

**[DISCUSSION DRAFT]**

APRIL 22, 2014

113TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To provide for the safe and efficient flow of chemicals in interstate and foreign commerce.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To provide for the safe and efficient flow of chemicals in interstate and foreign commerce.

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; TABLE OF CONTENTS; REF-**  
4 **ERENCES.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Chemicals in Commerce Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title; table of contents; references.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.
- Sec. 4. Development of information regarding chemical substances and mixtures.
- Sec. 5. New chemicals and significant new uses.
- Sec. 6. Existing chemicals.
- Sec. 7. Imminent hazards.
- Sec. 8. Information collection and reporting.
- Sec. 9. Relationship to other Federal laws.
- Sec. 10. Research, development, collection, dissemination, and utilization of data.
- Sec. 11. Inspections and subpoenas.
- Sec. 12. Exports.
- Sec. 13. Imports.
- Sec. 14. Confidential information.
- Sec. 15. Prohibited acts.
- Sec. 16. Penalties.
- Sec. 17. Preemption.
- Sec. 18. Judicial review.
- Sec. 19. Citizens' civil actions.
- Sec. 20. Citizens' petitions.
- Sec. 21. National security.
- Sec. 22. Studies.
- Sec. 23. Policies, procedures, and guidance.
- Sec. 24. Technical amendment.
- Sec. 25. State Programs.
- Sec. 26. Authorization of appropriations.
- Sec. 27. Annual report.
- Sec. 28. Preservation of authority.

1           (c) REFERENCES.—Except as otherwise expressly  
2 provided, wherever in this Act an amendment or repeal  
3 is expressed in terms of an amendment to, or repeal of,  
4 a section or other provision, the reference shall be consid-  
5 ered to be made to a section or other provision of the Toxic  
6 Substances Control Act (15 U.S.C. 2601 et seq.).

7 **SEC. 2. FINDINGS AND PURPOSE.**

8           (a) AMENDMENT.—Section 2 (15 U.S.C. 2601) is  
9 amended to read as follows:

10 **“SEC. 2. FINDINGS AND PURPOSE.**

11           “(a) FINDINGS.—Congress finds that—

1           “(1) chemicals in commerce should be safe for  
2 their intended use;

3           “(2) unmanaged risks of chemical substances in  
4 commerce may pose a danger to human health and  
5 the environment;

6           “(3) public confidence in the Federal chemical  
7 regulatory program is important;

8           “(4) chemical regulation should reflect modern  
9 science, technology, and knowledge; and

10           “(5) innovation in the development of new  
11 chemical substances should be encouraged to reduce  
12 risk, provide improved products, stimulate the econ-  
13 omy, create jobs, and protect interstate commerce.

14           “(b) PURPOSE.—The purpose of this Act is to pro-  
15 mote uniform protections to human health and the envi-  
16 ronment through regulating chemical substances in com-  
17 merce while minimizing undue burdens on commerce.”.

18           (b) TABLE OF CONTENTS AMENDMENT.—The item  
19 relating to section 2 in the table of contents is amended  
20 to read as follows:

“Sec. 2. Findings and purpose.”.

21 **SEC. 3. DEFINITIONS.**

22 Section 3 (15 U.S.C. 2602) is amended—

23           (1) by redesignating paragraphs (7) through  
24           (9), (10), (11), and (12) through (14) as paragraphs

1 (8) through (10), (12), (13), and (15) through (17),  
2 respectively;

3 (2) by inserting after paragraph (6) the fol-  
4 lowing:

5 “(7) INTENDED CONDITIONS OF USE.—The  
6 term ‘intended conditions of use’ means the cir-  
7 cumstances under which a chemical substance is in-  
8 tended or reasonably anticipated to be manufac-  
9 tured, processed, distributed in commerce, used, and  
10 disposed of.”;

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

13 “(11) POTENTIALLY EXPOSED SUBPOPULA-  
14 TION.—The term ‘potentially exposed subpopulation’  
15 means a group or groups of individuals within the  
16 general population who the Administrator has rea-  
17 son to believe may be differentially exposed to a  
18 chemical substance under the intended conditions of  
19 use or who may be susceptible to more serious ad-  
20 verse health consequences from chemical substance  
21 exposures than the general population, which where  
22 appropriate may include infants, children, pregnant  
23 women, workers, and the elderly.”; and

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

1           “(14) RISK EVALUATION.—The term ‘risk eval-  
2           uation’ means a risk evaluation conducted under sec-  
3           tion 6(b).”.

4   **SEC. 4. DEVELOPMENT OF INFORMATION REGARDING**  
5           **CHEMICAL SUBSTANCES AND MIXTURES.**

6           (a) IN GENERAL.—Section 4 (15 U.S.C. 2603) is  
7           amended to read as follows:

8   **“SEC. 4. DEVELOPMENT OF INFORMATION REGARDING**  
9           **CHEMICAL SUBSTANCES AND MIXTURES.**

10          “(a) DEVELOPMENT OF NEW INFORMATION ON  
11          CHEMICAL SUBSTANCES AND MIXTURES.—

12               “(1) IN GENERAL.—Except as otherwise pro-  
13               vided in this title, the Administrator may require  
14               manufacturers and processors to develop new hazard  
15               and exposure information related to a chemical sub-  
16               stance or mixture in accordance with this section if  
17               the Administrator decides that the information is  
18               needed—

19                       “(A) for priority designation purposes pur-  
20                       suant to section 6(a)(1)(D);

21                       “(B) to perform a risk evaluation under  
22                       section 6(b);

23                       “(C) to ensure compliance with—

24                               “(i) a rule, consent agreement, or  
25                               order issued under section 5(c)(5); or

1                   “(ii) a rule under section 6(c);  
2                   “(D) pursuant to section 12(a)(2); or  
3                   “(E) for the implementation of another  
4                   Federal statute, as determined by the Federal  
5                   agency implementing such statute, if such infor-  
6                   mation is necessary to meet the regulatory test-  
7                   ing needs of that agency.

8                   “(2) FORM.—The Administrator may carry out  
9                   paragraph (1) by—

10                   “(A) promulgating a rule;

11                   “(B) entering into a consent agreement; or

12                   “(C) issuing an order.

13                   “(3) AVAILABLE INFORMATION.—Before pro-  
14                   mulgating a rule, entering into a consent agreement,  
15                   or issuing an order under this subsection, the Ad-  
16                   ministrator shall consider available information, in-  
17                   cluding exposure potential and screening level haz-  
18                   ard and exposure information.

19                   “(4) CONTENTS.—

20                   “(A) IN GENERAL.—A rule promulgated,  
21                   consent agreement entered into, or order issued  
22                   under paragraph (2)—

23                   “(i) shall identify the chemical sub-  
24                   stance or mixture for which information is

1 required and those persons required to de-  
2 velop that information;

3 “(ii) may include protocols and meth-  
4 odologies for the development of informa-  
5 tion for the chemical substance or mixture,  
6 including, if available, specific reference to  
7 reliable nonanimal test procedures; and

8 “(iii) shall provide a reasonable period  
9 within which persons required to develop  
10 the information shall submit the informa-  
11 tion to the Administrator.

12 “(B) CONSIDERATIONS.—In determining  
13 the procedures and period to be required under  
14 subparagraph (A), the Administrator shall con-  
15 sider—

16 “(i) the costs of the test protocols and  
17 methodologies that may be required; and

18 “(ii) the reasonably foreseeable avail-  
19 ability of facilities and personnel needed to  
20 perform the testing.

21 “(5) SCREENING LEVEL HAZARD AND EXPO-  
22 SURE INFORMATION.—If the Administrator finds  
23 that the available information under paragraph (3)  
24 is not sufficient to make a determination under  
25 paragraph (1), to assist the Administrator in plan-

1       ning requirements for additional testing under this  
2       subsection, the Administrator may, by rule, consent  
3       agreement, or order, require the development of  
4       screening level information on a chemical substance  
5       or mixture (which may include scientifically reliable  
6       and relevant *in silico*, *in vitro*, and *in vivo* tests).

7               “(6) ADDITIONAL TESTING DEVELOPMENT.—If,  
8       after reviewing the available information under para-  
9       graph (3) and any screening level information ob-  
10      tained under paragraph (5), the Administrator de-  
11      termines that such information is not sufficient to  
12      make a determination under paragraph (1) and that  
13      additional information development is necessary, the  
14      Administrator shall require under paragraph (1) the  
15      development of such information for specific  
16      endpoints using scientifically valid approaches.

17      “(b) STATEMENT OF NEED.—

18               “(1) IN GENERAL.—In promulgating a rule, en-  
19      tering into a consent agreement, or issuing an order  
20      for development of additional information under this  
21      section, the Administrator shall issue a statement—

22                       “(A) identifying the need intended to be  
23                       met by the rule, consent agreement, or order;

24                       “(B) explaining why information reason-  
25                       ably available to the Administrator is inad-



1 equate to meet that need, including a reference,  
2 as appropriate, to the information identified in  
3 paragraph (2)(B); and

4 “(C) explaining the basis for a decision  
5 that requires the use of vertebrate animals.

6 “(2) EXPLANATION OF AN ORDER.—

7 “(A) IN GENERAL.—If the Administrator  
8 issues an order under this section, the Adminis-  
9 trator shall explain why good cause exists for  
10 issuing an order instead of promulgating a rule  
11 or entering into a consent agreement.

12 “(B) CONTENTS.—The explanation de-  
13 scribed in subparagraph (A) shall detail—

14 “(i) information that is readily acces-  
15 sible to the Administrator, including infor-  
16 mation submitted under any other provi-  
17 sion of law;

18 “(ii) the extent to which the Adminis-  
19 trator has obtained or attempted to obtain  
20 the information required to be developed  
21 under the order through voluntary submis-  
22 sions;

23 “(iii) the extent to which the Adminis-  
24 trator anticipates using—

1                   “(I) available information for  
2                   structurally related chemical sub-  
3                   stances;

4                   “(II) valid structure-activity rela-  
5                   tionship models; or

6                   “(III) nonanimal test alter-  
7                   natives; and

8                   “(iv) risk evaluations on other chem-  
9                   ical substances or mixtures, and the infor-  
10                  mation relied on in such determinations, to  
11                  the extent relevant to the chemical sub-  
12                  stances or mixtures that would be the sub-  
13                  ject of the order.

14               “(c) REDUCTION OF TESTING ON VERTEBRATE ANI-  
15               MALS.—

16               “(1) IN GENERAL.—In carrying out this title,  
17               the Administrator shall minimize the use of  
18               vertebrate animals in testing of chemical substances  
19               or mixtures by—

20                   “(A) encouraging and facilitating, to the  
21                   extent practicable—

22                   “(i) the use of integrated and tiered  
23                   testing and assessment strategies; and

24                   “(ii) test methods that eliminate or  
25                   reduce the use of vertebrate animals while

1 providing test information of high scientific  
2 quality;

3 “(B) grouping 2 or more chemical sub-  
4 stances or mixtures into scientifically appro-  
5 priate categories in cases in which testing of a  
6 chemical substance or mixture would provide re-  
7 liable and useful test information on others in  
8 the category; and

9 “(C) before adopting a requirement for  
10 testing using vertebrate animals, considering  
11 the sufficiency of—

12 “(i) available toxicity information;

13 “(ii) computational toxicology and  
14 bioinformatics;

15 “(iii) high through-put screening  
16 methods and their prediction models;

17 “(iv) scientifically reliable and rel-  
18 evant alternatives to vertebrate animal  
19 tests; and

20 “(v) available vertebrate animal-based  
21 studies.

22 “(2) IMPLEMENTATION OF ALTERNATIVE TEST-  
23 ING METHODS.—To promote development and timely  
24 incorporation of new testing methods that are not

1 based on vertebrate animals, the Administrator  
2 shall—

3 “(A) after providing public notice and an  
4 opportunity for public comment, develop a plan  
5 to promote the development and implementation  
6 of alternative test methods and testing strate-  
7 gies to generate information used in risk eval-  
8 uations that can reduce, refine, or replace the  
9 use of vertebrate animals, including toxicity  
10 pathway-based risk assessment, in vitro studies,  
11 systems biology, computational toxicology,  
12 bioinformatics, and high throughput screening;  
13 and

14 “(B) subject to the availability of appro-  
15 priations, carry out research, development, per-  
16 formance assessment, and translational studies  
17 to accelerate the development of test methods  
18 and testing strategies that reduce, refine, or re-  
19 place the use of vertebrate animals for purposes  
20 of this title.

21 “(3) CRITERIA FOR MODIFYING OR WAIVING  
22 ANIMAL TESTING REQUIREMENTS.—On request from  
23 a manufacturer or processor that is required to con-  
24 duct testing on vertebrate animals of a chemical sub-  
25 stance or mixture under this section, the Adminis-

1       trator may modify or waive the requirement if the  
2       Administrator determines that—

3               “(A) there is sufficient information to sup-  
4               port a conclusion that a chemical substance or  
5               mixture has, or does not have, a particular  
6               property;

7               “(B) because of one or more physical or  
8               chemical properties of the chemical substance  
9               or mixture or other toxicokinetic consider-  
10              ations—

11              “(i) the chemical substance or mixture  
12              cannot be absorbed; or

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

15              “(C) the chemical substance or mixture,  
16              when tested on vertebrate animals at certain  
17              concentrations, causes such animals severe tis-  
18              sue corrosion, severe irritation, or significant  
19              pain or distress.

20              “(4) REPORTS.—Not later than 5 years after  
21              the date of enactment of the Chemicals in Commerce  
22              Act, and every 5 years thereafter, the Administrator  
23              shall submit to Congress a report that describes the  
24              progress made in implementing this subsection.

25              “(d) FAIR AND EQUITABLE REIMBURSEMENT.—

1           “(1) DESIGNATION.—If 2 or more manufactur-  
2           ers or processors designate one of themselves or a  
3           third party to develop information required by the  
4           Administrator under subsection (a), the Adminis-  
5           trator shall require any other manufacturer or proc-  
6           essor seeking to use the information so developed in  
7           order to meet the requirements of subsection (a) to  
8           provide fair and equitable reimbursement for such  
9           information development.

10           “(2) ARBITRATION.—In the case of a dispute  
11           among the parties described in paragraph (1) re-  
12           garding the amount that constitutes fair and equi-  
13           table reimbursement under such paragraph, such  
14           dispute shall be resolved by arbitration according  
15           to—

16                   “(A) the terms of any applicable contract  
17                   among the parties; or

18                   “(B) if no such contract exists, regulations  
19                   developed by the Administrator.

20           “(e) INFORMATION AVAILABILITY.—Subject to sec-  
21           tion 14, the Administrator shall make available to the pub-  
22           lic consent agreements entered into, orders issued, and in-  
23           formation submitted under this section.

24           “(f) CONSULTATION.—Prior to requiring the develop-  
25           ment of information from epidemiologic studies of work-

1 ers, or applying such information, the Administrator shall  
2 consult with the Director of the National Institute for Oc-  
3 cupational Safety and Health.

4 “(g) EXPEDITED CONSIDERATION.—

5 “(1) IN GENERAL.—Upon the receipt of any in-  
6 formation submitted under this title that provides a  
7 reasonable basis to conclude that a chemical sub-  
8 stance or mixture presents or will present a signifi-  
9 cant risk of serious or widespread harm to human  
10 health, the Administrator shall, within the 180-day  
11 period beginning on the date of the receipt of such  
12 information—

13 “(A) initiate appropriate action under sec-  
14 tion 5, 6, or 7 to prevent or reduce such risk;  
15 or

16 “(B) publish in the Federal Register a  
17 finding that such information does not support  
18 a conclusion that the chemical substance or  
19 mixture presents such a risk.

20 “(2) EXTENSION.—For good cause shown the  
21 Administrator may extend such period for an addi-  
22 tional period of not more than 90 days. The Admin-  
23 istrator shall publish in the Federal Register notice  
24 of any such extension and the reasons therefor.”.

1 (b) CONFORMING AMENDMENT.—Section  
2 104(i)(5)(A) of the Comprehensive Environmental Re-  
3 sponse, Compensation, and Liability Act of 1980 (42  
4 U.S.C. 9604(i)(5)(A)) is amended by striking “Before as-  
5 suring the initiation of such program, the Administrator  
6 of ATSDR shall consider recommendations of the Inter-  
7 agency Testing Committee established under section 4(e)  
8 of the Toxic Substances Control Act on the types of re-  
9 search that should be done.”.

10 (c) TABLE OF CONTENTS AMENDMENT.—The item  
11 relating to section 4 in the table of contents is amended  
12 to read as follows:

“Sec. 4. Development of information regarding chemical substances and mix-  
tures.”.

13 **SEC. 5. NEW CHEMICALS AND SIGNIFICANT NEW USES.**

14 (a) AMENDMENT.—Section 5 (15 U.S.C. 2604) is  
15 amended to read as follows:

16 **“SEC. 5. NEW CHEMICALS AND SIGNIFICANT NEW USES.**

17 **“(a) NOTICE REQUIREMENT.—**

18 **“(1) IN GENERAL.—**Unless a person submits,  
19 not later than 90 days before manufacturing or  
20 processing begins, a notice to the Administrator of  
21 that person’s intent to manufacture a new chemical  
22 substance or manufacture or process a chemical sub-  
23 stance for a new use that the Administrator has de-



1       terminated, in accordance with paragraph (2), is a sig-  
2       nificant new use, such person may not—

3               “(A) manufacture a new chemical  
4               substance; or

5               “(B) manufacture or process a chem-  
6               ical substance for a use which the Admin-  
7               istrator has determined, in accordance with  
8               paragraph (2), is a significant new use.

9               “(2) DETERMINATION OF SIGNIFICANT NEW  
10       USE.—A determination by the Administrator that a  
11       use of a chemical substance is a significant new use,  
12       with respect to which notification is required under  
13       paragraph (1), shall be made by a rule promulgated  
14       after a consideration of all relevant factors, includ-  
15       ing information on—

16               “(A) the projected volume of manufac-  
17               turing and processing of the chemical substance  
18               for that use;

19               “(B) the extent to which a use changes the  
20               type or form of exposure of human beings or  
21               the environment to the chemical substance;

22               “(C) the extent to which a use increases  
23               the magnitude and duration of exposure of  
24               human beings or the environment to the chem-  
25               ical substance; and

1 “(D) the intended conditions of use.

2 “(3) ARTICLES.—The Administrator may deter-  
3 mine that the use of a chemical substance as part  
4 of an article is a significant new use under this sec-  
5 tion, but only where the Administrator—

6 “(A) identifies specific types of articles  
7 that are, or likely will be, in United States com-  
8 merce; and

9 “(B) determines that—

10 “(i) an unreasonable risk of harm to  
11 human health or the environment may re-  
12 sult from exposure to a chemical substance  
13 in the article; and

14 “(ii) placing requirements on the arti-  
15 cles is required because such risk cannot  
16 be addressed adequately through require-  
17 ments placed on the chemical substance.

18 “(b) CONTENT OF NOTICE; PUBLICATION IN THE  
19 FEDERAL REGISTER.—

20 “(1) IN GENERAL.—The notice required by sub-  
21 section (a)(1) shall include, with respect to a chem-  
22 ical substance or significant new use—

23 “(A) the information required by sections  
24 720.45 and 720.50 of title 40, Code of Federal  
25 Regulations (or successor regulations); and

1           “(B) information regarding intended condi-  
2           tions of use and any reasonably anticipated ex-  
3           posure.

4           “(2) FEDERAL REGISTER PUBLICATION.—Sub-  
5           ject to section 14, not later than 5 business days  
6           after the date of the receipt of a notice under sub-  
7           section (a)(1), the Administrator shall publish in the  
8           Federal Register—

9           “(A) the identity of the chemical substance  
10           for which such notice has been received by the  
11           Administrator; and

12           “(B) the intended conditions of use of such  
13           chemical substance as identified by the manu-  
14           facturer or processor.

15           “(3) PUBLICLY ACCESSIBLE LISTS.—The Ad-  
16           ministrator shall maintain publicly accessible lists  
17           of—

18           “(A) each chemical substance for which  
19           notice has been received under subsection (a)(1)  
20           and for which the review period prescribed by  
21           subsection (c) has not expired; and

22           “(B) each chemical substance for which  
23           such review period has expired since the last  
24           publication of such list.

25           “(c) REVIEW AND DETERMINATION.—

1 “(1) REVIEW.—

2 “(A) IN GENERAL.—Except as provided in  
3 subparagraph (B), not later than 90 days after  
4 the date of receipt of a notice submitted under  
5 subsection (a)(1), the Administrator shall—

6 “(i) conduct a review of the notice;

7 “(ii) to the extent the Administrator  
8 considers necessary, develop a profile of  
9 the chemical substance and the potential  
10 for exposure to humans and the environ-  
11 ment;

12 “(iii) if the Administrator considers it  
13 necessary for the review under clause (i) or  
14 to make a determination under paragraph  
15 (3), request additional information pursu-  
16 ant to paragraph (2)(B); and

17 “(iv) make a determination under  
18 paragraph (3).

19 “(B) EXTENSION OF REVIEW.—The Ad-  
20 ministrator may extend the period described in  
21 subparagraph (A) for good cause for one or  
22 more periods. Except as provided in paragraph  
23 (2)(B), the cumulative total of any such exten-  
24 sions shall not exceed 90 days.

25 “(2) INFORMATION.—

1           “(A) PREVIOUSLY SUBMITTED INFORMA-  
2           TION.—In conducting a review under paragraph  
3           (1)(A), the Administrator shall take into con-  
4           sideration any relevant information submitted  
5           under subsection (a) or otherwise available to  
6           the Administrator.

7           “(B) ADDITIONAL INFORMATION.—If the  
8           Administrator determines that additional infor-  
9           mation (including information on exposure or  
10          exposure potential) is needed in order to con-  
11          duct a review and make a determination under  
12          this subsection, the Administrator—

13                 “(i) shall provide an opportunity for  
14                 the submitter of the notice to submit such  
15                 additional information;

16                 “(ii) may, by agreement with the sub-  
17                 mitter, extend the review period no longer  
18                 than necessary to allow for the develop-  
19                 ment and submission of the additional in-  
20                 formation;

21                 “(iii) shall promptly make a deter-  
22                 mination under paragraph (3) upon receipt  
23                 of the information; and

24                 “(iv) may take action under para-  
25                 graph (5) pending receipt of the additional

1 information, which may, as appropriate,  
2 permit the submitter of the notice to file a  
3 notice of commencement under subsection  
4 (d).

5 “(3) DETERMINATIONS.—Before the end of the  
6 applicable period for review under paragraph (1) or  
7 (2)(B), and based on the information described in  
8 paragraph (2), the Administrator shall determine  
9 that exposure to the chemical substance under the  
10 intended conditions of use—

11 “(A) may present an unreasonable risk of  
12 harm to human health or the environment, in  
13 which case the Administrator shall take appro-  
14 priate action under paragraph (5); or

15 “(B) does not warrant regulation under  
16 paragraph (5), in which case the Administrator  
17 shall allow the review period to expire without  
18 imposing restrictions on the chemical substance.

19 “(4) COMMERCIAL PRODUCTION.—At the end of  
20 the applicable review period specified under para-  
21 graph (1) or (2)(B), the submitter of a notice under  
22 subsection (a)(1) may commence manufacture for  
23 commercial purposes unless the Administrator—

24 “(A) determines under paragraph (3)(A)  
25 that exposure to the chemical substance under

1 the intended conditions of use may present an  
2 unreasonable risk of harm to human health or  
3 the environment; and

4 “(B) imposes a requirement or restriction  
5 under paragraph (5) that prohibits the manu-  
6 facture of the chemical substance.

7 “(5) REQUIREMENTS AND RESTRICTIONS.—If,  
8 before the end of the applicable review period under  
9 paragraph (1) or (2)(B), the Administrator makes a  
10 determination under paragraph (3)(A), the Adminis-  
11 trator shall, by rule, consent agreement, or order,  
12 impose on the manufacturer of a new chemical sub-  
13 stance, or on the manufacturer or processor of a  
14 chemical substance for a significant new use, one or  
15 more of the following requirements or restrictions, to  
16 the extent necessary to protect adequately against  
17 an unreasonable risk to human health and the envi-  
18 ronment:

19 “(A) A requirement or restriction that the  
20 chemical substance be marked with, or accom-  
21 panied by, clear and adequate warnings and in-  
22 structions with respect to distribution in com-  
23 merce, use, or disposal, or any combination of  
24 those activities, with the form and content of

1 the warnings and instructions to be prescribed  
2 by the Administrator.

3 “(B) A requirement or restriction that  
4 manufacturers or processors of the chemical  
5 substance—

6 “(i) make and retain records of the  
7 processes used to manufacture or process  
8 the chemical substance;

9 “(ii) monitor specific uses of or expo-  
10 sures to the chemical substance; or

11 “(iii) subject to section 4, develop ad-  
12 ditional information that is reasonably nec-  
13 essary to address potential risks from the  
14 manufacture, processing, distribution in  
15 commerce, use, or disposal of the chemical  
16 substance.

17 “(C) A restriction on the quantity of the  
18 chemical substance that may be manufactured,  
19 processed, or distributed in commerce.

20 “(D) A requirement to restrict or ban the  
21 manufacture, processing, or distribution in com-  
22 merce of the chemical substance—

23 “(i) for a particular use;



1                   “(ii) for a particular use at a con-  
2                   centration in excess of a level specified by  
3                   the Administrator; or

4                   “(iii) for all uses.

5                   “(E) A restriction on the quantity of the  
6                   chemical substance that may be manufactured,  
7                   processed, or distributed in commerce—

8                   “(i) for a particular use; or

9                   “(ii) for a particular use at a con-  
10                  centration in excess of a level specified by  
11                  the Administrator.

12                  “(F) A requirement to restrict or ban a  
13                  method of commercial use of the chemical sub-  
14                  stance.

15                  “(G) A requirement to ban or phase out a  
16                  method of disposal of the chemical substance or  
17                  any article containing the chemical substance.

18                  “(H) A requirement directing manufactur-  
19                  ers or processors of the chemical substance to  
20                  give notice of unreasonable risks of harm to dis-  
21                  tributors in commerce of the chemical substance  
22                  and, to the extent reasonably ascertainable, to  
23                  other persons in the chain of commerce in pos-  
24                  session of the chemical substance.

25                  “(d) NOTICE OF COMMENCEMENT.—

1           “(1) IN GENERAL.—A person who has sub-  
2           mitted a notice under subsection (a)(1) and com-  
3           mences manufacture of a new chemical substance  
4           shall, for a purpose not exempt under subsection (e),  
5           submit a notice of commencement to the Adminis-  
6           trator—

7                   “(A) not later than 30 days after the date  
8                   on which the person commenced manufacture;  
9                   and

10                   “(B) which identifies the name of the man-  
11                   ufacturer and the initial date of such manufac-  
12                   ture.

13           “(2) WITHDRAWAL.—A person who has sub-  
14           mitted a notice under subsection (a)(1), but has not  
15           commenced manufacture, may withdraw the notice.

16           “(e) EXEMPTIONS.—

17                   “(1) EXPERIMENTATION, RESEARCH, AND  
18                   ANALYSIS.—

19                   “(A) GENERAL RULE.—Except as provided  
20                   in subparagraph (B), the requirements of sub-  
21                   section (a)(1) shall not apply with respect to  
22                   the manufacturing or processing of any chem-  
23                   ical substance that is manufactured or proc-  
24                   essed, or proposed to be manufactured or proc-  
25                   essed, only in small quantities (as defined by

1 the Administrator by rule) solely for purposes  
2 of—

3 “(i) scientific experimentation or anal-  
4 ysis; or

5 “(ii) chemical research on, or analysis  
6 of, such chemical substance or another  
7 chemical substance, including such re-  
8 search or analysis for the development of a  
9 product.

10 “(B) NOTICE REQUIREMENT.—A manufac-  
11 turer or processor exempted under subpara-  
12 graph (A) shall notify all persons engaged in  
13 such experimentation, research, or analysis, in  
14 such form and manner as the Administrator  
15 may prescribe, of any risk to health which the  
16 manufacturer, the processor, or the Adminis-  
17 trator has reason to believe may be associated  
18 with such chemical substance.

19 “(2) TEST MARKETING.—

20 “(A) IN GENERAL.—The Administrator  
21 may, upon request, exempt any person from  
22 any requirement of subsection (a) in order to  
23 permit the person to manufacture or process a  
24 chemical substance for test marketing pur-  
25 poses—

1           “(i) upon a showing by the person  
2           satisfactory to the Administrator that the  
3           manufacture, processing, distribution in  
4           commerce, use, and disposal of the chem-  
5           ical substance, and that any combination  
6           of such activities, for such test marketing  
7           purposes is not likely to result in an unrea-  
8           sonable risk of harm to human health or  
9           the environment; and

10           “(ii) under such restrictions as the  
11           Administrator considers appropriate.

12           “(B) PUBLICATION OF RECEIPT.—Imme-  
13           diately upon receipt of a request under subpara-  
14           graph (A), the Administrator shall publish in  
15           the Federal Register notice of the receipt of  
16           such request. The Administrator shall give in-  
17           terested persons an opportunity to comment  
18           upon any such request and shall, within 45  
19           days of its receipt, either approve or deny the  
20           request. The Administrator shall publish in the  
21           Federal Register notice of the approval or de-  
22           nial of such a request.

23           “(3) RISK-BASED EXEMPTION.—The Adminis-  
24           trator may, upon request and by rule or order, ex-  
25           empt a person who commences manufacture of a

1 new chemical substance or manufacture or proc-  
2 essing of a chemical substance for a significant new  
3 use from all or part of the requirements of this sec-  
4 tion if under prescribed conditions the Administrator  
5 determines that the manufacture, processing, dis-  
6 tribution in commerce, use, or disposal of such  
7 chemical substance, or any combination of such ac-  
8 tivities under such prescribed conditions, will not  
9 present an unreasonable risk of harm to human  
10 health or the environment.

11 “(4) TEMPORARY EXISTENCE.—The Adminis-  
12 trator may, by rule, make the requirements of sub-  
13 section (a) inapplicable with respect to the manufac-  
14 turing or processing of any chemical substance—

15 “(A) which exists temporarily as a result  
16 of a chemical reaction in the manufacturing or  
17 processing of a mixture or another chemical  
18 substance; and

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

21 “(5) BYPRODUCTS.—The Administrator may,  
22 by rule, make the requirements of subsection (a) in-  
23 applicable to the manufacture or processing of any  
24 byproduct chemical substance produced without a  
25 separate commercial intent during the manufacture,

1 processing, use, or disposal of another chemical sub-  
2 stance or mixture if—

3 “(A) such byproduct chemical substance is  
4 not used for commercial purposes; or

5 “(B) the only intended commercial purpose  
6 of the byproduct chemical substance is for—

7 “(i) burning as a fuel;

8 “(ii) disposing as a waste, including in  
9 a landfill or for enriching soil; or

10 “(iii) extracting, by reaction or other-  
11 wise, a chemical substance to recycle or re-  
12 claim.

13 “(f) MIXTURES.—A combination of chemical sub-  
14 stances physically combined without a chemical reaction  
15 shall not be considered a new chemical substance for pur-  
16 poses of this section.”.

17 (b) TABLE OF CONTENTS AMENDMENT.—The item  
18 relating to section 5 in the table of contents is amended  
19 to read as follows:

“Sec. 5. New chemicals and significant new uses.”.

20 **SEC. 6. EXISTING CHEMICALS.**

21 (a) AMENDMENTS.—Section 6 (15 U.S.C. 2605) is  
22 amended—

23 (1) by striking the section designation and  
24 heading and inserting the following:

1 **“SEC. 6. EXISTING CHEMICALS.”;**

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

4 (3) by striking subsections (a) through (d) and  
5 inserting the following:

6 “(a) ASSIGNING PRIORITIES FOR RISK EVALUA-  
7 TIONS.—

8 “(1) IN GENERAL.—Not later than 1 year after  
9 the date of enactment of the Chemicals in Commerce  
10 Act, the Administrator shall, after providing public  
11 notice and an opportunity for public comment, es-  
12 tablish a risk-based process for obtaining available  
13 information and designating chemical substances as  
14 either high priority or low priority. In making such  
15 designations, the Administrator—

16 “(A) notwithstanding subparagraph (C),  
17 shall identify as high priority a chemical sub-  
18 stance that has the potential for high hazard  
19 and high exposure;

20 “(B) may identify as high priority a chem-  
21 ical substance that has the potential for high  
22 hazard or high exposure;

23 “(C) shall identify as low priority a chem-  
24 ical substance that the Administrator has deter-  
25 mined, based on available information, is not  
26 likely to present a significant risk of harm to

1 human health or the environment under the in-  
2 tended conditions of use; and

3 “(D) may require development of addi-  
4 tional information, solely for purposes of desig-  
5 nating priorities under this subsection and only  
6 if the Administrator determines that available  
7 information is not sufficient to make a priority  
8 designation.

9 “(2) TIMELY COMPLETION.—The Administrator  
10 shall designate a priority for all chemical substances  
11 identified as active under section 8(b) as soon as  
12 feasible, taking into account the ability of the Ad-  
13 ministrator to schedule and complete risk evalua-  
14 tions under this section. The Administrator may  
15 defer designation of a priority in order to provide in-  
16 terested persons an opportunity to submit additional  
17 information not previously made available to the Ad-  
18 ministrator.

19 “(3) PUBLICATION OF LIST.—The Adminis-  
20 trator shall publish, and update from time to time,  
21 a list of chemical substances—

22 “(A) identifying those under consideration  
23 for designation as high or low priority;

24 “(B) identifying those that have been des-  
25 igned as a high or low priority at the time a



1 designation has been made under paragraph  
2 (1); and

3 “(C) indicating those for which a risk eval-  
4 uation has been completed.

5 “(4) FACTORS FOR ASSIGNING PRIORITIES.—

6 The factors used by the Administrator to assign pri-  
7 orities shall include—

8 “(A) the hazard and exposure potential of  
9 a chemical substance, including specific sci-  
10 entific classifications and designations by au-  
11 thoritative governmental entities;

12 “(B) the specific uses and exposures that  
13 are significant to the risk of harm to human  
14 health and the environment and the intended  
15 conditions of use, or changes in the conditions  
16 of use, of chemical substances, including for po-  
17 tentially exposed subpopulations;

18 “(C) evidence and indicators of exposure to  
19 humans, including to potentially exposed sub-  
20 populations, or the environment from a chem-  
21 ical substance;

22 “(D) the volume of a chemical substance  
23 manufactured or processed;

24 “(E) whether the volume of a chemical  
25 substance as reported under a regulation issued

1 under section 8(a) has significantly increased or  
2 decreased since a previous report or since the  
3 date on which a notice has been submitted  
4 under section 5(a) for that chemical substance;

5 “(F) the adequacy of the available infor-  
6 mation about potential hazards and exposures  
7 needed for conducting a risk evaluation; and

8 “(G) the extent of Federal or State regula-  
9 tion of a chemical substance or the extent of  
10 the impact of State regulation of that chemical  
11 substance on the United States, with existing  
12 Federal or State regulation as a factor in desig-  
13 nating a chemical substance as a low priority.

14 “(5) NOTICE AND COMMENT.—The Administra-  
15 tor’s proposed priority designations under this sub-  
16 section shall be subject to public notice and an op-  
17 portunity for public comment.

18 “(6) REVISION BASED ON NEW INFORMA-  
19 TION.—The Administrator may revise or assign a  
20 priority designation of a chemical substance based  
21 on consideration of new information.

22 “(7) PROCESS REVIEW.—The Administrator  
23 shall periodically review and if necessary modify the  
24 process of assigning priorities to chemical substances  
25 under this subsection based upon experience and re-

1 sources available to efficiently and effectively  
2 prioritize chemical substances.

3 “(8) CLARIFICATION.—Except as provided in  
4 section 18, a designation by the Administrator under  
5 this subsection of a chemical substance as a high  
6 priority shall not affect the manufacture, processing,  
7 distribution, use, or disposal of the chemical sub-  
8 stance.

9 “(9) FINAL AGENCY ACTION.—A designation by  
10 the Administrator under this subsection of a chem-  
11 ical substance as a high priority shall not be consid-  
12 ered to be a final agency action subject to judicial  
13 review.

14 “(b) EVALUATING RISK.—

15 “(1) HIGH PRIORITY RISK EVALUATION.—

16 “(A) IN GENERAL.—The Administrator  
17 shall conduct a risk evaluation regarding wheth-  
18 er a chemical substance designated as high pri-  
19 ority presents or will present, in the absence of  
20 regulation under subsection (c), a significant  
21 risk of harm to human health or the environ-  
22 ment under its intended conditions of use.

23 “(B) REQUIREMENTS.—In conducting a  
24 risk evaluation under this paragraph, the Ad-  
25 ministrator shall—

1                   “(i) integrate and assess information  
2                   on hazards and exposures for the specific  
3                   uses that are relevant to the risk of harm  
4                   and to subsets of exposure (including in-  
5                   formation on potentially exposed sub-  
6                   populations);

7                   “(ii) analyze the duration, intensity,  
8                   frequency, and number of exposures under  
9                   the intended conditions of use of the chem-  
10                  ical substance;

11                  “(iii) describe the weight of the sci-  
12                  entific evidence for observed biological ef-  
13                  fects and risks, including the appropriate  
14                  modes of action;

15                  “(iv) incorporate reference parameters  
16                  that may be appropriate with regard to a  
17                  specific chemical substance (such as a mar-  
18                  gin of exposure); and

19                  “(v) consider whether the scientific in-  
20                  formation supports the identification of  
21                  threshold doses of a chemical substance  
22                  below which no adverse effects can be ex-  
23                  pected to occur.

24                  “(C) DEADLINE.—Not later than 4 years  
25                  after the date on which the Administrator des-

1           ignates a chemical substance as high priority  
2           under subsection (a), the Administrator shall  
3           publish a determination resulting from a risk  
4           evaluation conducted under this paragraph for  
5           such chemical substance under its intended con-  
6           ditions of use.

7           “(2) ALTERNATIVE RISK EVALUATION.—The  
8           Administrator may conduct a risk evaluation regard-  
9           ing a chemical substance that is not designated as  
10          a high priority substance under subsection (a), and  
11          may determine, at any time, that the chemical sub-  
12          stance will not present, in the absence of regulation  
13          under subsection (c), a significant risk of harm to  
14          human health or the environment under one or more  
15          specific conditions of use.

16          “(3) FACTORS FOR EVALUATING RISK.—

17                 “(A) FACTORS TO BE CONSIDERED.—In  
18                 evaluating whether a chemical substance pre-  
19                 sents or will present, in the absence of regula-  
20                 tion under subsection (c), a significant risk of  
21                 harm to human health or the environment  
22                 under its intended conditions of use, the Ad-  
23                 ministrator shall consider—

24                         “(i) the nature, circumstances, sever-  
25                         ity, and magnitude of the risk;

1                   “(ii) the likely impact of the risk on  
2                   potentially exposed subpopulations from  
3                   use of the chemical substance under its in-  
4                   tended conditions of use;

5                   “(iii) whether harm has occurred from  
6                   the chemical substance under its intended  
7                   conditions of use; and

8                   “(iv) the probability that harm will  
9                   occur from use of the chemical substance  
10                  under its intended conditions of use.

11                  “(B) FACTORS NOT TO BE CONSIDERED.—

12                  In evaluating whether a chemical substance pre-  
13                  sents or will present, in the absence of regula-  
14                  tion under subsection (c), a significant risk of  
15                  harm to human health or the environment  
16                  under its intended conditions of use, the Ad-  
17                  ministrators may not consider the economic  
18                  costs or benefits of—

19                   “(i) the intended uses of the chemical  
20                   substance; or

21                   “(ii) reducing the exposure to the  
22                   chemical substance by rule under sub-  
23                   section (c).

24                  “(4) ADDITIONAL INFORMATION.—If the Ad-  
25                  ministrators determine that additional information is

1       needed in order to complete a risk evaluation under  
2       this subsection, the Administrator—

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               consent agreement, or issue an order under sec-  
8               tion 4 to require the development of the infor-  
9               mation;

10              “(C) may defer, for a reasonable period  
11              and subject to subsection (d), the risk evalua-  
12              tion until after receipt of the information; and

13              “(D) shall, upon receipt of the informa-  
14              tion, complete a risk evaluation under this sub-  
15              section.

16              “(5) PUBLICATION.—Upon completion of a risk  
17              evaluation under this subsection, the Administrator  
18              shall publish a statement that includes—

19                      “(A) such risk evaluation; and

20                      “(B) a summary of the analysis performed  
21                      in support of the risk evaluation.

22              “(6) REVIEW OF RISK EVALUATIONS.—The Ad-  
23              ministrators may reconsider a risk evaluation con-  
24              ducted under this subsection to take into account in-

1       formation not previously considered, or as the Ad-  
2       ministrator otherwise considers necessary.

3               “(7) FINAL AGENCY ACTION.—

4                       “(A) DETERMINATION OF NO SIGNIFICANT  
5                       RISK.—A determination under paragraph (1) or  
6                       (2) that a chemical substance will not present  
7                       a significant risk of harm to human health or  
8                       the environment under the intended conditions  
9                       of use shall be considered a final agency action.

10                      “(B) DETERMINATION OF SIGNIFICANT  
11                      RISK.—A determination under paragraph (1)  
12                      that a chemical substance presents or will  
13                      present, in the absence of a regulation under  
14                      subsection (c), a significant risk of harm to  
15                      human health or the environment under the in-  
16                      tended conditions of use shall be considered a  
17                      final agency action on the date of publication of  
18                      the final rule promulgated under subsection (c).

19               “(c) RULE.—

20                      “(1) IMPLEMENTATION.—Not later than 3  
21                      years after determining under subsection (b) that a  
22                      chemical substance presents or will present, in the  
23                      absence of regulation under this subsection, a sig-  
24                      nificant risk of harm to human health or the envi-  
25                      ronment under the intended conditions of use, the



1 Administrator shall promulgate a rule, in accordance  
2 with this subsection, with requirements or restric-  
3 tions that the Administrator determines are nec-  
4 essary to protect adequately against an unreasonable  
5 risk of harm to human health or the environment  
6 from the chemical substance under its intended con-  
7 ditions of use.

8 “(2) SCOPE.—A rule promulgated under this  
9 subsection—

10 “(A) may—

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

13 “(ii) apply to articles, but only where  
14 the Administrator—

15 “(I) identifies specific types of  
16 articles that are, or likely will be, in  
17 United States commerce; and

18 “(II) determines that ensuring  
19 that no unreasonable risk of harm to  
20 human health or the environment will  
21 result from exposure to the chemical  
22 substance requires placing require-  
23 ments on such articles that cannot be  
24 addressed adequately through require-

1                   ments placed on chemical substances  
2                   or mixtures; and

3                   “(B) shall—

4                    “(i) exempt replacement parts for ar-  
5                   ticles manufactured prior to the applicable  
6                   compliance deadline or for use in vehicles;  
7                   and

8                    “(ii) include dates by which compli-  
9                   ance is mandatory, which may vary for dif-  
10                  ferent affected persons, as the Adminis-  
11                  trator determines to be appropriate.

12                  “(3) REQUIREMENTS AND RESTRICTIONS.—A  
13                  rule promulgated under this subsection shall include,  
14                  as appropriate, one or more of the following:

15                  “(A) A requirement that a chemical sub-  
16                  stance be marked with, or accompanied by,  
17                  clear and adequate warnings and instructions  
18                  with respect to distribution in commerce, use,  
19                  or disposal, or any combination of those activi-  
20                  ties, with the form and content of the warnings  
21                  and instructions to be prescribed by the Admin-  
22                  istrator.

23                  “(B) A requirement that manufacturers  
24                  and processors of the chemical substance—

1 “(i) make and retain records of the  
2 processes used to manufacture or process  
3 the chemical substance;

4 “(ii) monitor specific uses of or expo-  
5 sures to the chemical substance; or

6 “(iii) subject to section 4, develop ad-  
7 ditional information that is reasonably nec-  
8 essary to ensure compliance with this sec-  
9 tion.

10 “(C) A restriction on the quantity of the  
11 chemical substance that may be manufactured,  
12 processed, or distributed in commerce.

13 “(D) A requirement to restrict, ban, or  
14 phase out the manufacture, processing, or dis-  
15 tribution in commerce of the chemical sub-  
16 stance—

17 “(i) for a particular use;

18 “(ii) for a particular use at a con-  
19 centration in excess of a level specified by  
20 the Administrator; or

21 “(iii) for all uses.

22 “(E) A restriction on the quantity of the  
23 chemical substance that may be manufactured,  
24 processed, or distributed in commerce—

25 “(i) for a particular use; or

1                   “(ii) for a particular use at a con-  
2                   centration in excess of a level specified by  
3                   the Administrator.

4                   “(F) A requirement to restrict, ban, or  
5                   phase out a method of commercial use of the  
6                   chemical substance;

7                   “(G) A requirement to ban or phase out a  
8                   method of disposal of the chemical substance or  
9                   any article containing the chemical substance.

10                  “(H) A requirement directing manufactur-  
11                  ers or processors of the chemical substance to  
12                  give notice of unreasonable risks of harm to dis-  
13                  tributors in commerce of the chemical substance  
14                  and, to the extent reasonably ascertainable, to  
15                  other persons in the chain of commerce in pos-  
16                  session of the chemical substance.

17                  “(4) RISK MANAGEMENT STANDARDS.—When  
18                  imposing requirements or restrictions on a chemical  
19                  substance under this subsection, the Administrator  
20                  shall—

21                  “(A) determine whether requirements or  
22                  restrictions imposed on uses of the chemical  
23                  substance are cost-effective in ensuring that the  
24                  chemical substance will not result in an unrea-  
25                  sonable risk of harm to human health or the

1 environment under the intended conditions of  
2 use;

3 “(B) provide for a reasonable transition  
4 period for implementation; and

5 “(C) in deciding whether to prohibit or  
6 substantially prevent a specific use of a chem-  
7 ical substance and in setting an appropriate  
8 transition period for such action, determine  
9 whether technically and economically feasible al-  
10 ternatives that benefit human health or the en-  
11 vironment, compared to the use proposed to be  
12 prohibited or substantially prevented, will be  
13 reasonably available as a substitute when the  
14 proposed prohibition or restriction takes effect.

15 “(d) EXTENSIONS.—If the Administrator determines  
16 that additional information is needed in order to conduct  
17 a risk evaluation of a chemical substance under subsection  
18 (b) or to promulgate a final rule regarding the chemical  
19 substance under subsection (c), the Administrator may ex-  
20 tend the deadline required under subsection (b) or (c) as  
21 necessary but not to exceed a cumulative period of 3 years.

22 “(e) GUIDANCE.—The Administrator shall, after pro-  
23 viding public notice and an opportunity for public com-  
24 ment, establish guidance regarding how aggregate expo-

1 sure to a chemical substance will be taken into account  
2 in carrying out this section.”; and

3 (4) in subsection (f) (as so redesignated by  
4 paragraph (2) of this subsection)—

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

6 (B) by redesignating paragraph (5) as  
7 paragraph (4).

8 (b) TABLE OF CONTENTS AMENDMENT.—The item  
9 relating to section 6 in the table of contents is amended  
10 to read as follows:

“Sec. 6. Existing chemicals.”.

11 **SEC. 7. IMMINENT HAZARDS.**

12 Section 7 (15 U.S.C. 2606) is amended—

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

15 “(a) CIVIL ACTIONS.—

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

19 “(A) seizure of an imminently hazardous  
20 chemical substance or mixture or any article  
21 containing the chemical substance or mixture;

22 “(B) relief (as authorized by subsection  
23 (b)) against any person who manufactures,  
24 processes, distributes in commerce, uses, or dis-  
25 poses of an imminently hazardous chemical sub-

1           stance or mixture or any article containing such  
2           chemical substance or mixture; or

3           “(C) both seizure described in subpara-  
4           graph (A) and relief described in subparagraph  
5           (B).

6           “(2) RULE, ORDER, OR OTHER PROCEEDING.—  
7           The Administrator may commence a civil action  
8           under this subsection notwithstanding—

9           “(A) the existence of—

10           “(i) a decision by the Administrator  
11           under section 5(c)(3), 6(a), or 6(b); or

12           “(ii) a rule, consent agreement, or  
13           order, as applicable, under section 4(a)(2),  
14           5(c)(5), or 6(c) or title IV; or

15           “(B) the pendency of any administrative or  
16           judicial proceeding under any provision of this  
17           Act.”;

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

20           (3) in subsection (f)—

21           (A) in the first sentence, by striking “in-  
22           jury to health or the environment” and insert-  
23           ing “harm to human health or the environ-  
24           ment”; and

1 (B) by striking “such injury” and inserting  
2 “such harm”.

3 **SEC. 8. INFORMATION COLLECTION AND REPORTING.**

4 Section 8 (15 U.S.C. 2607) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (3)(A)(ii)—

7 (i) in subclause (I), by striking “rule  
8 proposed or promulgated under section 4,  
9 5(b)(4), or 6, or an order in effect under  
10 section 5(e),” and inserting “a proposed or  
11 promulgated rule, a consent agreement, or  
12 an order under section 4, 5, or 6;” and

13 (ii) in subclause (II), by striking “sec-  
14 tion 5 or 7,” and inserting “section 7;”  
15 and

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

17 “(4) REQUIREMENTS.—Not later than 2 years after  
18 the date of enactment of the Chemicals in Commerce Act,  
19 the Administrator shall promulgate rules establishing sep-  
20 arate reporting requirements for manufacturers and proc-  
21 essors as necessary to carry out sections 4 and 6.

22 “(5) GUIDANCE.—The Administrator shall develop  
23 guidance relating to the information required to be re-  
24 ported under this subsection that—



1           “(A) includes the level of detail necessary to be  
2 reported; and

3           “(B) describes the manner by which manufac-  
4 turers and processors may voluntarily report use and  
5 exposure information.

6           “(6) NONAPPLICABILITY.—This subsection shall not  
7 apply to—

8           “(A) a chemical substance extracted, by reac-  
9 tion or otherwise, from another chemical substance  
10 for the purpose of recycling or reclaiming such ex-  
11 tracted chemical substance; or

12           “(B) a combination of chemical substances  
13 physically combined without a chemical reaction.”;

14           (2) in subsection (b)—

15           (A) in paragraph (1), by adding at the end  
16 the following: “The Administrator shall estab-  
17 lish and maintain a confidential portion and a  
18 nonconfidential portion of the list published  
19 under this paragraph, consistent with section  
20 14. Chemical substances on each such portion  
21 of the list shall be identified as either active or  
22 inactive, as designated under paragraph (5).”;

23 and

24           (B) by adding at the end the following new  
25 paragraphs:

1       “(3) NOMENCLATURE.—The Administrator shall de-  
2 velop guidance that—

3           “(A) permits the continued use of Class 2 no-  
4 menclature in use on date of enactment of the  
5 Chemical in Commerce Act;

6           “(B) permits the continued use of the Soap and  
7 Detergent Association Nomenclature System, pub-  
8 lished in March 1978 by the Administrator in sec-  
9 tion 1 of addendum III of the document entitled  
10 ‘Candidate List of Chemical Substances’, and fur-  
11 ther described in the appendix A of volume I of the  
12 1985 edition of the Toxic Substances Control Act  
13 Substances Inventory (EPA Document No. EPA-  
14 560/7-85-002a);

15           “(C) treats as being included on the list pub-  
16 lished under paragraph (1), under the Chemical Ab-  
17 stracts Service numbers for the respective categories,  
18 all components of—

19           “(i) cement, Portland, chemicals, CAS No.  
20 65997-15-1;

21           “(ii) cement, alumina, chemicals, CAS No.  
22 65997-16-2;

23           “(iii) glass, oxide, chemicals, CAS No.  
24 65997-17-3;

1           “(iv) frits, chemicals, CAS No. 65997–18–  
2           4;

3           “(v) steel manufacture, chemicals, CAS  
4           No. 65997–19–5; and

5           “(vi) ceramic materials and wares, chemi-  
6           cals, CAS No. 66402–68–4;

7           “(D) if guidance in effect before the guidance  
8           developed under this paragraph allowed for multiple  
9           nomenclature conventions, includes new guidance  
10          that establishes equivalency between the nomen-  
11          clature conventions for chemical substances on the  
12          list published under paragraph (1); and

13          “(E) for any chemical substance appearing mul-  
14          tiple times on the list under different Chemical Ab-  
15          stracts Service numbers, includes guidance recog-  
16          nizing the multiple listings as a single chemical sub-  
17          stance.

18          “(4) CHEMICAL SUBSTANCES IN COMMERCE.—

19                 “(A) RULE.—

20                         “(i) IN GENERAL.—The Administrator, by  
21                         rule, shall require manufacturers and may re-  
22                         quire processors to notify the Administrator  
23                         when the manufacturer or processor, as applica-  
24                         ble, has manufactured or processed a chemical  
25                         substance that has been placed on the list

1 under paragraph (1) during the 5-year period  
2 prior to the date of enactment of the Chemicals  
3 in Commerce Act.

4 “(ii) PROCEDURE FOR NOTICE OF ACTIVE  
5 AND INACTIVE CHEMICAL SUBSTANCES.—A rule  
6 under this subparagraph shall establish a proce-  
7 dure for any person to notify the Administrator  
8 of a chemical substance that the Administrator  
9 should identify as active or inactive under para-  
10 graph (5).

11 “(B) GUIDANCE.—Before issuing a final rule  
12 under subparagraph (A), the Administrator shall  
13 make publicly available guidance relating to the rule  
14 for chemical substances on the confidential portion  
15 of the list under paragraph (1), including guidance  
16 on the use of—

17 “(i) accession numbers;

18 “(ii) premanufacture notice case numbers,  
19 if applicable; and

20 “(iii) generic names.

21 “(C) CONFIDENTIAL CHEMICAL SUBSTANCES.—  
22 The rule issued under subparagraph (A) shall re-  
23 quire a manufacturer or processor submitting a no-  
24 tice including information relating to a chemical sub-  
25 stance to indicate whether the manufacturer or proc-

1       essor claims the information as confidential pursu-  
2       ant to section 14.

3           “(D) PRESERVATION OF RECORDS.—The rule  
4       issued under subparagraph (A) shall require a man-  
5       ufacturer or processor to retain a record supporting  
6       the accuracy of the information submitted to the Ad-  
7       ministrator by the manufacturer or processor for a  
8       period of 5 years beginning on the last day of the  
9       submission period.

10          “(E) APPLICABILITY.—Nothing in this para-  
11       graph requires the resubstantiation of a claim for  
12       protection against disclosure for information sub-  
13       mitted to the Administrator prior to the date of en-  
14       actment of the Chemicals in Commerce Act.

15          “(5) ACTIVE AND INACTIVE SUBSTANCES.—

16           “(A) ACTIVE SUBSTANCES.—For purposes of  
17       this subsection, the term ‘active substance’ means a  
18       chemical substance—

19           “(i) that has been manufactured or proc-  
20       essed (other than a chemical substance de-  
21       scribed in section 720.30 of title 40, Code of  
22       Federal Regulations (or successor regulations),  
23       or a chemical substance manufactured or proc-  
24       essed only as part of an article) at any point  
25       during—

1           “(I) in the case of a chemical sub-  
2           stance manufactured or processed before  
3           the date of enactment of the Chemicals in  
4           Commerce Act, the 5-year period ending  
5           on such date of enactment; and

6           “(II) in the case of a chemical sub-  
7           stance first manufactured or processed on  
8           or after the date of enactment of the  
9           Chemicals in Commerce Act, the 4-year pe-  
10          riod ending on the date on which the most  
11          recent data was reported under part 711  
12          of title 40, Code of Federal Regulations (or  
13          successor regulations);

14          “(ii) that is added to the list published  
15          under paragraph (1) after the date of enact-  
16          ment of the Chemicals in Commerce Act;

17          “(iii) for which a person has notified the  
18          Administrator pursuant to subparagraph (C)  
19          that such person intends to manufacture or  
20          process a chemical substance that is designated  
21          as an inactive substance; or

22          “(iv) that has been reported under part  
23          711 of title 40, Code of Federal Regulations (or  
24          successor regulations) after the date of enact-  
25          ment of the Chemicals in Commerce Act.

1           “(B) INACTIVE SUBSTANCES.—For purposes of  
2 this subsection, the term ‘inactive substance’ means  
3 a chemical substance on the list published under  
4 paragraph (1) that has not been manufactured or  
5 processed at any point during—

6           “(i) in the case of a chemical substance  
7 manufactured or processed before the date of  
8 enactment of the Chemicals in Commerce Act,  
9 the 5-year period ending on such date of enact-  
10 ment; and

11           “(ii) in the case of a chemical substance  
12 first manufactured or processed on or after the  
13 date of enactment of the Chemicals in Com-  
14 merce Act, the 4-year period ending on the date  
15 on which the most recent data were reported  
16 under part 711 of title 40, Code of Federal  
17 Regulations (or successor regulations).

18           “(C) CHANGE TO ACTIVE STATUS.—

19           “(i) IN GENERAL.—Any person who in-  
20 tends to manufacture or process a chemical  
21 substance that is identified as an inactive sub-  
22 stance shall notify the Administrator before the  
23 date on which the chemical substance is manu-  
24 factured or processed.

1           “(ii) UPDATE OF STATUS.—On receiving  
2 notification under clause (i), the Administrator  
3 shall designate the chemical substance as an ac-  
4 tive substance and amend the list under para-  
5 graph (1) accordingly.

6           “(6) INFORMATION ON LIST.—The Administrator  
7 shall include on the list published under paragraph (1)—

8           “(A) the accession number, generic name, and,  
9 if applicable, premanufacture notice case number for  
10 each active or inactive substance, in the case of a  
11 chemical substance on the confidential portion of the  
12 list published under paragraph (1); and

13           “(B) the specific identity of any active or inac-  
14 tive substance for which no such claim of confiden-  
15 tiality was received under paragraph (4)(C), subject  
16 to the condition that, before revealing the specific  
17 identity of the chemical substance, the Adminis-  
18 trator shall—

19           “(i) publish, if applicable, the accession  
20 number, generic name, and premanufacture no-  
21 tice case number for that chemical substance;  
22 and

23           “(ii) provide an opportunity for any per-  
24 son—



1           “(I) to certify to the Administrator  
2           that the person intends to manufacture or  
3           process the chemical substance at any  
4           point in the subsequent 4-year period; and

5           “(II) to claim confidentiality for the  
6           specific identity of the chemical sub-  
7           stance.”;

8           (3) in subsection (d), by striking “shall promul-  
9           gate” and inserting “may promulgate”;

10          (4) in subsection (e), by striking “injury to  
11          health or the environment” and inserting “harm to  
12          human health or the environment”; and

13          (5) by redesignating subsection (f) as sub-  
14          section (g) and inserting after subsection (e) the fol-  
15          lowing new subsection:

16          “(f) ADMINISTRATION.—In implementing this sec-  
17          tion, the Administrator shall take measures to—

18                 “(1) limit the potential for duplication in re-  
19                 porting requirements;

20                 “(2) minimize the impact of the rules on small  
21                 manufacturers and processors; and

22                 “(3) ensure that the rules impose reporting ob-  
23                 ligations only on the entities most likely to have in-  
24                 formation relevant to the effective enforcement of  
25                 this title.”.

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

2 Section 9 (15 U.S.C. 2608) is amended—

3 (1) in subsection (a)—

4 (A) in the first sentence of paragraph

5 (1)—

6 (i) by striking “the manufacture,  
7 processing, distribution in commerce, use,  
8 or disposal of a chemical substance or mix-  
9 ture, or that any combination of such ac-  
10 tivities, presents or will present an unrea-  
11 sonable risk of injury to health or the envi-  
12 ronment” and inserting “a chemical sub-  
13 stance or mixture presents or will present  
14 a significant risk of harm to human health  
15 or the environment under the intended  
16 conditions of use, based on an evaluation  
17 of factors in accordance with section  
18 6(b)(3),”; and

19 (ii) by striking “such risk” the first  
20 place it appears and inserting “the risk  
21 posed by the manufacture, processing, dis-  
22 tribution in commerce, or use of the chem-  
23 ical substance or mixture”;

24 (B) in paragraph (2), in the matter fol-  
25 lowing subparagraph (B), by striking “section 6  
26 or 7” and inserting “section 6(e) or 7”; and

1 (C) in paragraph (3), by striking “section  
2 6 or 7” and inserting “section 6(e) or 7”;

3 (2) in subsection (b)—

4 (A) by inserting “(1)” before “The” in the  
5 first sentence; and

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

7 “(2) For purposes of this subsection, in determining  
8 whether to initiate action under section 6(e), the Adminis-  
9 trator shall compare—

10 “(A) the estimated costs of complying with ac-  
11 tions taken under this title with the estimated costs  
12 of proceeding instead under other law or laws ad-  
13 ministered by the Administrator; and

14 “(B) the efficiency of actions under this title  
15 and under such other law or laws to protect against  
16 the risk being addressed.”; and

17 (3) in subsection (d), in the first sentence, by  
18 striking “Health, Education, and Welfare” and in-  
19 serting “Health and Human Services”.

20 **SEC. 10. RESEARCH, DEVELOPMENT, COLLECTION, DIS-**  
21 **SEMINATION, AND UTILIZATION OF DATA.**

22 Section 10 (15 U.S.C. 2609) is amended by striking  
23 “Health, Education, and Welfare” each place it appears  
24 and inserting “Health and Human Services”.

1 **SEC. 11. INSPECTIONS AND SUBPOENAS.**

2 Section 11(b)(2)(B) (15 U.S.C. 2610(b)(2)(B)) is  
3 amended by inserting “or marketing” after “sales”.

4 **SEC. 12. EXPORTS.**

5 Section 12 (15 U.S.C. 2611) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) by striking “chemical substance,  
9 mixture, or to an article containing a  
10 chemical substance or mixture,” and in-  
11 sserting “chemical substance or mixture”;  
12 and

13 (ii) by striking “substance, mixture or  
14 article” each place it appears and inserting  
15 “substance or mixture”; and

16 (B) in paragraph (2)—

17 (i) by striking “substance, mixture or  
18 article” both places it appears and insert-  
19 ing “substance or mixture” and

20 (ii) by striking “unreasonable risk of  
21 injury to health” both places it appears  
22 and inserting “unreasonable risk of harm  
23 to human health”;

24 (2) by amending subsection (b) to read as fol-  
25 lows:

26 “(b) NOTICE.—

1           “(1) REGULATED SUBSTANCES.—

2                   “(A) IN GENERAL.—The Administrator  
3           may require a person to notify the Adminis-  
4           trator that the person is exporting or intends to  
5           export to a foreign country a chemical sub-  
6           stance or mixture—

7                           “(i) for which the Administrator  
8           has—

9                                   “(I) imposed a requirement or  
10                                  restriction under section 5(c)(5); or

11                                   “(II) promulgated a rule under  
12                                  section 6(c); or

13                                   “(ii) for which relief has been granted  
14                                  under section 7.

15                   “(B) FREQUENCY.—The Administrator  
16           shall require notice from a person under sub-  
17           paragraph (A) no more frequently than annu-  
18           ally after the first notice submitted by that per-  
19           son for the chemical substance or mixture.

20                   “(C) NOTICE TO GOVERNMENT OF RECEIV-  
21           ING COUNTRY.—Upon receipt of a notification  
22           under this paragraph, the Administrator may  
23           notify the government of the country to which  
24           the chemical substance or mixture is being ex-  
25           ported.

1           “(2) TREATY OBLIGATIONS.—

2                   “(A) IN GENERAL.—The Administrator  
3 shall require a person to notify the Adminis-  
4 trator that the person is exporting or intends to  
5 export to a foreign country a chemical sub-  
6 stance or mixture, or an article containing such  
7 chemical substance or mixture, for which the  
8 United States is obligated by treaty to provide  
9 export notification.

10                   “(B) CONTENTS.—Such notice shall in-  
11 clude all information necessary to enable the  
12 United States to satisfy obligations under the  
13 applicable treaty.

14                   “(C) FREQUENCY.—The Administrator  
15 shall require notice from a person under sub-  
16 paragraph (A) no more frequently than annu-  
17 ally after the first notice submitted by that per-  
18 son for the chemical substance or mixture.”;

19           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. 13. IMPORTS.**

2 (a) AMENDMENT.—Section 13 (15 U.S.C. 2612) is  
3 amended to read as follows:

4 **“SEC. 13. IMPORTS.**

5 “(a) NOTICE.—A person offering a chemical sub-  
6 stance for entry into the customs territory of the United  
7 States shall certify to the Secretary of Homeland Security  
8 that, after reasonable inquiry and to the best knowledge  
9 and belief of the person, the chemical substance is—

10 “(1) in compliance with any applicable rule,  
11 consent agreement, or order under section 5 or 6;  
12 and

13 “(2) included on the list under section 8(b) or  
14 exempt from any requirement to be included on that  
15 list.

16 “(b) REFUSAL OF ENTRY.—

17 “(1) IN GENERAL.—The Secretary of Homeland  
18 Security shall refuse entry into the customs territory  
19 of the United States (as defined in general note 2  
20 to the Harmonized Tariff Schedule of the United  
21 States) any chemical substance, mixture, or article  
22 offered for such entry if the chemical substance,  
23 mixture, or article is intended to be imported for a  
24 use that would violate a rule, consent agreement, or  
25 order in effect under this Act.

26 “(2) PROCEDURE.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), if a chemical substance or  
3           mixture is refused entry under paragraph (1),  
4           the Secretary of Homeland Security—

5                   “(i) shall notify the consignee of the  
6                   refusal of entry;

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

9                   “(iii) shall cause the disposal or stor-  
10                  age of the chemical substance or mixture  
11                  under such rules as the Administrator may  
12                  prescribe, consistent with other applicable  
13                  Federal law, if the chemical substance or  
14                  mixture has not been removed from the  
15                  United States in the 90-day period begin-  
16                  ning on the date of receipt of the notice of  
17                  the refusal of entry provided under clause  
18                  (i).

19           “(B) EXCEPTION.—

20                   “(i) IN GENERAL.—The Secretary of  
21                   Homeland Security may, pending a review  
22                   by the Administrator, release to the con-  
23                   signee the chemical substance or mixture if  
24                   the consignee—



1                   “(I) executes a bond for the  
2                   amount of the full invoice of the  
3                   chemical substance or mixture (as set  
4                   forth in the customs entry); and

5                   “(II) pays any applicable duty on  
6                   the chemical substance or mixture.

7                   “(ii) ADMINISTRATION.—If a con-  
8                   signee fails to return a chemical substance  
9                   or mixture released to that consignee  
10                  under clause (i) for any cause to the cus-  
11                  tody of the Secretary of Homeland Secu-  
12                  rity when demanded, the consignee shall be  
13                  liable to the United States for liquidated  
14                  damages equal to the full amount of the  
15                  bond.

16                  “(C) STORAGE.—All charges for storage,  
17                  cartage, and labor on and for the disposal of a  
18                  chemical substance or mixture that is refused  
19                  entry or released under this subsection shall be  
20                  paid by the owner or consignee, and a default  
21                  on that payment shall constitute a lien against  
22                  any future entry made by the owner or con-  
23                  signee.

1           “(c) RULES.—The Secretary of Homeland Security,  
2 after consultation with the Administrator, shall issue rules  
3 for the administration of this section.”.

4           (b) TABLE OF CONTENTS AMENDMENT.—The item  
5 relating to section 13 in the table of contents is amended  
6 to read as follows:

“Sec. 13. Imports.”.

7 **SEC. 14. CONFIDENTIAL INFORMATION.**

8           (a) AMENDMENT.—Section 14 (15 U.S.C. 2613) is  
9 amended to read as follows:

10 **“SEC. 14. CONFIDENTIAL INFORMATION.**

11           “(a) IN GENERAL.—Subject to subsections (b) and  
12 (d), the Administrator shall not disclose information ob-  
13 tained by the Administrator under this title that is—

14                   “(1) information exempt from disclosure under  
15 section 552(b)(4) of title 5, United States Code;

16                   “(2) specific information describing the manu-  
17 facture, processing, distribution in commerce, or dis-  
18 posal of a chemical substance, mixture, or article;

19                   “(3) marketing and sales information;

20                   “(4) information on the identity of constituents  
21 in a mixture and the respective percentages of those  
22 constituents;

23                   “(5) specific information about the use, func-  
24 tion, or application of a chemical substance or mix-  
25 ture in a process, mixture, or article;

1           “(6) information on specific production or im-  
2           port volumes of a manufacturer and specific volumes  
3           aggregated across manufacturers if disclosure of  
4           that aggregated data could reveal information identi-  
5           fied in paragraphs (1) through (5); or

6           “(7) the specific identity of a chemical sub-  
7           stance, including the chemical name, molecular for-  
8           mula, Chemical Abstracts Service number, or other  
9           information that would identify a specific chemical  
10          substance, if the specific identity is claimed under  
11          subsection (b) as confidential information and the  
12          claim has not subsequently been withdrawn or found  
13          by the Administrator not to warrant protection as  
14          confidential information under this section.

15          “(b) REQUIREMENTS FOR CERTAIN CONFIDEN-  
16          TIALITY CLAIMS.—A person seeking protection from dis-  
17          closure of information under this section shall—

18                 “(1) claim such information as confidential by  
19                 identifying such information to the Administrator;  
20                 and

21                 “(2) in the case of information described in  
22                 paragraph (7) of subsection (a), submit—

23                         “(A) written documentation justifying why  
24                         the information qualifies for such protection, in-  
25                         cluding documentation establishing that—

1                   “(i) the submitting person takes rea-  
2                   sonable measures to protect the confiden-  
3                   tiality of the information;

4                   “(ii) the information is not required  
5                   to be disclosed, or otherwise made avail-  
6                   able, to the public under any other Federal  
7                   law in connection with one or more uses  
8                   subject to this title;

9                   “(iii) disclosure of the information is  
10                  likely to cause meaningful harm to the  
11                  competitive position of the person; and

12                  “(iv) the information is not reasonably  
13                  believed to be readily discoverable through  
14                  reverse engineering;

15                  “(B) the time period for which the person  
16                  claims protection from disclosure of the infor-  
17                  mation, which may be renewed upon request  
18                  not later than 30 days before the expiration of  
19                  the period; and

20                  “(C) a generic name for the chemical sub-  
21                  stance, or a unique identifier that adequately  
22                  distinguishes the chemical substance, that the  
23                  Administrator may disclose to the public, sub-  
24                  ject to the condition that such generic name or  
25                  unique identifier discloses a maximum amount

1 of information on the structure of the chemical  
2 substance while protecting those features of  
3 such structure that are considered confidential  
4 and the disclosure of which would potentially  
5 harm the competitive position of the person.

6 “(c) GUIDANCE.—The Administrator shall develop  
7 guidance on the determination of generic names and  
8 unique identifiers for confidential chemical identities.

9 “(d) EXCEPTIONS TO PROTECTION FROM DISCLO-  
10 SURE.—

11 “(1) IN GENERAL.—In accordance with sub-  
12 section (l), subsection (a) shall not apply to—

13 “(A) health and safety information—

14 “(i) relating to a chemical substance  
15 or mixture that has been offered for com-  
16 mercial distribution as of the date on  
17 which the information is to be disclosed; or

18 “(ii) that is developed pursuant to a  
19 requirement under section 4, 5, or 6;

20 “(B) health and safety information sub-  
21 mitted to the Administrator in connection with  
22 a notice of substantial risk required under sec-  
23 tion 8(e);

24 “(C) general information describing the  
25 manufacturing volumes, expressed in ranges,

1           that would not reveal information protected as  
2           confidential under this section; and

3           “(D) general descriptions of industrial,  
4           commercial, or consumer functions and uses of  
5           a chemical substance or mixture that are cus-  
6           tomarily shared with the general public or with-  
7           in the industry to which the person submitting  
8           the information belongs, and would not reveal  
9           information protected as confidential under this  
10          section.

11          “(2) LIMITED INFORMATION SHARING.—The  
12          Administrator may share information otherwise pro-  
13          tected from disclosure by this section only as follows:

14                 “(A) To an officer or employee of the  
15                 United States—

16                         “(i) to carry out that person’s official  
17                         duties; or

18                         “(ii) for specific law enforcement pur-  
19                         poses under this or any other Act.

20                 “(B) To a contractor with the United  
21                 States and employees of that contractor if, in  
22                 the opinion of the Administrator, the disclosure  
23                 is necessary for the satisfactory performance by  
24                 the contractor of a contract with the United  
25                 States for the performance of work in connec-

1           tion with this title and under such conditions as  
2           the Administrator shall specify.

3           “(C) To a State, upon written request, for  
4           the purpose of development, administration, or  
5           enforcement of a law, if—

6                   “(i) the recipient agrees in writing to  
7                   take appropriate steps, and has adequate  
8                   authority, to maintain the confidentiality  
9                   of the information in accordance with pro-  
10                  cedures as stringent as those the Adminis-  
11                  trator uses to safeguard the information;  
12                  and

13                   “(ii) the Administrator notifies a per-  
14                   son claiming protection of the information  
15                   that the information will be disclosed to a  
16                   State.

17           “(D) To a person who is a health profes-  
18           sional employed by a Federal or State agency,  
19           or a treating physician or nurse, in a non-  
20           emergency situation if such person—

21                   “(i) states in writing to the Adminis-  
22                   trator that the person has a reasonable  
23                   basis to believe that disclosure of the infor-  
24                   mation will assist in diagnosis or treatment

1 of any person exposed to the chemical sub-  
2 stance; and

3 “(ii) agrees in writing not to use the  
4 information for any purpose other than the  
5 diagnosis and treatment referred to in  
6 clause (i).

7 “(E) To a treating physician, nurse, or  
8 agent of a poison control center, or any other  
9 person such a physician, nurse, or agent deter-  
10 mines is necessary to aid in diagnosis or treat-  
11 ment described in clause (i), if—

12 “(i) such physician, nurse, or agent  
13 states that the requested information is  
14 necessary for, or will assist in, emergency  
15 or first-aid diagnosis or treatment and a  
16 person being diagnosed or treated has like-  
17 ly been exposed to the chemical substance;  
18 and

19 “(ii) each person receiving the pro-  
20 tected information agrees in writing as  
21 soon as practicable, but not necessarily  
22 prior to receiving the information, not to  
23 use the information concerned for any pur-  
24 pose other than the diagnosis or treatment  
25 referred to in clause (i).



1           “(3) PROHIBITION.—No person who receives in-  
2           formation under paragraph (2) may use such infor-  
3           mation for any purpose not specified in such para-  
4           graph, nor disclose such information to any person  
5           not authorized to receive such information.

6           “(4) USE OF INFORMATION BY THE ADMINIS-  
7           TRATOR.—Subsection (a) shall not apply to the ex-  
8           tent that the Administrator determines that infor-  
9           mation disclosure is necessary—

10           “(A) to protect health or the environment  
11           from an unreasonable risk of harm; or

12           “(B) in a proceeding under this title, sub-  
13           ject to the condition that the disclosure is made  
14           in such a manner as to preserve confidentiality  
15           to the extent practicable without impairing the  
16           proceeding.

17           “(5) HEALTH AND SAFETY INFORMATION.—  
18           For purposes of this subsection, the term ‘health  
19           and safety information’ does not include information  
20           described in subsection (a)(7).

21           “(e) DURATION OF PROTECTION FROM DISCLO-  
22           SURE.—The Administrator shall protect from disclosure  
23           information as required under this section unless—

24           “(1) the person claiming confidentiality of such  
25           information under subsection (b) notifies the Admin-

1        istrator that the person is withdrawing the confiden-  
2        tiality claim, in which case the Administrator shall  
3        promptly make the information available to the pub-  
4        lic; or

5                “(2) the Administrator finds that—

6                        “(A) the time period described in sub-  
7                        section (b)(2)(B) has expired;

8                        “(B) the information has been publicly dis-  
9                        closed through some other means; or

10                      “(C) the information no longer meets the  
11                      criteria for protection under this section.

12        “(f) REESTABLISHMENT OF CONFIDENTIALITY.—

13                “(1) IN GENERAL.—Except as provided in para-  
14                graph (2), the Administrator may require a person  
15                who has claimed information as confidential under  
16                subsection (b) to reestablish such claim.

17                “(2) LIMITATION.—The Administrator may not  
18                under paragraph (1) require reestablishment of a  
19                claim for protection from disclosure of information if  
20                such claim was submitted to the Administrator  
21                under this title prior to the date of enactment of the  
22                Chemicals in Commerce Act, unless the Adminis-  
23                trator has a reasonable basis to conclude that the  
24                claim does not meet the requirements of this section  
25                for protection from disclosure.

1           “(g) DETERMINATION BY THE ADMINISTRATOR.—

2 The Administrator shall—

3           “(1) approve a claim of confidentiality received  
4 under subsection (b); or

5           “(2) if the person who has submitted the claim  
6 fails to meet the requirements of this section, ap-  
7 prove the claim with conditions or deny the claim.

8           “(h) NOTICE AND EXPLANATION.—If the Adminis-  
9 trator takes action under subsection (g)(2), makes a find-  
10 ing under subsection (e)(2), shares information under sub-  
11 paragraphs (C) or (D) of subsection (d)(2), or discloses  
12 information pursuant to a determination under subsection  
13 (d)(4)(A), the Administrator shall provide to the person  
14 who has claimed confidentiality of information under sub-  
15 section (b) a written statement of the release, or the Ad-  
16 ministrator’s intent to release or otherwise condition the  
17 protection, of the information and the reasons for taking  
18 such action.

19           “(i) TIMING OF RELEASE OF INFORMATION.—

20           “(1) IN GENERAL.—Except as provided in this  
21 section, the Administrator may not release informa-  
22 tion otherwise protected from disclosure until 30  
23 days after the date on which the person who sub-  
24 mitted the claim of confidentiality receives notifica-  
25 tion under subsection (h).

1           “(2) EXCEPTIONS.—

2                   “(A) IN GENERAL.—The Administrator  
3           may not share information identified in sub-  
4           paragraphs (A)(i) or (E) of subsection (d)(2)  
5           until 15 days after the date on which the per-  
6           son who submitted the claim of confidentiality  
7           receives a notification under subsection (h), un-  
8           less the Administrator determines that release  
9           of the information is necessary to protect  
10          against an imminent and substantial harm to  
11          human health or the environment, in which case  
12          no prior notification is necessary.

13                   “(B) NO NOTIFICATION.—For information  
14          identified in subparagraphs (A)(ii) or (E) of  
15          subsection (d)(2), or subparagraphs (A) or (B)  
16          of subsection (d)(4), no prior notification is  
17          necessary.

18           “(j) SUBSETS.—If it is not feasible for the Adminis-  
19          trator to review each claim received under subsection (b),  
20          the Administrator shall review a subset of all submitted  
21          information protection claims selected on a statistically  
22          valid basis.

23           “(k) JUDICIAL REVIEW.—

24                   “(1) IN GENERAL.—A decision by the Adminis-  
25          trator under subsection (g)(2) is subject to review

1 and injunctive relief in a district court of the United  
2 States located in the district in which the person  
3 seeking protection of the information from disclosure  
4 resides, or the United States District Court for the  
5 District of Columbia.

6 “(2) STAY.—Except as provided in subsection  
7 (d), the Administrator shall disclose no information  
8 included in claim of confidentiality made under sub-  
9 section (b) during the pendency of judicial review  
10 under this subsection.

11 “(1) SEPARABILITY OF INFORMATION.—In carrying  
12 out this title, the Administrator shall separate information  
13 as necessary to ensure that—

14 “(1) no information that is eligible for protec-  
15 tion under this section is disclosed with information  
16 not protected under this section; and

17 “(2) all information required to be disclosed  
18 under this title is disclosed.

19 “(m) ADMINISTRATION.—In carrying out this sec-  
20 tion, the Administrator shall employ the procedures in  
21 part 2 of title 40, Code of Federal Regulations (or suc-  
22 cessor regulations).”.

23 (b) TABLE OF CONTENTS AMENDMENT.—The item  
24 relating to section 14 in the table of contents is amended  
25 to read as follows:

“Sec. 14. Confidential information.”.

1 **SEC. 15. PROHIBITED ACTS.**

2 Section 15(1) (15 U.S.C. 2614(1)) is amended by  
3 striking “(A) any rule” and all that follows through “or  
4 (D)” and inserting “any requirement of this title or any  
5 rule, order, or consent agreement issued or entered into  
6 under this title, or”.

7 **SEC. 16. PENALTIES.**

8 Section 16 (15 U.S.C. 2615) is amended—

9 (1) in subsection (a)(1)—

10 (A) in the first sentence—

11 (i) by striking “section 15 or 409”  
12 and inserting “this title, or who otherwise  
13 violates this Act, except as provided in sec-  
14 tion 207(b),”; and

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

17 (B) in the second sentence, by striking  
18 “violation of section 15 or 409” and inserting  
19 “violation of this Act”;

20 (2) in subsection (a)(2)(A), by striking “of sec-  
21 tion 15 or 409” and inserting “described in para-  
22 graph (1)”; and

23 (3) in subsection (b)—

24 (A) by striking “Any person” and inserting  
25 the following:

26 “(1) IN GENERAL.—Any person”;

1 (B) by striking “section 15 or 409” and  
2 inserting “this Act”;

3 (C) by striking “\$25,000” and inserting  
4 “\$50,000”; and

5 (D) by adding at the end the following:

6 “(2) IMMINENT DANGER OF DEATH OR SERIOUS  
7 BODILY INJURY.—Any person who knowingly or will-  
8 fully violates any provision of this Act and who  
9 knows, at the time of the violation, that the violation  
10 places another person in imminent danger of death  
11 or serious bodily injury shall be subject, upon convic-  
12 tion, to a fine of not more than \$250,000, imprison-  
13 ment for not more than 5 years, or both.”.

14 **SEC. 17. PREEMPTION.**

15 Section 18 (15 U.S.C. 2617) is amended by striking  
16 subsections (a) and (b) and inserting the following:

17 “(a) IN GENERAL.—Except as otherwise provided in  
18 this section, no State or local government may—

19 “(1) establish or continue in force a law or reg-  
20 ulation to the extent that the law or regulation, for  
21 the purpose of regulating chemical substances, mix-  
22 tures, or articles—

23 “(A) requires the development or submis-  
24 sion of information—

1                   “(i) that the Administrator has re-  
2                   quired for the chemical substance under  
3                   section 4, 5, or 6; or

4                   “(ii) relating to a chemical substance,  
5                   mixture, or article and its intended condi-  
6                   tions of use with respect to which the Ad-  
7                   ministrator has completed a risk evalua-  
8                   tion;

9                   “(B) prohibits or restricts the manufac-  
10                  ture, processing, distribution in commerce, or  
11                  use of a chemical substance, mixture, or article  
12                  for its intended conditions of use if—

13                   “(i) the Administrator has—

14                   “(I) determined under section  
15                   5(c)(3)(B) that the chemical sub-  
16                   stance, mixture, or article for its in-  
17                   tended conditions of use does not war-  
18                   rant regulation under section 5;

19                   “(II) determined under section  
20                   6(b) that the chemical substance, mix-  
21                   ture, or article will not present a sig-  
22                   nificant risk of harm to human health  
23                   or the environment under the in-  
24                   tended conditions of use; or



1                   “(III) promulgated a rule, en-  
2                   tered into a consent agreement, or  
3                   issued an order under section 5(c)(5)  
4                   or 6(c) with respect to the chemical  
5                   substance, mixture, or article for its  
6                   intended conditions of use; or

7                   “(ii) the review period under section  
8                   5(c)(1) with respect to the chemical sub-  
9                   stance, mixture, or article for its intended  
10                  conditions of use has expired;

11                  “(C) requires the notification of a use of a  
12                  chemical substance, mixture, or article with re-  
13                  spect to which the Administrator has required  
14                  notification pursuant to section 5; or

15                  “(D) includes any requirement with re-  
16                  spect to a chemical substance, mixture, or arti-  
17                  cle, or its intended conditions of use, with re-  
18                  spect to which and to the extent that the Ad-  
19                  ministrator, under section 5 or 6, before the  
20                  date of enactment of the Chemicals in Com-  
21                  merce Act, has promulgated a rule, entered into  
22                  a consent agreement, issued an order, or al-  
23                  lowed the expiration of a significant new use re-  
24                  view period; or

1           “(2) establish a law or regulation on or after  
2           the date on which the Administrator identifies a  
3           chemical substance as a low priority under section  
4           6(a) to the extent that the law or regulation regu-  
5           lates that chemical substance for intended conditions  
6           of use.

7           “(b) EXCEPTIONS.—Subsection (a) shall not apply to  
8           a law or regulation that is adopted or authorized pursuant  
9           to any other Federal law.

10          “(c) DAMAGES OR EQUITABLE RELIEF.—Nothing in  
11          this section preempts any cause of action under State law  
12          for damages or equitable relief alleging personal injury,  
13          death, or property damage arising from exposure to a  
14          chemical substance or mixture.”.

15          **SEC. 18. JUDICIAL REVIEW.**

16          Section 19 (15 U.S.C. 2618) is amended—

17                 (1) in subsection (a)—

18                         (A) by striking paragraph (1) and insert-  
19                         ing the following:

20                         “(1) FILING OF PETITION.—

21                                 “(A) IN GENERAL.—Not later than 60  
22                                 days after the date of the promulgation of a  
23                                 rule under section 4, 5(c)(5), 6(c), or 8 or title  
24                                 II or IV or an order under section 4 or 5(c)(5),  
25                                 any person may file a petition for judicial re-

1 view of the rule or order in the United States  
2 Court of Appeals for—

3 “(i) the District of Columbia Circuit;

4 “(ii) the circuit in which the person  
5 resides; or

6 “(iii) the circuit in which the principal  
7 place of business of the person is located.

8 “(B) EXCLUSIVE JURISDICTION OF  
9 COURTS OF APPEALS.—The courts of appeals of  
10 the United States shall have exclusive jurisdic-  
11 tion of any action to obtain judicial review  
12 (other than in an enforcement proceeding)  
13 under subparagraph (A).”;

14 (B) in paragraph (2)—

15 (i) by inserting “ADMINISTRATIVE  
16 RULES.—” before “Copies of any petition”;  
17 and

18 (ii) by striking “paragraph (1)(A)”  
19 and inserting “paragraph (1)”; and

20 (C) in paragraph (3)—

21 (i) by inserting “DEFINITION.—” be-  
22 fore “For purposes of”;

23 (ii) by amending subparagraph (B) to  
24 read as follows:

1           “(B) in the case of a rule or order under  
2           section 4, the statement issued under section  
3           4(b), in the case of a rule or order under sec-  
4           tion 5(c)(5), the determination required under  
5           section 5(c)(3), in the case of rule under section  
6           6(e), the statement published under section  
7           6(b)(5), and in the case of a rule under title IV,  
8           the finding required for the issuance of such a  
9           rule;”.

10                   (iii) by striking subparagraph (C);

11                   and

12                   (iv) by redesignating subparagraphs  
13                   (D) and (E) as subparagraphs (C) and  
14                   (D), respectively; and

15           (2) in subsection (c)(1), by striking subpara-  
16           graphs (B) and (C) and inserting the following:

17                   “(B) APPLICABILITY OF SECTION 706 OF  
18                   TITLE 5, UNITED STATES CODE.—Section 706  
19                   of title 5, United States Code, shall apply to re-  
20                   view of a rule, order, or final agency action  
21                   under this section, except that—

22                           “(i) in the case of a rule under section  
23                           4, 5(c)(5), or 6(e) or an order under sec-  
24                           tion 4 or 5(c)(5)—

1                   “(I) the standard of review pre-  
2                   scribed in section 706(2)(E) of title 5,  
3                   United States Code, shall not apply;  
4                   and

5                   “(II) the court shall hold as un-  
6                   lawful and set aside the rule if the  
7                   court finds that the rule is not sup-  
8                   ported by substantial evidence in the  
9                   rulemaking record; and

10                   “(ii) the court shall not review the  
11                   contents and adequacy of the statement of  
12                   basis and purpose required by section  
13                   553(c) of title 5, United States Code, to be  
14                   incorporated in the rule except as part of  
15                   a review of the rulemaking record taken as  
16                   a whole.”.

17 **SEC. 19. CITIZENS’ CIVIL ACTIONS.**

18                   Section 20(a)(1) (15 U.S.C. 2619(a)(1)) is amend-  
19 ed—

20                   (1) by striking “or 6” and inserting “6, or 8”;  
21                   and

22                   (2) by striking “section 5” and inserting “sec-  
23 tion 4 or 5”.

24 **SEC. 20. CITIZENS’ PETITIONS.**

25                   Section 21 (15 U.S.C. 2620) is amended—

1           (1) in subsection (a), by striking “section 4, 6,  
2           or 8 or an order under section 5(e) or 6(b)(2)” and  
3           inserting “section 4, 6(c), or 8 or an order under  
4           section 4 or 5(c)”;

5           (2) in subsection (b)—

6           (A) in paragraph (1), by striking “an  
7           order under section 5(e), 6(b)(1)(A), or  
8           6(b)(1)(B)” and inserting “an order under sec-  
9           tion 4 or 5(c)”;

10          (B) by striking subparagraph (B) of para-  
11          graph (4) and inserting the following:

12          “(B) DE NOVO PROCEEDING.—

13                 “(i) IN GENERAL.—In an action  
14                 under subparagraph (A) to initiate a pro-  
15                 ceeding to issue a rule under section 4,  
16                 6(c), or 8 or an order issued under section  
17                 4 or 5(e), the petitioner shall be provided  
18                 an opportunity to have the petition consid-  
19                 ered by the court in a de novo proceeding.

20          “(ii) DEMONSTRATION.—

21                 “(I) IN GENERAL.—The court  
22                 shall order the Administrator to ini-  
23                 tiate the action requested by the peti-  
24                 tioner if the petitioner demonstrates

1 to the satisfaction of the court by a  
2 preponderance of the evidence that—

3 “(aa) in the case of a peti-  
4 tion to initiate a proceeding for  
5 the issuance of a rule or order  
6 under section 4, the information  
7 available to the Administrator is  
8 insufficient for the Administrator  
9 to perform an action described in  
10 section 4(a)(1);

11 “(bb) in the case of a peti-  
12 tion to issue an order under sec-  
13 tion 5(c), there is a reasonable  
14 basis to conclude that the chem-  
15 ical substance is likely to result  
16 in an unreasonable risk of harm  
17 to human health or the environ-  
18 ment under the intended condi-  
19 tions of use;

20 “(cc) in the case of a peti-  
21 tion to initiate a proceeding for  
22 the issuance of a rule under sec-  
23 tion 6(c), there is a reasonable  
24 basis to conclude that the chem-  
25 ical substance or mixture will re-

1                   sult in an unreasonable risk of  
2                   harm to human health or the en-  
3                   vironment under the intended  
4                   conditions of use; 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 human health  
11                  or the environment from an un-  
12                  reasonable risk of harm.

13                  “(II) DEFERMENT.—The court  
14                  may permit the Administrator to defer  
15                  initiating the action requested by the  
16                  petitioner, until such time as the  
17                  court prescribes, if the court finds  
18                  that—

19                  “(aa) the extent of the risk  
20                  to human health or the environ-  
21                  ment alleged by the petitioner is  
22                  less than the extent of those risks  
23                  to human health or the environ-  
24                  ment with respect to which the



1 Administrator is otherwise taking  
2 action under this title; and

3 “(bb) there are insufficient  
4 resources available to the Admin-  
5 istrator to take the action re-  
6 quested by the petitioner.”; and

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

8 “(c) LIMITATION.—For purposes of this section, any  
9 reference to a rule under section 4 shall not include a rule  
10 under section 4(a)(1)(C).”.

11 **SEC. 21. NATIONAL SECURITY.**

12 (a) AMENDMENT.—Section 22 (15 U.S.C. 2621) is  
13 amended to read as follows:

14 **“SEC. 22. NATIONAL SECURITY.**

15 “(a) WAIVER.—The Administrator shall waive com-  
16 pliance with any provision of this Act upon a determina-  
17 tion by the President that the waiver is necessary in the  
18 interest of national security. Upon the issuance of such  
19 a waiver, the Administrator shall publish in the Federal  
20 Register a notice that the waiver was granted for national  
21 security purposes, unless the President directs the Admin-  
22 istrator to omit such publication because the publication  
23 itself would be contrary to the interests of national secu-  
24 rity.

1           “(b) CONSULTATION.—The Administrator shall con-  
2 sult periodically with the President or the President’s des-  
3 ignee to discuss how implementation of this Act could af-  
4 fect national security.”.

5           (b) TABLE OF CONTENTS AMENDMENT.—The item  
6 relating to section 22 in the table of contents is amended  
7 to read as follows:

“Sec. 22. National security.”.

8 **SEC. 22. STUDIES.**

9           Section 25 (15 U.S.C. 2624) and the item relating  
10 thereto in the table of contents are repealed.

11 **SEC. 23. POLICIES, PROCEDURES, AND GUIDANCE.**

12           Section 26 (15 U.S.C. 2625) is amended—

13                 (1) by striking “Health, Education, and Wel-  
14 fare” each place it appears and inserting “Health  
15 and Human Services”;

16                 (2) in subsection (b), by striking “section 4 or  
17 5” and inserting “section 4, 5, or 6”; and

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

19           “(h) POLICIES, PROCEDURES, AND GUIDANCE.—Not  
20 later than 1 year after the date of enactment of the  
21 Chemicals in Commerce Act, the Administrator shall, after  
22 providing public notice and an opportunity for public com-  
23 ment, establish all policies, procedures, and guidance nec-  
24 essary to implement the amendments made to this title  
25 by the Chemicals in Commerce Act.

1       “(i) SCIENTIFIC STANDARDS.—In evaluating infor-  
2 mation from studies and tests, and in carrying out sec-  
3 tions 4, 5, and 6 to the extent that the Administrator  
4 makes a decision based on science, the Administrator shall  
5 consider, among other applicable factors—

6           “(1) the extent to which the scientific and tech-  
7 nical procedures, measures, methods, or models em-  
8 ployed to generate the information are reasonable  
9 for and consistent with the intended application;

10          “(2) the extent to which the information is rel-  
11 evant for the Administrator’s intended use;

12          “(3) the degree of clarity and completeness with  
13 which the data, assumptions methods, quality assur-  
14 ance, sponsoring organizations, and analyses em-  
15 ployed to generate the information are documented;

16          “(4) the extent to which the variability and un-  
17 certainty in the information or in the procedures,  
18 measures, methods, or models are evaluated and  
19 characterized; and

20          “(5) the extent of independent verification, vali-  
21 dation, and peer review of the information or of the  
22 procedures, measures, methods, or models.

23       “(j) WEIGHT OF SCIENTIFIC EVIDENCE.—The Ad-  
24 ministrator shall make decisions under sections 4, 5, and  
25 6 based on the weight of the scientific evidence.

1       “(k) GUIDANCE.—The Administrator shall provide  
2 public notice and opportunity for public comment for any  
3 significant written guidance of general applicability pre-  
4 pared by the Administrator under this title.”.

5 **SEC. 24. TECHNICAL AMENDMENT.**

6       Section 27(a) (15 U.S.C. 2626(a)) is amended by  
7 striking “Health, Education, and Welfare” and inserting  
8 “Health and Human Services”.

9 **SEC. 25. STATE PROGRAMS.**

10       Section 28 (15 U.S.C. 2627) is amended by striking  
11 subsections (c) and (d).

12 **SEC. 26. AUTHORIZATION OF APPROPRIATIONS.**

13       Section 29 (15 U.S.C. 2628) and the item relating  
14 thereto in the table of contents are repealed.

15 **SEC. 27. ANNUAL REPORT.**

16       Section 30 (15 U.S.C. 2629) is amended by striking  
17 paragraph (2) and inserting the following:

18               “(2)(A) the number of notices received under  
19 section 5; and

20               “(B) the number of the notices described in  
21 subparagraph (A) for chemical substances subject to  
22 a rule, consent agreement, or order under section  
23 4;”.

1 **SEC. 28. PRESERVATION OF AUTHORITY.**

2 Except as specifically provided in this Act or the  
3 amendments made by this Act, nothing in this Act or the  
4 amendments made by this Act shall amend, alter, or af-  
5 fect—

6 (1) the authority of the Administrator under  
7 the Toxic Substances Control Act as in effect before  
8 the date of enactment of this Act; or

9 (2) the continued application or validity of any  
10 action taken by the Administrator under the Toxic  
11 Substances Control Act before the date of enactment  
12 of this Act.