22 ‘Fund’), consisting of—

23 “(i) such amounts as are deposited in  
24 the Fund under paragraph (2)(C); and

1           “(ii) any interest earned on the in-  
2           vestment of amounts in the Fund; and

3           “(iii) any proceeds from the sale or  
4           redemption of investments held in the  
5           Fund.

6           “(B) CREDITING AND AVAILABILITY OF  
7           FEES.—

8           “(i) IN GENERAL.—Fees authorized  
9           under this section shall be collected and  
10          available for obligation only to the extent  
11          and in the amount provided in advance in  
12          appropriations Acts, and shall be available  
13          without fiscal year limitation.

14          “(ii) REQUIREMENTS.—Fees collected  
15          under this section shall not—

16                 “(I) be made available or obli-  
17                 gated for any purpose other than to  
18                 defray the costs of conducting the ac-  
19                 tivities identified in paragraph (2)(A);

20                 “(II) otherwise be available for  
21                 any purpose other than implementa-  
22                 tion of this Act; and

23                 “(III) so long as amounts in the  
24                 Fund remain available, be subject to

1 restrictions on expenditures applicable  
2 to the Federal government as a whole.

3 “(C) UNUSED FUNDS.—Amounts in the  
4 Fund not currently needed to carry out this  
5 subsection shall be—

6 “(i) maintained readily available or on  
7 deposit;

8 “(ii) invested in obligations of the  
9 United States or guaranteed by the United  
10 States; or

11 “(iii) invested in obligations, partici-  
12 pations, or other instruments that are law-  
13 ful investments for fiduciary, trust, or pub-  
14 lic funds.

15 “(D) MINIMUM AMOUNT OF APPROPRIA-  
16 TIONS.—Fees may not be assessed for a fiscal  
17 year under this section unless the amount of  
18 appropriations for salaries, contracts, and ex-  
19 penses for the functions (as in existence in fis-  
20 cal year 2015) of the Office of Pollution Pre-  
21 vention and Toxics of the Environmental Pro-  
22 tection Agency for the fiscal year (excluding the  
23 amount of any fees appropriated for the fiscal  
24 year) are equal to or greater than the amount  
25 of appropriations for covered functions for fiscal

1 year 2015 (excluding the amount of any fees  
2 appropriated for the fiscal year).

3 “(5) AUDITING.—

4 “(A) FINANCIAL STATEMENTS OF AGEN-  
5 CIES.—For the purpose of section 3515(c) of  
6 title 31, United States Code, the Fund shall be  
7 considered a component of an executive agency.

8 “(B) COMPONENTS.—The annual audit re-  
9 quired under sections 3515(b) and 3521 of that  
10 title of the financial statements of activities  
11 under this subsection shall include an analysis  
12 of—

13 “(i) the fees collected under para-  
14 graph (1) and disbursed;

15 “(ii) compliance with the deadlines es-  
16 tablished in section 6 of this Act;

17 “(iii) the amounts budgeted, appro-  
18 priated, collected from fees, and disbursed  
19 to meet the requirements of sections 4, 4A,  
20 5, 6, 8, and 14, including the allocation of  
21 full time equivalent employees to each such  
22 section or activity; and

23 “(iv) the reasonableness of the alloca-  
24 tion of the overhead associated with the

1           conduct of the activities described in para-  
2           graph (2)(A).

3           “(C) INSPECTOR GENERAL.—The Inspec-  
4           tor General of the Environmental Protection  
5           Agency shall—

6                   “(i) conduct the annual audit required  
7                   under this subsection; and

8                   “(ii) report the findings and rec-  
9                   ommendations of the audit to the Adminis-  
10                  trator and to the appropriate committees  
11                  of Congress.

12           “(6) TERMINATION.—The authority provided by  
13           this section shall terminate at the conclusion of the  
14           fiscal year that is 10 years after the date of enact-  
15           ment of the Frank R. Lautenberg Chemical Safety  
16           for the 21st Century Act, unless otherwise reauthor-  
17           ized or modified by Congress.”;

18           (2) in subsection (e), by striking “Health, Edu-  
19           cation, and Welfare” each place it appears and in-  
20           serting “Health and Human Services”; and

21           (3) adding at the end the following:

22           “(h) PRIOR ACTIONS.—Nothing in this Act elimi-  
23           nates, modifies, or withdraws any rule promulgated, order  
24           issued, or exemption established pursuant to this Act be-

1 fore the date of enactment of the Frank R. Lautenberg  
2 Chemical Safety for the 21st Century Act.”.

3 **SEC. 24. DEVELOPMENT AND EVALUATION OF TEST METH-**  
4 **ODS AND SUSTAINABLE CHEMISTRY.**

5 Section 27 of the Toxic Substances Control Act (15  
6 U.S.C. 2626) is amended—

7 (1) in subsection (a), in the first sentence by  
8 striking “Health, Education, and Welfare” and in-  
9 serting “Health and Human Services”; and

10 (2) by adding at the end the following:

11 “(c) SUSTAINABLE CHEMISTRY PROGRAM.—The  
12 President shall establish an interagency Sustainable  
13 Chemistry Program to promote and coordinate Federal  
14 sustainable chemistry research, development, demonstra-  
15 tion, technology transfer, commercialization, education,  
16 and training activities.

17 “(d) PROGRAM ACTIVITIES.—The activities of the  
18 Program shall be designed to—

19 “(1) provide sustained support for sustainable  
20 chemistry research, development, demonstration,  
21 technology transfer, commercialization, education,  
22 and training through—

23 “(A) coordination of sustainable chemistry  
24 research, development, demonstration, and tech-



1 nology transfer conducted at Federal labora-  
2 tories and agencies; and

3 “(B) to the extent practicable, encourage-  
4 ment of consideration of sustainable chemistry  
5 in, as appropriate—

6 “(i) the conduct of Federal and State  
7 science and engineering research and de-  
8 velopment; and

9 “(ii) the solicitation and evaluation of  
10 applicable proposals for science and engi-  
11 neering research and development;

12 “(2) examine methods by which the Federal  
13 Government can create incentives for consideration  
14 and use of sustainable chemistry processes and prod-  
15 ucts, including innovative financing mechanisms;

16 “(3) expand the education and training of un-  
17 dergraduate and graduate students and professional  
18 scientists and engineers, including through partner-  
19 ships with industry, in sustainable chemistry science  
20 and engineering;

21 “(4) collect and disseminate information on sus-  
22 tainable chemistry research, development, and tech-  
23 nology transfer including information on—

24 “(A) incentives and impediments to devel-  
25 opment, manufacturing, and commercialization;

1 “(B) accomplishments;

2 “(C) best practices; and

3 “(D) costs and benefits; and

4 “(5) support (including through technical as-  
5 sistance, participation, financial support, or other  
6 forms of support) economic, legal, and other appro-  
7 priate social science research to identify barriers to  
8 commercialization and methods to advance commer-  
9 cialization of sustainable chemistry.

10 “(e) INTERAGENCY WORKING GROUP.—

11 “(1) ESTABLISHMENT.—Not later than 180  
12 days after the date of enactment of the Frank R.  
13 Lautenberg Chemical Safety for the 21st Century  
14 Act, the President, in consultation with the Office of  
15 Science and Technology Policy, shall establish an  
16 Interagency Working Group that shall include rep-  
17 resentatives from the National Science Foundation,  
18 the National Institute of Standards and Technology,  
19 the Department of Energy, the Environmental Pro-  
20 tection Agency, the Department of Agriculture, the  
21 Department of Defense, the National Institutes of  
22 Health, and any other agency that the President  
23 may designate to oversee the planning, management,  
24 and coordination of the Program.

1           “(2) GOVERNANCE.—The Director of the Na-  
2           tional Science Foundation and the Assistant Admin-  
3           istrator for Research and Development of the Envi-  
4           ronmental Protection Agency, or their designees,  
5           shall serve as co-chairs of the Interagency Working  
6           Group.

7           “(3) RESPONSIBILITIES.—In overseeing the  
8           planning, management, and coordination of the Pro-  
9           gram, the Interagency Working Group shall—

10                   “(A) establish goals and priorities for the  
11                   Program, in consultation with the Advisory  
12                   Council;

13                   “(B) provide for interagency coordination,  
14                   including budget coordination, of activities  
15                   under the Program;

16                   “(C) meet not later than 90 days from its  
17                   establishment and periodically thereafter; and

18                   “(D) establish and consult with an Advi-  
19                   sory Council on a regular basis.

20           “(4) MEMBERSHIP.—The Advisory Council  
21           members shall not be employees of the Federal Gov-  
22           ernment and shall include a diverse representation of  
23           knowledgeable individuals from the private sector  
24           (including small- and medium-sized enterprises from  
25           across the value chain), academia, State and tribal

1 governments, and nongovernmental organizations  
2 and others who are in a position to provide exper-  
3 tise.

4 “(f) AGENCY BUDGET REQUESTS.—

5 “(1) IN GENERAL.—Each Federal agency and  
6 department participating in the Program shall, as  
7 part of its annual request for appropriations to the  
8 Office of Management and Budget, submit a report  
9 to the Office of Management and Budget that—

10 “(A) identifies the activities of the agency  
11 or department that contribute directly to the  
12 Program; and

13 “(B) states the portion of the agency or  
14 department’s request for appropriations that is  
15 allocated to those activities.

16 “(2) ANNUAL BUDGET REQUEST TO CON-  
17 GRESS.—The President shall include in the annual  
18 budget request to Congress a statement of the por-  
19 tion of the annual budget request for each agency or  
20 department that will be allocated to activities under-  
21 taken pursuant to the Program.

22 “(g) REPORT TO CONGRESS.—

23 “(1) IN GENERAL.—Not later than 2 years  
24 after the date of enactment of the Frank R. Lauten-  
25 berg Chemical Safety for the 21st Century Act, the

1 Interagency Working Group shall submit a report to  
2 the Committee on Science, Space, and Technology  
3 and Committee on Energy and Commerce of the  
4 House of Representatives and the Committee on En-  
5 vironment and Public Works and the Committee on  
6 Commerce, Science, and Transportation of the Sen-  
7 ate that shall include—

8 “(A) a summary of federally funded sus-  
9 tainable chemistry research, development, dem-  
10 onstration, technology transfer, commercializa-  
11 tion, education, and training activities;

12 “(B) a summary of the financial resources  
13 allocated to sustainable chemistry initiatives;

14 “(C) an analysis of the progress made to-  
15 ward achieving the goals and priorities of this  
16 Act, and recommendations for future program  
17 activities;

18 “(D) an assessment of the benefits of ex-  
19 panding existing, federally supported regional  
20 innovation and manufacturing hubs to include  
21 sustainable chemistry and the value of directing  
22 the creation of 1 or more dedicated sustainable  
23 chemistry centers of excellence or hubs; and

24 “(E) an evaluation of steps taken and fu-  
25 ture strategies to avoid duplication of efforts,

1 streamline interagency coordination, facilitate  
2 information sharing, and spread best practices  
3 between participating agencies in the Program.

4 “(2) SUBMISSION TO GAO.—The Interagency  
5 Working Group shall also submit the report de-  
6 scribed in paragraph (1) to the Government Ac-  
7 countability Office for consideration in future Con-  
8 gressional inquiries.”.

9 **SEC. 25. STATE PROGRAMS.**

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

12 (1) in subsection (b)(1)—

13 (A) in subparagraphs (A) through (D), by  
14 striking the comma at the end of each subpara-  
15 graph and inserting a semicolon; and

16 (B) in subparagraph (E), by striking “,  
17 and” and inserting “; and”; and

18 (2) by striking subsections (c) and (d).

19 **SEC. 26. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 29 of the Toxic Substances Control Act (15  
21 U.S.C. 2628) is repealed.

22 **SEC. 27. ANNUAL REPORT.**

23 Section 30 of the Toxic Substances Control Act (15  
24 U.S.C. 2629) is amended by striking paragraph (2) and  
25 inserting the following:

1           “(2)(A) the number of notices received during  
2 each year under section 5; and

3           “(B) the number of the notices described in  
4 subparagraph (A) for chemical substances subject to  
5 a rule, testing consent agreement, or order under  
6 section 4;”.

7 **SEC. 28. EFFECTIVE DATE.**

8           Section 31 of the Toxic Substances Control Act (15  
9 U.S.C. 2601 note; Public Law 94–469) is amended—

10           (1) by striking “Except as provided in section  
11 4(f), this” and inserting the following:

12           “(a) **IN GENERAL.**—This”; and

13           (2) by adding at the end the following:

14           “(b) **RETROACTIVE APPLICABILITY.**—Nothing in this  
15 Act shall be interpreted to apply retroactively to any State,  
16 Federal, or maritime legal action commenced prior to the  
17 effective date of the Frank R. Lautenberg Chemical Safety  
18 for the 21st Century Act.”.

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