

In the Senate of the United States,

December 17, 2015.

Resolved, That the bill from the House of Representatives (H.R. 2576) entitled “An Act to modernize the Toxic Substances Control Act, and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Frank R. Lautenberg*
3 *Chemical Safety for the 21st Century Act”.*

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

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

7 *(1) by striking “It is the intent” and inserting*
8 *the following:*

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

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

(3) by adding at the end the following:

“(2) *REFORM.—This Act, including reforms in accordance with the amendments made by the Frank R. Lautenberg Chemical Safety for the 21st Century Act—*

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

“(i) *protects the health of children, pregnant women, the elderly, workers, consumers, the general public, and the environment from the risks of harmful exposures to chemical substances and mixtures; and*

“(ii) *ensures that appropriate information on chemical substances and mixtures is available to public health officials and first responders in the event of an emergency; and*

“(B) *shall not displace or supplant common law rights of action or remedies for civil relief.”.*

SEC. 3. DEFINITIONS.

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

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

(2) by inserting after paragraph (3) the following:

“(4) *CONDITIONS OF USE.*—The term ‘conditions of use’ means the intended, known, or reasonably foreseeable circumstances the Administrator determines a chemical substance is manufactured, processed, distributed in commerce, used, or disposed of.”;

(3) by inserting after paragraph (10) (as so redesignated) the following:

“(11) *POTENTIALLY EXPOSED OR SUSCEPTIBLE POPULATION.*—The term ‘potentially exposed or susceptible population’ means 1 or more groups—

“(A) of individuals within the general population who may be—

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

“(ii) susceptible to greater adverse health consequences from chemical exposures than the general population; and

“(B) that when identified by the Administrator may include such groups as infants, chil-

1 *dren, pregnant women, workers, and the elder-*
 2 *ly.”; and*

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

5 *“(14) SAFETY ASSESSMENT.—The term ‘safety*
 6 *assessment’ means an assessment of the risk posed by*
 7 *a chemical substance under the conditions of use, in-*
 8 *tegrating hazard, use, and exposure information re-*
 9 *garding the chemical substance.*

10 *“(15) SAFETY DETERMINATION.—The term ‘safe-*
 11 *ty determination’ means a determination by the Ad-*
 12 *ministrator as to whether a chemical substance meets*
 13 *the safety standard under the conditions of use.*

14 *“(16) SAFETY STANDARD.—The term ‘safety*
 15 *standard’ means a standard that ensures, without*
 16 *taking into consideration cost or other nonrisk fac-*
 17 *tors, that no unreasonable risk of injury to health or*
 18 *the environment will result from exposure to a chem-*
 19 *ical substance under the conditions of use, including*
 20 *no unreasonable risk of injury to—*

21 *“(A) the general population; or*

22 *“(B) any potentially exposed or susceptible*
 23 *population that the Administrator has identified*
 24 *as relevant to the safety assessment and safety*
 25 *determination for a chemical substance.”.*

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

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

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

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

8 “(b) *DEADLINE.*—*Not later than 2 years after the date*
9 *of enactment of the Frank R. Lautenberg Chemical Safety*
10 *for the 21st Century Act, the Administrator shall develop,*
11 *after providing public notice and an opportunity for com-*
12 *ment, any policies, procedures, and guidance the Adminis-*
13 *trator determines to be necessary to carry out sections 4,*
14 *4A, 5, and 6, including the policies, procedures, and guid-*
15 *ance required by this section.*

16 “(c) *USE OF SCIENCE.*—

17 “(1) *IN GENERAL.*—*The Administrator shall es-*
18 *tablish policies, procedures, and guidance on the use*
19 *of science in making decisions under sections 4, 4A,*
20 *5, and 6.*

21 “(2) *GOAL.*—*A goal of the policies, procedures,*
22 *and guidance described in paragraph (1) shall be to*
23 *make the basis of decisions clear to the public.*

24 “(3) *REQUIREMENTS.*—*The policies, procedures,*
25 *and guidance issued under this section shall ensure*
26 *that—*

1 “(A) decisions made by the Adminis-
2 trator—

3 “(i) are based on information, proce-
4 dures, measures, methods, and models em-
5 ployed in a manner consistent with the best
6 available science;

7 “(ii) take into account the extent to
8 which—

9 “(I) assumptions and methods are
10 clearly and completely described and
11 documented;

12 “(II) variability and uncertainty
13 are evaluated and characterized; and

14 “(III) the information has been
15 subject to independent verification and
16 peer review; and

17 “(iii) are based on the weight of the
18 scientific evidence, by which the Adminis-
19 trator considers all information in a sys-
20 tematic and integrative framework to con-
21 sider the relevance of different information;

22 “(B) to the extent practicable and if appro-
23 priate, the use of peer review, standardized test
24 design and methods, consistent data evaluation

1 *procedures, and good laboratory practices will be*
2 *encouraged;*

3 “(C) *a clear description of each individual*
4 *and entity that funded the generation or assess-*
5 *ment of information, and the degree of control*
6 *those individuals and entities had over the gen-*
7 *eration, assessment, and dissemination of infor-*
8 *mation (including control over the design of the*
9 *work and the publication of information) is*
10 *made available; and*

11 “(D) *if appropriate, the recommendations*
12 *in reports of the National Academy of Sciences*
13 *that provide advice regarding assessing the haz-*
14 *ards, exposures, and risks of chemical substances*
15 *are considered.*

16 “(d) *EXISTING EPA POLICIES, PROCEDURES, AND*
17 *GUIDANCE.—The policies, procedures, and guidance de-*
18 *scribed in subsection (b) shall incorporate existing relevant*
19 *policies, procedures, and guidance, as appropriate and con-*
20 *sistent with this Act.*

21 “(e) *REVIEW.—Not later than 5 years after the date*
22 *of enactment of the Frank R. Lautenberg Chemical Safety*
23 *for the 21st Century Act, and not less frequently than once*
24 *every 5 years thereafter, the Administrator shall—*

1 “(1) review the adequacy of any policies, proce-
2 dures, and guidance developed under this section, in-
3 cluding animal, nonanimal, and epidemiological test
4 methods and procedures for assessing and deter-
5 mining risk under this Act; and

6 “(2) after providing public notice and an oppor-
7 tunity for comment, revise the policies, procedures,
8 and guidance if necessary to reflect new scientific de-
9 velopments or understandings.

10 “(f) *SOURCES OF INFORMATION*.—In carrying out sec-
11 tions 4, 4A, 5, and 6, the Administrator shall take into con-
12 sideration information relating to a chemical substance, in-
13 cluding hazard and exposure information, under the condi-
14 tions of use that is reasonably available to the Adminis-
15 trator, including information that is—

16 “(1) submitted to the Administrator pursuant to
17 any rule, consent agreement, order, or other require-
18 ment of this Act, or on a voluntary basis, including
19 pursuant to any request made under this Act, by—

20 “(A) manufacturers or processors of a sub-
21 stance;

22 “(B) the public;

23 “(C) other Federal departments or agencies;

24 or

1 “(D) the Governor of a State or a State
2 agency with responsibility for protecting health
3 or the environment;

4 “(2) submitted to a governmental entity in any
5 jurisdiction pursuant to a governmental requirement
6 relating to the protection of health or the environ-
7 ment; or

8 “(3) identified through an active search by the
9 Administrator of information sources that are pub-
10 licly available or otherwise accessible by the Adminis-
11 trator.

12 “(g) TESTING OF CHEMICAL SUBSTANCES AND MIX-
13 TURES.—

14 “(1) IN GENERAL.—The Administrator shall es-
15 tablish policies, procedures, and guidance for the test-
16 ing of chemical substances or mixtures under section
17 4.

18 “(2) GOAL.—A goal of the policies, procedures,
19 and guidance established under paragraph (1) shall
20 be to make the basis of decisions clear to the public.

21 “(3) CONTENTS.—The policies, procedures, and
22 guidance established under paragraph (1) shall—

23 “(A) address how and when the exposure
24 level or exposure potential of a chemical sub-
25 stance would factor into decisions to require new

1 *testing, subject to the condition that the Admin-*
2 *istrator shall not interpret the lack of exposure*
3 *information as a lack of exposure or exposure po-*
4 *tential; and*

5 *“(B) describe the manner in which the Ad-*
6 *ministrator will determine that additional infor-*
7 *mation is necessary to carry out this Act, includ-*
8 *ing information relating to potentially exposed*
9 *or susceptible populations.*

10 *“(4) EPIDEMIOLOGICAL STUDIES.—Before pre-*
11 *scribing epidemiological studies of employees, the Ad-*
12 *ministrator shall consult with the Director of the Na-*
13 *tional Institute for Occupational Safety and Health.*

14 *“(h) SAFETY ASSESSMENTS AND SAFETY DETERMINA-*
15 *TIONS.—*

16 *“(1) SCHEDULE.—*

17 *“(A) IN GENERAL.—The Administrator*
18 *shall inform the public regarding the schedule*
19 *and the resources necessary for the completion of*
20 *each safety assessment and safety determination*
21 *as soon as practicable after designation as a*
22 *high-priority substance pursuant to section 4A.*

23 *“(B) DIFFERING TIMES.—The Adminis-*
24 *trator may allot different times for different*
25 *chemical substances in the schedules under this*

1 *paragraph, subject to the condition that all*
2 *schedules shall comply with the deadlines estab-*
3 *lished under section 6.*

4 “(C) *ANNUAL PLAN.*—

5 “(i) *IN GENERAL.*—*At the beginning of*
6 *each calendar year, the Administrator shall*
7 *publish an annual plan.*

8 “(ii) *INCLUSIONS.*—*The annual plan*
9 *shall—*

10 “(I) *identify the substances subject*
11 *to safety assessments and safety deter-*
12 *minations to be completed that year;*

13 “(II) *describe the status of each*
14 *safety assessment and safety deter-*
15 *mination that has been initiated but*
16 *not yet completed, including milestones*
17 *achieved since the previous annual re-*
18 *port; and*

19 “(III) *if the schedule for comple-*
20 *tion of a safety assessment and safety*
21 *determination prepared pursuant to*
22 *subparagraph (A) has changed, include*
23 *an updated schedule for that safety as-*
24 *essment and safety determination.*

1 “(2) *POLICIES AND PROCEDURES FOR SAFETY*
2 *ASSESSMENTS AND SAFETY DETERMINATIONS.*—

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

7 “(B) *GOAL.*—*A goal of the policies and pro-*
8 *cedures under this paragraph shall be to make*
9 *the basis of decisions of the Administrator clear*
10 *to the public.*

11 “(C) *MINIMUM REQUIREMENTS.*—*The poli-*
12 *cies and procedures under this paragraph shall,*
13 *at a minimum—*

14 “(i) *describe—*

15 “(I) *the manner in which the Ad-*
16 *ministrator will identify informational*
17 *needs and seek that information from*
18 *the public;*

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

23 “(III) *the criteria by which infor-*
24 *mation submitted by interested indi-*
25 *viduals or entities will be evaluated;*

1 “(ii) require that each draft and final
2 safety assessment and safety determination
3 of the Administrator include a description
4 of—

5 “(I)(aa) the scope of the safety as-
6 sessment and safety determination to
7 be conducted under section 6, including
8 the hazards, exposures, and conditions
9 of use of the chemical substance, and
10 potentially exposed and susceptible
11 populations that the Administrator has
12 identified as relevant; and

13 “(bb) the basis for the scope of the
14 safety assessment and safety deter-
15 mination;

16 “(II) the manner in which aggre-
17 gate exposures, or significant subsets of
18 exposures, to a chemical substance
19 under the conditions of use were con-
20 sidered, and the basis for that consider-
21 ation;

22 “(III) the weight of the scientific
23 evidence of risk; and

24 “(IV) the information regarding
25 the impact on health and the environ-

1 *ment of the chemical substance that*
2 *was used to make the assessment or de-*
3 *termination, including, as available,*
4 *mechanistic, animal toxicity, and epi-*
5 *demiology studies;*

6 “(iii) *establish a timely and trans-*
7 *parent process for evaluating whether new*
8 *information submitted or obtained after the*
9 *date of a final safety assessment or safety*
10 *determination warrants reconsideration of*
11 *the safety assessment or safety determina-*
12 *tion; and*

13 “(iv) *when relevant information is pro-*
14 *vided or otherwise made available to the*
15 *Administrator, require the Administrator to*
16 *consider the extent of Federal regulation*
17 *under other Federal laws.*

18 “(D) *GUIDANCE.—*

19 “(i) *IN GENERAL.—Not later than 1*
20 *year after the date of enactment of the*
21 *Frank R. Lautenberg Chemical Safety for*
22 *the 21st Century Act, the Administrator*
23 *shall develop guidance to assist interested*
24 *persons in developing their own draft safety*
25 *assessments and other information for sub-*

1 *mission to the Administrator, which may be*
2 *considered by the Administrator.*

3 “(ii) *REQUIREMENT.*—*The guidance*
4 *shall, at a minimum, address the quality of*
5 *the information submitted and the process*
6 *to be followed in developing a draft safety*
7 *assessment for consideration by the Admin-*
8 *istrator.*

9 “(i) *PUBLICLY AVAILABLE INFORMATION.*—*Subject to*
10 *section 14, the Administrator shall—*

11 “(1) *make publicly available a nontechnical*
12 *summary, and the final version, of each safety assess-*
13 *ment and safety determination;*

14 “(2) *provide public notice and an opportunity*
15 *for comment on each proposed safety assessment and*
16 *safety determination; and*

17 “(3) *make public in a final safety assessment*
18 *and safety determination—*

19 “(A) *the list of studies considered by the Ad-*
20 *ministrator in carrying out the safety assessment*
21 *or safety determination; and*

22 “(B) *the list of policies, procedures, and*
23 *guidance that were followed in carrying out the*
24 *safety assessment or safety determination.*

1 “(j) *CONSULTATION WITH SCIENCE ADVISORY COM-*
2 *MITTEE ON CHEMICALS.*—

3 “(1) *ESTABLISHMENT.*—*Not later than 1 year*
4 *after the date of enactment of this section, the Admin-*
5 *istrator shall establish an advisory committee, to be*
6 *known as the ‘Science Advisory Committee on Chemi-*
7 *cals’ (referred to in this subsection as the ‘Com-*
8 *mittee’).*

9 “(2) *PURPOSE.*—*The purpose of the Committee*
10 *shall be to provide independent advice and expert*
11 *consultation, on the request of the Administrator,*
12 *with respect to the scientific and technical aspects of*
13 *issues relating to the implementation of this title.*

14 “(3) *COMPOSITION.*—*The Committee shall be*
15 *composed of representatives of such science, govern-*
16 *ment, labor, public health, public interest, animal*
17 *protection, industry, and other groups as the Admin-*
18 *istrator determines to be advisable, including, at a*
19 *minimum, representatives that have specific scientific*
20 *expertise in the relationship of chemical exposures to*
21 *women, children, and other potentially exposed or*
22 *susceptible populations.*

23 “(4) *SCHEDULE.*—*The Administrator shall con-*
24 *vene the Committee in accordance with such schedule*

1 *as the Administrator determines to be appropriate,*
 2 *but not less frequently than once every 2 years.*

3 “(5) *RELATIONSHIP TO OTHER LAW.*—*All pro-*
 4 *ceedings and meetings of the Committee shall be sub-*
 5 *ject to the Federal Advisory Committee Act (5 U.S.C.*
 6 *App.).”.*

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

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

10 (1) *by striking subsections (a), (b), (c), (d), (e),*
 11 *and (g);*

12 (2) *in subsection (f)—*

13 (A) *in the first sentence—*

14 (i) *by striking “from cancer, gene*
 15 *mutations, or birth defects”; and*

16 (ii) *by inserting “, without taking into*
 17 *account cost or other nonrisk factors” before*
 18 *the period at the end; and*

19 (B) *by striking the last sentence; and*

20 (3) *by inserting before subsection (f) the fol-*
 21 *lowing:*

22 “(a) *DEVELOPMENT OF NEW INFORMATION ON CHEM-*
 23 *ICAL SUBSTANCES AND MIXTURES.*—

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

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

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

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

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

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

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

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

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

1 “(C) *LIMITATION.*—*The Administrator may*
2 *require the development of new information pur-*
3 *suant to subparagraph (A) only if the Adminis-*
4 *trator determines that additional information is*
5 *necessary to establish the priority of a chemical*
6 *substance.*

7 “(3) *FORM.*—*The Administrator may require the*
8 *development of information described in paragraph*
9 *(1) or (2) by—*

10 “(A) *promulgating a rule;*

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

13 “(C) *issuing an order.*

14 “(4) *CONTENTS.*—

15 “(A) *IN GENERAL.*—*A rule, testing consent*
16 *agreement, or order issued under this subsection*
17 *shall include—*

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

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

23 “(iii) *test protocols and methodologies*
24 *for the development of information for the*
25 *chemical substance or mixture, including*

1 *specific reference to any reliable nonanimal*
2 *test procedures; and*

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

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

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

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

19 “(iii) *the deadlines applicable to the*
20 *Administrator under section 6(a).*

21 “(5) *CONSIDERATION OF FEDERAL AGENCY REC-*
22 *OMMENDATIONS.—The Administrator shall consider*
23 *the recommendations of other Federal agencies regard-*
24 *ing the chemical substances and mixtures to which the*

1 *Administrator shall give priority consideration under*
2 *this section.*

3 “(b) *STATEMENT OF NEED.*—

4 “(1) *IN GENERAL.*—*In promulgating a rule, en-*
5 *tering into a testing consent agreement, or issuing an*
6 *order for the development of additional information*
7 *(including information on exposure or exposure po-*
8 *tential) pursuant to this section, the Administrator*
9 *shall—*

10 “(A) *identify the need intended to be met by*
11 *the rule, agreement, or order;*

12 “(B) *explain why information reasonably*
13 *available to the Administrator at that time is in-*
14 *adequate to meet that need, including a ref-*
15 *erence, as appropriate, to the information identi-*
16 *fied in paragraph (2)(B); and*

17 “(C) *explain the basis for any decision that*
18 *requires the use of vertebrate animals.*

19 “(2) *EXPLANATION IN CASE OF ORDER.*—

20 “(A) *IN GENERAL.*—*If the Administrator*
21 *issues an order under this section, the Adminis-*
22 *trator shall issue a statement providing a jus-*
23 *tification for why issuance of an order is war-*
24 *ranted instead of promulgating a rule or enter-*
25 *ing into a testing consent agreement.*

1 “(B) *CONTENTS.*—A statement described in
2 subparagraph (A) shall contain a description
3 of—

4 “(i) *information that is readily acces-*
5 *sible to the Administrator, including infor-*
6 *mation submitted under any other provi-*
7 *sion of law;*

8 “(ii) *the extent to which the Adminis-*
9 *trator has obtained or attempted to obtain*
10 *the information through voluntary submis-*
11 *sions; and*

12 “(iii) *any information relied on in*
13 *safety assessments for other chemical sub-*
14 *stances relevant to the chemical substances*
15 *that would be the subject of the order.*

16 “(c) *REDUCTION OF TESTING ON VERTEBRATES.*—

17 “(1) *IN GENERAL.*—The Administrator shall
18 *minimize, to the extent practicable, the use of*
19 *vertebrate animals in testing of chemical substances*
20 *or mixtures, by—*

21 “(A) *prior to making a request or adopting*
22 *a requirement for testing using vertebrate ani-*
23 *mals, taking into consideration, as appropriate*
24 *and to the extent practicable, reasonably avail-*
25 *able—*

1 “(i) toxicity information;

2 “(ii) computational toxicology and
3 bioinformatics;

4 “(iii) high-throughput screening meth-
5 ods and the prediction models of those meth-
6 ods; and

7 “(iv) scientifically reliable and rel-
8 evant alternatives to tests on animals that
9 would provide equivalent information;

10 “(B) encouraging and facilitating—

11 “(i) the use of integrated and tiered
12 testing and assessment strategies;

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

16 “(iii) the use of test methods that
17 eliminate or reduce the use of animals while
18 providing information of high scientific
19 quality;

20 “(iv) the grouping of 2 or more chem-
21 ical substances into scientifically appro-
22 priate categories in cases in which testing of
23 a chemical substance would provide reliable
24 and useful information on other chemical
25 substances in the category;

“(v) the formation of industry consortia to jointly conduct testing to avoid unnecessary duplication of tests; and

“(vi) the submission of information from—

“(I) animal-based studies; and

“(II) emerging methods and models; and

“(C) funding research and validation studies to reduce, refine, and replace the use of animal tests in accordance with this subsection.

“(2) IMPLEMENTATION OF ALTERNATIVE TESTING METHODS.—To promote the development and timely incorporation of new testing methods that are not based on vertebrate animals, the Administrator shall—

“(A) not later than 2 years after the date of enactment of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, develop a strategic plan to promote the development and implementation of alternative test methods and testing strategies to generate information under this title that can reduce, refine, or replace the use of vertebrate animals, including toxicity pathway-based risk assessment, in vitro studies,

1 *systems biology, computational toxicology,*
2 *bioinformatics, and high-throughput screening;*

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

7 *“(C) identify in the strategic plan developed*
8 *under subparagraph (A) particular alternative*
9 *test methods or testing strategies that do not re-*
10 *quire new vertebrate animal testing and are sci-*
11 *entifically reliable, relevant, and capable of pro-*
12 *viding information of equivalent scientific reli-*
13 *ability and quality to that which would be ob-*
14 *tained from vertebrate animal testing;*

15 *“(D) provide an opportunity for public no-*
16 *tice and comment on the contents of the plan de-*
17 *veloped under subparagraph (A), including the*
18 *criteria for considering scientific reliability, rel-*
19 *evance, and equivalent information and the test*
20 *methods and strategies identified in subpara-*
21 *graph (C);*

22 *“(E) beginning on the date that is 5 years*
23 *after the date of enactment of the Frank R. Lau-*
24 *tenberg Chemical Safety for the 21st Century Act*
25 *and every 5 years thereafter, submit to Congress*

1 *a report that describes the progress made in im-*
 2 *plementing this subsection and goals for future*
 3 *alternative test methods implementation;*

4 *“(F) fund and carry out research, develop-*
 5 *ment, performance assessment, and translational*
 6 *studies to accelerate the development of test meth-*
 7 *ods and testing strategies that reduce, refine, or*
 8 *replace the use of vertebrate animals in any test-*
 9 *ing under this title; and*

10 *“(G) identify synergies with the related in-*
 11 *formation requirements of other jurisdictions to*
 12 *minimize the potential for additional or duplica-*
 13 *tive testing.*

14 *“(3) CRITERIA FOR ADAPTING OR WAIVING ANI-*
 15 *MAL TESTING REQUIREMENTS.—On request from a*
 16 *manufacturer or processor that is required to conduct*
 17 *testing of a chemical substance or mixture on*
 18 *vertebrate animals under this section, the Adminis-*
 19 *trator may adapt or waive the requirement, if the Ad-*
 20 *ministrator determines that—*

21 *“(A) there is sufficient evidence from several*
 22 *independent sources of information to support a*
 23 *conclusion that a chemical substance or mixture*
 24 *has, or does not have, a particular property if*

1 *the information from each individual source*
2 *alone is insufficient to support the conclusion;*

3 *“(B) as a result of 1 or more physical or*
4 *chemical properties of the chemical substance or*
5 *mixture or other toxicokinetic considerations—*

6 *“(i) the substance cannot be absorbed;*

7 *or*

8 *“(ii) testing for a specific endpoint is*
9 *technically not practicable to conduct; or*

10 *“(C) a chemical substance or mixture can-*
11 *not be tested in vertebrate animals at concentra-*
12 *tions that do not result in significant pain or*
13 *distress, because of physical or chemical prop-*
14 *erties of the chemical substance or mixture, such*
15 *as a potential to cause severe corrosion or severe*
16 *irritation to the tissues of the animal.*

17 *“(4) VOLUNTARY TESTING.—*

18 *“(A) IN GENERAL.—Any person developing*
19 *information for submission under this title on a*
20 *voluntary basis and not pursuant to any request*
21 *or requirement by the Administrator shall first*
22 *attempt to develop the information by means of*
23 *an alternative or nonanimal test method or test-*
24 *ing strategy that the Administrator has deter-*
25 *mined under paragraph (2)(C) to be scientif-*

1 *ically reliable, relevant, and capable of providing*
 2 *equivalent information, before conducting new*
 3 *animal testing.*

4 “(B) *EFFECT OF PARAGRAPH.—Nothing in*
 5 *this paragraph—*

6 “(i) *requires the Administrator to re-*
 7 *view the basis on which the person is con-*
 8 *ducting testing described in subparagraph*
 9 *(A);*

10 “(ii) *prohibits the use of other test*
 11 *methods or testing strategies by any person*
 12 *for purposes other than developing informa-*
 13 *tion for submission under this title on a*
 14 *voluntary basis; or*

15 “(iii) *prohibits the use of other test*
 16 *methods or testing strategies by any person,*
 17 *subsequent to the attempt to develop infor-*
 18 *mation using the test methods and testing*
 19 *strategies identified by the Administrator*
 20 *under paragraph (2)(C).*

21 “(d) *TESTING REQUIREMENTS.—*

22 “(1) *IN GENERAL.—The Administrator may re-*
 23 *quire the development of information by—*

24 “(A) *manufacturers and processors of the*
 25 *chemical substance or mixture; and*

1 “(B) persons that begin to manufacture or
 2 process the chemical substance or mixture after
 3 the effective date of the rule, testing consent
 4 agreement, or order.

5 “(2) *DESIGNATION.*—The Administrator may
 6 permit 2 or more persons identified in subparagraph
 7 (A) or (B) of paragraph (1) to designate 1 of the per-
 8 sons or a qualified third party—

9 “(A) to develop the information; and

10 “(B) to submit the information on behalf of
 11 the persons making the designation.

12 “(3) *EXEMPTIONS.*—

13 “(A) *IN GENERAL.*—A person otherwise sub-
 14 ject to a rule, testing consent agreement, or order
 15 under this section may submit to the Adminis-
 16 trator an application for an exemption on the
 17 basis that submission of information by the ap-
 18 plicant on the chemical substance or mixture
 19 would be duplicative of—

20 “(i) information on the chemical sub-
 21 stance or mixture that—

22 “(I) has been submitted to the Ad-
 23 ministrator pursuant to a rule, consent
 24 agreement, or order under this section;
 25 or

1 “(II) is being developed by a per-
 2 son designated under paragraph (2); or
 3 “(ii) information on an equivalent
 4 chemical substance or mixture that—

5 “(I) has been submitted to the Ad-
 6 ministrator pursuant to a rule, consent
 7 agreement, or order under this section;
 8 or

9 “(II) is being developed by a per-
 10 son designated under paragraph (2).

11 “(B) FAIR AND EQUITABLE REIMBURSE-
 12 MENT TO DESIGNEE.—

13 “(i) IN GENERAL.—If the Adminis-
 14 trator accepts an application submitted
 15 under subparagraph (A), before the end of
 16 the reimbursement period described in
 17 clause (iii), the Administrator shall direct
 18 the applicant to provide to the person des-
 19 ignated under paragraph (2) fair and equi-
 20 table reimbursement, as agreed to between
 21 the applicant and the designee.

22 “(ii) ARBITRATION.—If the applicant
 23 and a person designated under paragraph
 24 (2) cannot reach agreement on the amount

1 *of fair and equitable reimbursement, the*
2 *amount shall be determined by arbitration.*

3 “(iii) *REIMBURSEMENT PERIOD.*—*For*
4 *the purposes of this subparagraph, the reim-*
5 *bursement period for any information for a*
6 *chemical substance or mixture is a period—*

7 “(I) *beginning on the date the in-*
8 *formation is submitted in accordance*
9 *with a rule, testing consent agreement,*
10 *or order under this section; and*

11 “(II) *ending on the later of—*

12 “(aa) *5 years after the date*
13 *referred to in subclause (I); or*

14 “(bb) *the last day of the pe-*
15 *riod that begins on the date re-*
16 *ferred to in subclause (I) and that*
17 *is equal to the period that the Ad-*
18 *ministrator determines was nec-*
19 *essary to develop the information.*

20 “(C) *TERMINATION.*—*If, after granting an*
21 *exemption under this paragraph, the Adminis-*
22 *trator determines that no person designated*
23 *under paragraph (2) has complied with the rule,*
24 *testing consent agreement, or order, the Adminis-*
25 *trator shall—*

1 “(i) by order, terminate the exemption;

2 and

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

7 “(4) *TIERED TESTING.*—

8 “(A) *IN GENERAL.*—Except as provided in
9 subparagraph (D), the Administrator shall em-
10 ploy a tiered screening and testing process,
11 under which the results of screening-level tests or
12 assessments of available information inform the
13 decision as to whether 1 or more additional tests
14 are necessary.

15 “(B) *SCREENING-LEVEL TESTS.*—

16 “(i) *IN GENERAL.*—The screening-level
17 tests required for a chemical substance or
18 mixture may include tests for hazard
19 (which may include *in silico*, *in vitro*, and
20 *in vivo* tests), environmental and biological
21 fate and transport, and measurements or
22 modeling of exposure or exposure potential,
23 as appropriate.

24 “(ii) *USE.*—Screening-level tests shall
25 be used—

1 “(I) to screen chemical substances
2 or mixtures for potential adverse ef-
3 fects; and

4 “(II) to inform a decision of the
5 Administrator regarding whether more
6 complex or targeted additional testing
7 is necessary.

8 “(C) *ADDITIONAL TESTING.*—If the Admin-
9 istrator determines under subparagraph (B) that
10 additional testing is necessary to provide more
11 definitive information for safety assessments or
12 safety determinations, the Administrator may
13 require more advanced tests for potential health
14 or environmental effects or exposure potential.

15 “(D) *ADVANCED TESTING WITHOUT*
16 *SCREENING.*—The Administrator may require
17 more advanced testing without conducting
18 screening-level testing when other information
19 available to the Administrator justifies the ad-
20 vanced testing, pursuant to guidance developed
21 by the Administrator under this section.

22 “(e) *TRANSPARENCY.*—Subject to section 14, the Ad-
23 ministrator shall make available to the public all testing
24 consent agreements and orders and all information sub-
25 mitted under this section.”.

1 (b) *CONFORMING AMENDMENT.*—Section 104(i)(5)(A)
 2 of the *Comprehensive Environmental Response, Compensa-*
 3 *tion, and Liability Act of 1980* (42 U.S.C. 9604(i)(5)(A))
 4 is amended in the third sentence by inserting “(as in effect
 5 on the day before the date of enactment of the *Frank R.*
 6 *Lautenberg Chemical Safety for the 21st Century Act*)”
 7 after “*Toxic Substances Control Act*”.

8 **SEC. 6. PRIORITIZATION SCREENING.**

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

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

12 “(a) *PRIORITIZATION SCREENING PROCESS AND LIST*
 13 *OF SUBSTANCES.*—

14 “(1) *IN GENERAL.*—Not later than 1 year after
 15 the date of enactment of this section, the Adminis-
 16 trator shall establish, by rule, a risk-based screening
 17 process and criteria for identifying existing chemical
 18 substances that are—

19 “(A) a high priority for a safety assessment
 20 and safety determination under section 6 (re-
 21 ferred to in this Act as ‘high-priority sub-
 22 stances’); and

23 “(B) a low priority for a safety assessment
 24 and safety determination (referred to in this Act
 25 as ‘low-priority substances’).

1 “(2) *INITIAL AND SUBSEQUENT LISTS OF HIGH-*
2 *AND LOW-PRIORITY SUBSTANCES.—*

3 “(A) *IN GENERAL.—Before the date of pro-*
4 *mulgation of the rule under paragraph (1) and*
5 *not later than 180 days after the date of enact-*
6 *ment of this section, the Administrator shall*
7 *publish an initial list of high-priority substances*
8 *and low-priority substances.*

9 “(B) *REQUIREMENTS.—*

10 “(i) *IN GENERAL.—The initial list of*
11 *chemical substances shall contain at least*
12 *10 high-priority substances, at least 5 of*
13 *which are drawn from the list of chemical*
14 *substances identified by the Administrator*
15 *in the October 2014 TSCA Work Plan and*
16 *subsequent updates, and at least 10 low-pri-*
17 *ority substances.*

18 “(ii) *SUBSEQUENTLY IDENTIFIED SUB-*
19 *STANCES.—Insofar as possible, at least 50*
20 *percent of all substances subsequently iden-*
21 *tified by the Administrator as high-priority*
22 *substances shall be drawn from the list of*
23 *chemical substances identified by the Ad-*
24 *ministrator in the October 2014 TSCA*
25 *Work Plan and subsequent updates, until*

1 *all Work Plan chemicals have been des-*
2 *ignated under this subsection.*

3 “(iii) *PREFERENCES.—*

4 “(I) *IN GENERAL.—In developing*
5 *the initial list and in identifying addi-*
6 *tional high-priority substances, the Ad-*
7 *ministrator shall give preference to—*

8 “(aa) *chemical substances*
9 *that, with respect to persistence*
10 *and bioaccumulation, score high*
11 *for 1 and either high or moderate*
12 *for the other, pursuant to the*
13 *TSCA Work Plan Chemicals*
14 *Methods Document published by*
15 *the Administrator in February*
16 *2012; and*

17 “(bb) *chemical substances*
18 *listed in the October 2014 TSCA*
19 *Work Plan and subsequent up-*
20 *dates that are known human car-*
21 *cinogens and have high acute and*
22 *chronic toxicity.*

23 “(II) *METALS AND METAL COM-*
24 *POUNDS.—In prioritizing and assess-*
25 *ing metals and metal compounds, the*

1 *Administrator shall use the Framework*
2 *for Metals Risk Assessment of the Of-*
3 *fice of the Science Advisor, Risk Assess-*
4 *ment Forum, and dated March 2007*
5 *(or a successor document), and may*
6 *use other applicable information con-*
7 *sistent with the best available science.*

8 “(C) *ADDITIONAL CHEMICAL REVIEWS.—*

9 *The Administrator shall, as soon as practicable*
10 *and not later than—*

11 “(i) *3 years after the date of enactment*
12 *of the Frank R. Lautenberg Chemical Safe-*
13 *ty for the 21st Century Act, add additional*
14 *high-priority substances sufficient to ensure*
15 *that at least a total of 20 high-priority sub-*
16 *stances have undergone or are undergoing*
17 *the process established in section 6(a), and*
18 *additional low-priority substances sufficient*
19 *to ensure that at least a total of 20 low-pri-*
20 *ority substances have been designated; and*

21 “(ii) *5 years after the date of enact-*
22 *ment of the Frank R. Lautenberg Chemical*
23 *Safety for the 21st Century Act, add addi-*
24 *tional high-priority substances sufficient to*
25 *ensure that at least a total of 25 high-pri-*

1 *ority substances have undergone or are un-*
2 *dergoing the process established in section*
3 *6(a), and additional low-priority substances*
4 *sufficient to ensure that at least a total of*
5 *25 low-priority substances have been des-*
6 *ignated.*

7 “(3) *IMPLEMENTATION.—*

8 “(A) *CONSIDERATION OF ACTIVE AND INAC-*
9 *TIVE SUBSTANCES.—*

10 “(i) *ACTIVE SUBSTANCES.—In imple-*
11 *menting the prioritization screening process*
12 *established under paragraph (1), the Ad-*
13 *ministrator shall take into consideration ac-*
14 *tive substances, as determined under section*
15 *8, which may include chemical substances*
16 *on the interim list of active substances es-*
17 *tablished under that section.*

18 “(ii) *INACTIVE SUBSTANCES.—In im-*
19 *plementing the prioritization screening*
20 *process established under paragraph (1), the*
21 *Administrator may take into consideration*
22 *inactive substances, as determined under*
23 *section 8, that the Administrator deter-*
24 *mines—*

1 “(I)(aa) have not been subject to a
2 regulatory or other enforceable action
3 by the Administrator to ban or phase
4 out the substances; and

5 “(bb) have the potential for high
6 hazard and widespread exposure; or

7 “(II)(aa) have been subject to a
8 regulatory or other enforceable action
9 by the Administrator to ban or phase
10 out the substances; and

11 “(bb) with respect to which there
12 exists the potential for residual high
13 hazards or widespread exposures not
14 otherwise addressed by the regulatory
15 or other action.

16 “(iii) REPOPULATION.—

17 “(I) IN GENERAL.—On the com-
18 pletion of a safety determination under
19 section 6 for a chemical substance, the
20 Administrator shall remove the chem-
21 ical substance from the list of high-pri-
22 ority substances established under this
23 subsection.

24 “(II) ADDITIONS.—The Adminis-
25 trator shall add at least 1 chemical

1 *substance to the list of high-priority*
2 *substances for each chemical substance*
3 *removed from the list of high-priority*
4 *substances established under this sub-*
5 *section, until a safety assessment and*
6 *safety determination is completed for*
7 *all chemical substances not designated*
8 *as high-priority.*

9 “(B) *TIMELY COMPLETION OF*
10 *PRIORITIZATION SCREENING PROCESS.—*

11 “(i) *IN GENERAL.—The Administrator*
12 *shall—*

13 “(I) *except as provided under*
14 *paragraph (2), not later than 180 days*
15 *after the effective date of the final rule*
16 *under paragraph (1), begin the*
17 *prioritization screening process; and*

18 “(II) *make every effort to complete*
19 *the designation of all active substances*
20 *as high-priority substances or low-pri-*
21 *ority substances in a timely manner.*

22 “(ii) *DECISIONS ON SUBSTANCES SUB-*
23 *JECT TO TESTING FOR PRIORITIZATION*
24 *PURPOSES.—Not later than 90 days after*
25 *the date of receipt of information regarding*

1 *a chemical substance complying with a rule,*
2 *testing consent agreement, or order issued*
3 *under section 4(a)(2), the Administrator*
4 *shall designate the chemical substance as a*
5 *high-priority substance or low-priority sub-*
6 *stance.*

7 “(iii) *CONSIDERATION.*—

8 “(I) *IN GENERAL.*—*The Adminis-*
9 *trator shall screen substances and des-*
10 *ignate high-priority substances con-*
11 *sistent with the ability of the Adminis-*
12 *trator to schedule and complete safety*
13 *assessments and safety determinations*
14 *under section 6 in accordance with the*
15 *deadlines under subsection (a) of that*
16 *section.*

17 “(II) *ANNUAL GOAL.*—*The Ad-*
18 *ministrator shall publish an annual*
19 *goal for the number of chemical sub-*
20 *stances to be subject to the*
21 *prioritization screening process.*

22 “(C) *SCREENING OF CATEGORIES OF SUB-*
23 *STANCES.*—*The Administrator may screen cat-*
24 *egories of chemical substances to ensure an effi-*
25 *cient prioritization screening process to allow for*

1 *timely and adequate designations of high-pri-*
2 *ority substances and low-priority substances and*
3 *safety assessments and safety determinations for*
4 *high-priority substances.*

5 “(D) *PUBLICATION OF LIST OF CHEMICAL*
6 *SUBSTANCES.—The Administrator shall keep*
7 *current and publish a list of chemical substances*
8 *that includes and identifies substances—*

9 *“(i) that are being considered in the*
10 *prioritization screening process and the sta-*
11 *tus of the substances in the prioritization*
12 *process;*

13 *“(ii) for which prioritization decisions*
14 *have been postponed pursuant to subsection*
15 *(b)(5), including the basis for the postpone-*
16 *ment; and*

17 *“(iii) that are designated as high-pri-*
18 *ority substances or low-priority substances,*
19 *including the bases for such designations.*

20 “(4) *CRITERIA.—The criteria described in para-*
21 *graph (1) shall account for—*

22 *“(A) the recommendation of the Governor of*
23 *a State or a State agency with responsibility for*
24 *protecting health or the environment from chem-*

1 *ical substances appropriate for prioritization*
2 *screening;*

3 *“(B) the hazard and exposure potential of*
4 *the chemical substance (or category of sub-*
5 *stances), including persistence, bioaccumulation,*
6 *and specific scientific classifications and des-*
7 *ignations by authoritative governmental entities;*

8 *“(C) the conditions of use or significant*
9 *changes in the conditions of use of the chemical*
10 *substance;*

11 *“(D) evidence and indicators of exposure*
12 *potential to humans or the environment from the*
13 *chemical substance, including potentially exposed*
14 *or susceptible populations and storage near sig-*
15 *nificant sources of drinking water;*

16 *“(E) the volume of a chemical substance*
17 *manufactured or processed;*

18 *“(F) whether the volume of a chemical sub-*
19 *stance as reported pursuant to a rule promul-*
20 *gated pursuant to section 8(a) has significantly*
21 *increased or decreased;*

22 *“(G) the availability of information regard-*
23 *ing potential hazards and exposures required for*
24 *conducting a safety assessment or safety deter-*
25 *mination, with limited availability of relevant*

1 *information to be a sufficient basis for design-*
2 *ating a chemical substance as a high-priority*
3 *substance, subject to the condition that limited*
4 *availability shall not require designation as a*
5 *high-priority substance; and*

6 *“(H) the extent of Federal or State regula-*
7 *tion of the chemical substance or the extent of the*
8 *impact of State regulation of the chemical sub-*
9 *stance on the United States, with existing Fed-*
10 *eral or State regulation of any uses evaluated in*
11 *the prioritization screening process as a factor in*
12 *designating a chemical substance to be a high-*
13 *priority or a low-priority substance.*

14 *“(b) PRIORITIZATION SCREENING PROCESS AND DECI-*
15 *SIONS.—*

16 *“(1) IN GENERAL.—In implementing the*
17 *prioritization screening process developed under sub-*
18 *section (a), the Administrator shall—*

19 *“(A) identify the chemical substances being*
20 *considered for prioritization;*

21 *“(B) request interested persons to supply*
22 *information regarding the chemical substances*
23 *being considered;*

24 *“(C) apply the criteria identified in sub-*
25 *section (a)(4); and*

1 “(D) subject to paragraph (5) and using the
2 information available to the Administrator at
3 the time of the decision, identify a chemical sub-
4 stance as a high-priority substance or a low-pri-
5 ority substance.

6 “(2) *REASONABLY AVAILABLE INFORMATION.*—
7 The prioritization screening decision regarding a
8 chemical substance shall consider any hazard and ex-
9 posure information relating to the chemical substance
10 that is reasonably available to the Administrator.

11 “(3) *IDENTIFICATION OF HIGH-PRIORITY SUB-*
12 *STANCES.*—The Administrator—

13 “(A) shall identify as a high-priority sub-
14 stance a chemical substance that, relative to
15 other active chemical substances, the Adminis-
16 trator determines has the potential for signifi-
17 cant hazard and significant exposure;

18 “(B) may identify as a high-priority sub-
19 stance a chemical substance that, relative to
20 other active chemical substances, the Adminis-
21 trator determines has the potential for signifi-
22 cant hazard or significant exposure; and

23 “(C) may identify as a high-priority sub-
24 stance an inactive substance, as determined
25 under subsection (a)(3)(A)(ii) and section 8(b),

1 *that the Administrator determines warrants a*
2 *safety assessment and safety determination*
3 *under section 6.*

4 “(4) *IDENTIFICATION OF LOW-PRIORITY SUB-*
5 *STANCES.—The Administrator shall identify as a low-*
6 *priority substance a chemical substance that the Ad-*
7 *ministrator concludes has information sufficient to es-*
8 *tablish that the chemical substance is likely to meet*
9 *the safety standard.*

10 “(5) *POSTPONING A DECISION.—If the Adminis-*
11 *trator determines that additional information is need-*
12 *ed to establish the priority of a chemical substance*
13 *under this section, the Administrator may postpone a*
14 *prioritization screening decision for a reasonable pe-*
15 *riod—*

16 “(A) *to allow for the submission of addi-*
17 *tional information by an interested person and*
18 *for the Administrator to evaluate the additional*
19 *information; or*

20 “(B) *to require the development of informa-*
21 *tion pursuant to a rule, testing consent agree-*
22 *ment, or order issued under section 4(a)(2).*

23 “(6) *DEADLINES FOR SUBMISSION OF INFORMA-*
24 *TION.—If the Administrator requests the development*
25 *or submission of information under this section, the*

1 *Administrator shall establish a deadline for submis-*
2 *sion of the information.*

3 “(7) *NOTICE AND COMMENT.*—*The Administrator*
4 *shall—*

5 “(A) *publish, including in the Federal Reg-*
6 *ister, the proposed decisions made under para-*
7 *graphs (3), (4), and (5) and the basis for the de-*
8 *cisions;*

9 “(B) *identify the information and analysis*
10 *on which the decisions are based; and*

11 “(C) *provide 90 days for public comment.*

12 “(8) *REVISIONS OF PRIOR DESIGNATIONS.*—

13 “(A) *IN GENERAL.*—*At any time, the Ad-*
14 *ministrator may revise the designation of a*
15 *chemical substance as a high-priority substance*
16 *or a low-priority substance based on information*
17 *available to the Administrator after the date of*
18 *the determination under paragraph (3) or (4).*

19 “(B) *LIMITED AVAILABILITY.*—*If limited*
20 *availability of relevant information was a basis*
21 *in the designation of a chemical substance as a*
22 *high-priority substance, the Administrator shall*
23 *reevaluate the prioritization screening of the*
24 *chemical substance on receiving the relevant in-*
25 *formation.*

1 “(9) *OTHER INFORMATION RELEVANT TO*
2 *PRIORITIZATION.*—

3 “(A) *IN GENERAL.*—*If, after the date of en-*
4 *actment of the Frank R. Lautenberg Chemical*
5 *Safety for the 21st Century Act, a State proposes*
6 *an administrative action or enacts a statute or*
7 *takes an administrative action to prohibit or*
8 *otherwise restrict the manufacturing, processing,*
9 *distribution in commerce, or use of a chemical*
10 *substance that the Administrator has not des-*
11 *ignated as a high-priority substance, the Gov-*
12 *ernor or State agency with responsibility for im-*
13 *plementing the statute or administrative action*
14 *shall notify the Administrator.*

15 “(B) *REQUESTS FOR INFORMATION.*—*Fol-*
16 *lowing receipt of a notification provided under*
17 *subparagraph (A), the Administrator may re-*
18 *quest any available information from the Gov-*
19 *ernor or the State agency with respect to—*

20 “(i) *scientific evidence related to the*
21 *hazards, exposures and risks of the chemical*
22 *substance under the conditions of use which*
23 *the statute or administrative action is in-*
24 *tended to address;*

1 “(ii) any State or local conditions
2 which warranted the statute or administra-
3 tive action;

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

6 “(iv) any other available information
7 relevant to the prohibition or other restric-
8 tion, including information on any alter-
9 natives considered and their hazards, expo-
10 sures, and risks.

11 “(C) *PRIORITIZATION SCREENING.*—*The*
12 *Administrator shall conduct a prioritization*
13 *screening under this subsection for all substances*
14 *that—*

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

17 “(ii) the Administrator determines—

18 “(I) are likely to have significant
19 health or environmental impacts;

20 “(II) are likely to have significant
21 impact on interstate commerce; or

22 “(III) have been subject to a pro-
23 hibition or other restriction under a
24 statute or administrative action in 2
25 or more States.

1 “(D) *POST-PRIORITIZATION NOTICE.*—If,
2 *after the date of enactment of the Frank R. Lau-*
3 *tenberg Chemical Safety for the 21st Century*
4 *Act, a State proposes or takes an administrative*
5 *action or enacts a statute to prohibit or other-*
6 *wise restrict the manufacturing, processing, dis-*
7 *tribution in commerce, or use of a high-priority*
8 *substance, after the date on which the deadline*
9 *established pursuant to subsection (a) of section*
10 *6 for completion of the safety determination*
11 *under that subsection expires but before the date*
12 *on which the Administrator publishes the safety*
13 *determination under that subsection, the Gov-*
14 *ernor or State agency with responsibility for im-*
15 *plementing the statute or administrative action*
16 *shall—*

17 “(i) *notify the Administrator; and*

18 “(ii) *provide the scientific and legal*
19 *basis for the action.*

20 “(E) *AVAILABILITY TO PUBLIC.*—*Subject to*
21 *section 14 and any applicable State law regard-*
22 *ing the protection of confidential information*
23 *provided to the State or to the Administrator,*
24 *the Administrator shall make information re-*

ceived from a Governor or State agency under subparagraph (A) publicly available.

“(F) *EFFECT OF PARAGRAPH.*—Nothing in this paragraph shall preempt a State statute or administrative action, require approval of a State statute or administrative action, or apply section 15 to a State.

“(10) *REVIEW.*—Not less frequently than once every 5 years after the date on which the process under this subsection is established, the Administrator shall—

“(A) review the process on the basis of experience and taking into consideration resources available to efficiently and effectively screen and prioritize chemical substances; and

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

“(11) *EFFECT.*—Subject to section 18, a designation by the Administrator under this section with respect to a chemical substance shall not affect—

“(A) the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance; or

“(B) the regulation of those activities.

1 “(c) *ADDITIONAL PRIORITIES FOR SAFETY ASSESS-*
2 *MENTS AND DETERMINATIONS.*—

3 “(1) *REQUIREMENTS.*—

4 “(A) *IN GENERAL.*—*The rule promulgated*
5 *under subsection (a) shall—*

6 “(i) *include a process by which a man-*
7 *ufacturer or processor of an active chemical*
8 *substance that has not been designated a*
9 *high-priority substance or is not in the*
10 *process of a prioritization screening by the*
11 *Administrator, may request that the Ad-*
12 *ministrator designate the substance as an*
13 *additional priority for a safety assessment*
14 *and safety determination, subject to the*
15 *payment of fees pursuant to section*
16 *26(b)(3)(D);*

17 “(ii) *specify the information to be pro-*
18 *vided in such requests; and*

19 “(iii) *specify the criteria (which may*
20 *include criteria identified in subsection*
21 *(a)(4)) that the Administrator shall use to*
22 *determine whether or not to grant such a*
23 *request, which shall include whether the sub-*
24 *stance is subject to restrictions imposed by*
25 *statutes enacted or administrative actions*

1 *taken by 1 or more States on the manufac-*
2 *ture, processing, distribution in commerce,*
3 *or use of the substance.*

4 “(B) *PREFERENCE.*—Subject to paragraph
5 (2), in deciding whether to grant requests under
6 this subsection the Administrator shall give a
7 preference to requests concerning substances for
8 which the Administrator determines that restric-
9 tions imposed by 1 or more States have the po-
10 tential to have a significant impact on interstate
11 commerce or health or the environment.

12 “(C) *EXCEPTIONS.*—Chemical substances
13 for which requests have been granted under this
14 subsection shall not be subject to subsection
15 (a)(3)(A)(iii) or section 18(b).

16 “(2) *LIMITATIONS.*—In considering whether to
17 grant a request submitted under paragraph (1), the
18 Administrator shall ensure that—

19 “(A) *the number of substances designated to*
20 *undergo safety assessments and safety determina-*
21 *tions under the process and criteria pursuant to*
22 *paragraph (1) is not less than 25 percent, or*
23 *more than 30 percent, of the cumulative number*
24 *of substances designated to undergo safety assess-*
25 *ments and safety determinations under sub-*

1 sections (a)(2) and (b)(3) (except that if less
2 than 25 percent are received by the Adminis-
3 trator, the Administrator shall grant each re-
4 quest that meets the requirements of paragraph
5 (1));

6 “(B) the resources allocated to conducting
7 safety assessments and safety determinations for
8 additional priorities designated under this sub-
9 section are proportionate to the number of such
10 substances relative to the total number of sub-
11 stances currently designated to undergo safety
12 assessments and safety determinations under this
13 section; and

14 “(C) the number of additional priority re-
15 quests stipulated under subparagraph (A) is in
16 addition to the total number of high-priority
17 substances identified under subsections (a)(2)
18 and (b)(3).

19 “(3) *ADDITIONAL REVIEW OF WORK PLAN CHEMI-*
20 *CALS FOR SAFETY ASSESSMENT AND SAFETY DETER-*
21 *MINATION.—In the case of a request under paragraph*
22 *(1) with respect to a chemical substance identified by*
23 *the Administrator in the October 2014 TSCA Work*
24 *Plan—*

“(A) the 30-percent cap specified in paragraph (2)(A) shall not apply and the addition of Work Plan chemicals shall be at the discretion of the Administrator; and

“(B) notwithstanding paragraph (1)(C), requests for additional Work Plan chemicals under this subsection shall be considered high-priority chemicals subject to section 18(b) but not subsection (a)(3)(A)(iii).

“(4) REQUIREMENTS.—

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

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

“(C) ASSESSMENT AND DETERMINATION.—If the Administrator grants a request under this subsection, the safety assessment and safety determination—

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

1 “(ii) shall not be expedited or otherwise
 2 subject to special treatment relative to high-
 3 priority substances designated pursuant to
 4 subsection (b)(3) that are undergoing safety
 5 assessments and safety determinations.”.

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

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

9 (1) by striking the section designation and head-
 10 ing and inserting the following:

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

12 (2) by striking subsection (b);

13 (3) by redesignating subsection (a) as subsection
 14 (b);

15 (4) by redesignating subsection (i) as subsection
 16 (a) and moving the subsection so as to appear at the
 17 beginning of the section;

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

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

21 (B) in paragraph (1)—

22 (i) in the matter preceding subpara-
 23 graph (A), by striking “subsection (h)” and
 24 inserting “paragraph (3) and subsection
 25 (h)”; and

(ii) in the matter following subparagraph (B)—

(I) by striking “subsection (d)” and inserting “subsection (c)”; and

(II) by striking “and such person complies with any applicable requirement of subsection (b)”; and

(C) by adding at the end the following:

“(3) *ARTICLE CONSIDERATION.*—*The Administrator may require notification under this section for the import or processing of a chemical substance as part of an article or category of articles under paragraph (1)(B) if the Administrator makes an affirmative finding in a rule under paragraph (2) that the reasonable potential for exposure to the chemical substance through the article or category of articles subject to the rule warrants notification.*”;

(6) by redesignating subsections (c) and (d) as subsections (d) and (c), respectively, and moving subsection (c) (as so redesigned) so as appear after subsection (b) (as redesignated by paragraph (3));

(7) in subsection (c) (as so redesigned)—

(A) by striking paragraph (1) and inserting the following:

1 “(1) *IN GENERAL.*—*The notice required by sub-*
 2 *section (b) shall include, with respect to a chemical*
 3 *substance—*

4 “(A) *the information required by sections*
 5 *720.45 and 720.50 of title 40, Code of Federal*
 6 *Regulations (or successor regulations); and*

7 “(B) *all known or reasonably ascertainable*
 8 *information regarding conditions of use and rea-*
 9 *sonably anticipated exposures.”;*

10 (B) *in paragraph (2)—*

11 (i) *in the matter preceding subpara-*
 12 *graph (A)—*

13 (I) *by striking “subsection (a)”*
 14 *and inserting “subsection (b)”;* and

15 (II) *by striking “or of data under*
 16 *subsection (b)”;*

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

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

21 (iv) *by striking subparagraph (C); and*

22 (C) *in paragraph (3), by striking “sub-*
 23 *section (a) and for which the notification period*
 24 *prescribed by subsection (a), (b), or (c)” and in-*
 25 *serting “subsection (b) and for which the notifi-*

1 *cation period prescribed by subsection (b) or*
2 *(d)”;*
3 *(8) by striking subsection (d) (as redesignated by*
4 *paragraph (6)) and inserting the following:*

5 *“(d) REVIEW OF NOTICE.—*

6 *“(1) INITIAL REVIEW.—*

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

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

13 *“(ii) as needed, develop a profile of the*
14 *relevant chemical substance and the poten-*
15 *tial for exposure to humans and the envi-*
16 *ronment; and*

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

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

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

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

6 “(B) *any other relevant additional informa-*
7 *tion available to the Administrator.*

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

13 “(A) *the relevant chemical substance or sig-*
14 *nificant new use is not likely to meet the safety*
15 *standard, in which case the Administrator shall*
16 *take appropriate action under paragraph (4);*

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

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

1 *trator shall take appropriate action under para-*
2 *graphs (4) and (5).*

3 *“(4) RESTRICTIONS.—*

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

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

11 *“(I) the Administrator, before the*
12 *end of the applicable period for review*
13 *under paragraph (1) and by consent*
14 *agreement or order, as appropriate,*
15 *shall prohibit or otherwise restrict the*
16 *manufacture, processing, use, distribu-*
17 *tion in commerce, or disposal (as ap-*
18 *plicable) of the chemical substance, or*
19 *of the chemical substance for a signifi-*
20 *cant new use, without compliance with*
21 *the restrictions specified in the consent*
22 *agreement or order that the Adminis-*
23 *trator determines are sufficient to en-*
24 *sure that the chemical substance or sig-*

1 *nificant new use is likely to meet the*
2 *safety standard; and*

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

10 “(ii) *LIKELY TO MEET STANDARD.—If*
11 *the Administrator makes a determination*
12 *under subparagraph (B) of paragraph (3)*
13 *with respect to a chemical substance or sig-*
14 *nificant new use for which a notice was*
15 *submitted under subsection (b), then not-*
16 *withstanding any remaining portion of the*
17 *applicable period for review under para-*
18 *graph (1), the submitter of the notice may*
19 *commence manufacture for commercial pur-*
20 *poses of the chemical substance or manufac-*
21 *ture or processing of the chemical substance*
22 *for a significant new use.*

23 “(B) *REQUIREMENTS.—Not later than 90*
24 *days after issuing a consent agreement or order*

1 under subparagraph (A), the Administrator
2 shall—

3 “(i) consider whether to promulgate a
4 rule pursuant to subsection (b)(2) that iden-
5 tifies as a significant new use any manu-
6 facturing, processing, use, distribution in
7 commerce, or disposal of the chemical sub-
8 stance that does not conform to the restric-
9 tions imposed by the consent agreement or
10 order; and

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

13 “(II) publish a statement describing
14 the reasons of the Administrator for not ini-
15 tiating a rulemaking.

16 “(C) INCLUSIONS.—A prohibition or other
17 restriction under subparagraph (A) may include,
18 as appropriate—

19 “(i) subject to section 18(g), a require-
20 ment that a chemical substance shall be
21 marked with, or accompanied by, clear and
22 adequate minimum warnings and instruc-
23 tions with respect to use, distribution in
24 commerce, or disposal, or any combination
25 of those activities, with the form and con-

1 *tent of the minimum warnings and instruc-*
2 *tions to be prescribed by the Administrator*

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

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

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

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

21 “(I) in general; or

22 “(II) for a particular use;

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

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

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

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

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

13 “(I) in general; or

14 “(II) for a particular use.

15 “(D) *PERSISTENT AND BIOACCUMULATIVE*
16 *SUBSTANCES.—For a chemical substance the Ad-*
17 *ministrator determines, with respect to persist-*
18 *ence and bioaccumulation, scores high for 1 and*
19 *either high or moderate for the other, pursuant*
20 *to the TSCA Work Plan Chemicals Methods Doc-*
21 *ument published by the Administrator in Feb-*
22 *ruary 2012, the Administrator shall, in selecting*
23 *among prohibitions and other restrictions that*
24 *the Administrator determines are sufficient to*
25 *ensure that the chemical substance is likely to*

1 *meet the safety standard, reduce potential expo-*
2 *sure to the substance to the maximum extent*
3 *practicable.*

4 “(E) *WORKPLACE EXPOSURES.*—*To the ex-*
5 *tent practicable, the Administrator shall consult*
6 *with the Assistant Secretary of Labor for Occu-*
7 *pational Safety and Health prior to adopting*
8 *any prohibition or other restriction under this*
9 *subsection to address workplace exposures.*

10 “(F) *DEFINITION OF REQUIREMENT.*—*For*
11 *purposes of this Act, the term ‘requirement’ as*
12 *used in this section does not displace common*
13 *law.*

14 “(5) *ADDITIONAL INFORMATION.*—*If the Admin-*
15 *istrator determines under paragraph (3)(C) that ad-*
16 *ditional information is necessary to conduct a review*
17 *under this subsection, the Administrator—*

18 “(A) *shall provide an opportunity for the*
19 *submitter of the notice to submit the additional*
20 *information;*

21 “(B) *may, by agreement with the submitter,*
22 *extend the review period for a reasonable time to*
23 *allow the development and submission of the ad-*
24 *ditional information;*

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

5 “(D) on receipt of information the Adminis-
6 trator finds supports the determination under
7 paragraph (3), shall promptly make the deter-
8 mination.”;

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

11 “(e) NOTICE OF COMMENCEMENT.—

12 “(1) IN GENERAL.—Not later than 30 days after
13 the date on which a manufacturer that has submitted
14 a notice under subsection (b) commences nonexempt
15 commercial manufacture of a chemical substance, the
16 manufacturer shall submit to the Administrator a no-
17 tice of commencement that identifies—

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

19 “(B) the initial date of nonexempt commer-
20 cial manufacture.

21 “(2) WITHDRAWAL.—A manufacturer or proc-
22 essor that has submitted a notice under subsection (b),
23 but that has not commenced nonexempt commercial
24 manufacture or processing of the chemical substance,
25 may withdraw the notice.

1 “(f) *FURTHER EVALUATION.*—*The Administrator may*
 2 *review a chemical substance under section 4A at any time*
 3 *after the Administrator receives—*

4 “(1) *a notice of commencement for a chemical*
 5 *substance under subsection (e); or*

6 “(2) *new information regarding the chemical*
 7 *substance.*

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

10 “(1) *all notices, determinations, consent agree-*
 11 *ments, rules, and orders submitted under this section*
 12 *or made by the Administrator under this section; and*

13 “(2) *all information submitted or issued under*
 14 *this section.”; and*

15 (10) *in subsection (h)—*

16 (A) *in paragraph (1)—*

17 (i) *in the matter preceding subpara-*
 18 *graph (A), by striking “(a) or”; and*

19 (ii) *in subparagraph (A), by inserting*
 20 *“, without taking into account cost or other*
 21 *nonrisk factors” after “the environment”;*

22 (B) *by striking paragraph (2);*

23 (C) *by redesignating paragraphs (3)*
 24 *through (6) as paragraphs (2) through (5), re-*
 25 *spectively;*

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

(E) in paragraph (3) (as so redesignated)—

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

(ii) by striking the second sentence;

(F) in paragraph (4) (as so redesignated),
 by striking “subsections (a) and (b)” and insert-
 ing “subsection (b)”;

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

SEC. 8. SAFETY ASSESSMENTS AND SAFETY DETERMINATIONS.

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

(1) by striking the section designation and head-
 ing and inserting the following:

1 **“SEC. 6. SAFETY ASSESSMENTS AND SAFETY DETERMINA-**
2 **TIONS.”;**

3 *(2) by redesignating subsections (e) and (f) as*
4 *subsections (h) and (i), respectively;*

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

7 *“(a) IN GENERAL.—The Administrator—*

8 *“(1) shall conduct a safety assessment and make*
9 *a safety determination of each high-priority substance*
10 *in accordance with subsections (b) and (c);*

11 *“(2) shall, as soon as practicable and not later*
12 *than 6 months after the date on which a chemical*
13 *substance is designated as a high-priority substance,*
14 *define and publish the scope of the safety assessment*
15 *and safety determination to be conducted pursuant to*
16 *this section, including the hazards, exposures, condi-*
17 *tions of use, and potentially exposed or susceptible*
18 *populations that the Administrator expects to con-*
19 *sider;*

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

23 *“(4) shall complete and publish a safety assess-*
24 *ment and safety determination not later than 3 years*
25 *after the date on which a chemical substance is des-*
26 *ignated as a high-priority substance;*

1 “(5) shall promulgate any necessary final rule
 2 pursuant to subsection (d) by not later than 2 years
 3 after the date on which the safety determination is
 4 completed;

5 “(6) may extend any deadline under paragraph
 6 (4) for not more than 1 year, if information relating
 7 to the high-priority substance, required to be devel-
 8 oped in a rule, order, or consent agreement under sec-
 9 tion 4—

10 “(A) has not yet been submitted to the Ad-
 11 ministrator; or

12 “(B) was submitted to the Administrator—

13 “(i) within the time specified in the
 14 rule, order, or consent agreement pursuant
 15 to section 4(a)(4)(A)(iv); and

16 “(ii) on or after the date that is 120
 17 days before the expiration of the deadline
 18 described in paragraph (4); and

19 “(7) may extend the deadline under paragraph
 20 (5) for not more than 2 years, subject to the condition
 21 that the aggregate length of all extensions of deadlines
 22 under this subsection does not exceed 2 years.

23 “(b) *PRIOR ACTIONS AND NOTICE OF EXISTING INFOR-*
 24 *MATION.*—

25 “(1) *PRIOR-INITIATED ASSESSMENTS.*—

1 “(A) *IN GENERAL.*—*Nothing in this Act*
2 *prevents the Administrator from initiating a*
3 *safety assessment or safety determination regard-*
4 *ing a chemical substance, or from continuing or*
5 *completing such a safety assessment or safety de-*
6 *termination, prior to the effective date of the*
7 *policies, procedures, and guidance required to be*
8 *established by the Administrator under section*
9 *3A or 4A.*

10 “(B) *INTEGRATION OF PRIOR POLICIES AND*
11 *PROCEDURES.*—*As policies and procedures under*
12 *section 3A and 4A are established, to the max-*
13 *imum extent practicable, the Administrator shall*
14 *integrate the policies and procedures into ongo-*
15 *ing safety assessments and safety determinations.*

16 “(2) *ACTIONS COMPLETED PRIOR TO COMPLE-*
17 *TION OF POLICIES AND PROCEDURES.*—*Nothing in*
18 *this Act requires the Administrator to revise or with-*
19 *draw a completed safety assessment, safety determina-*
20 *tion, or rule solely because the action was completed*
21 *prior to the completion of a policy or procedure estab-*
22 *lished under section 3A or 4A, and the validity of a*
23 *completed assessment, determination, or rule shall not*
24 *be determined based on the content of such a policy*
25 *or procedure.*

1 “(3) NOTICE OF EXISTING INFORMATION.—

2 “(A) IN GENERAL.—The Administrator
3 shall, where such information is available, take
4 notice of existing information regarding hazard
5 and exposure published by other Federal agencies
6 and the National Academies and incorporate the
7 information in safety assessments and safety de-
8 terminations with the objective of increasing the
9 efficiency of the safety assessments and safety de-
10 terminations.

11 “(B) INCLUSION OF INFORMATION.—Exist-
12 ing information described in subparagraph (A)
13 should be included to the extent practicable and
14 where the Administrator determines the informa-
15 tion is relevant and scientifically reliable.

16 “(c) SAFETY DETERMINATIONS.—

17 “(1) IN GENERAL.—Based on a review of the in-
18 formation available to the Administrator, including
19 draft safety assessments submitted by interested per-
20 sons pursuant to section 3A(h)(2)(D), and subject to
21 section 18(g), the Administrator shall determine—

22 “(A) by order, that the relevant chemical
23 substance meets the safety standard;

24 “(B) that the relevant chemical substance
25 does not meet the safety standard, in which case

1 *the Administrator shall, by rule under subsection*
2 *(d)—*

3 “(i) *impose restrictions necessary to*
4 *ensure that the chemical substance meets the*
5 *safety standard under the conditions of use;*
6 *or*

7 “(ii) *if the safety standard cannot be*
8 *met with the application of other restric-*
9 *tions under subsection (d)(3), ban or phase*
10 *out the chemical substance, as appropriate;*
11 *or*

12 “(C) *that additional information is nec-*
13 *essary in order to make a determination under*
14 *subparagraph (A) or (B), in which case the Ad-*
15 *ministrator shall take appropriate action under*
16 *paragraph (2).*

17 “(2) *ADDITIONAL INFORMATION.—If the Admin-*
18 *istrator determines that additional information is*
19 *necessary to make a safety assessment or safety deter-*
20 *mination for a high-priority substance, the Adminis-*
21 *trator—*

22 “(A) *shall provide an opportunity for inter-*
23 *ested persons to submit the additional informa-*
24 *tion;*

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

5 “(C) may defer, for a reasonable period con-
6 sistent with the deadlines described in subsection
7 (a), a safety assessment and safety determination
8 until after receipt of the information; and

9 “(D) consistent with the deadlines described
10 in subsection (a), on receipt of information the
11 Administrator finds supports the safety assess-
12 ment and safety determination, shall make a de-
13 termination under paragraph (1).

14 “(3) *ESTABLISHMENT OF DEADLINE.*—In re-
15 questing the development or submission of informa-
16 tion under this section, the Administrator shall estab-
17 lish a deadline for the submission of the information.

18 “(d) *RULE.*—

19 “(1) *IMPLEMENTATION.*—If the Administrator
20 makes a determination under subsection (c)(1)(B)
21 with respect to a chemical substance, the Adminis-
22 trator shall promulgate a rule establishing restrictions
23 necessary to ensure that the chemical substance meets
24 the safety standard.

25 “(2) *SCOPE.*—

1 “(A) *IN GENERAL.*—*The rule promulgated*
2 *pursuant to this subsection—*

3 “(i) *may apply to mixtures containing*
4 *the chemical substance, as appropriate;*

5 “(ii) *shall include dates by which com-*
6 *pliance is mandatory, which—*

7 “(I) *shall be as soon as prac-*
8 *ticable, but not later than 4 years after*
9 *the date of promulgation of the rule,*
10 *except in the case of a use exempted*
11 *under paragraph (5);*

12 “(II) *in the case of a ban or*
13 *phase-out of the chemical substance,*
14 *shall implement the ban or phase-out*
15 *in as short a period as practicable;*

16 “(III) *as determined by the Ad-*
17 *ministrator, may vary for different af-*
18 *fected persons; and*

19 “(IV) *following a determination*
20 *by the Administrator that compliance*
21 *is technologically or economically in-*
22 *feasible within the timeframe specified*
23 *in subclause (I), shall provide up to an*
24 *additional 18 months for compliance to*
25 *be mandatory;*

1 “(iii) shall exempt replacement parts
2 that are manufactured prior to the effective
3 date of the rule for articles that are first
4 manufactured prior to the effective date of
5 the rule unless the Administrator finds the
6 replacement parts contribute significantly
7 to the identified risk;

8 “(iv) shall, in selecting among prohibi-
9 tions and other restrictions, apply such pro-
10 hibitions or other restrictions to an article
11 or category of articles containing the chem-
12 ical substance only to the extent necessary
13 to address the identified risks from exposure
14 to the chemical substance from the article or
15 category of articles, in order to determine
16 that the chemical substance meets the safety
17 standard; and

18 “(v) shall, when the Administrator de-
19 termines that the chemical substance does
20 not meet the safety standard for a poten-
21 tially exposed or susceptible population,
22 apply prohibitions or other restrictions nec-
23 essary to ensure that the substance meets the
24 safety standard for that population.

1 “(B) *PERSISTENT AND BIOACCUMULATIVE*
2 *SUBSTANCES.*—*For a chemical substance the Ad-*
3 *ministrator determines, with respect to persist-*
4 *ence and bioaccumulation, scores high for 1 and*
5 *either high or moderate for the other, pursuant*
6 *to the TSCA Work Plan Chemicals Methods Doc-*
7 *ument published by the Administrator in Feb-*
8 *ruary 2012, the Administrator shall, in selecting*
9 *among prohibitions and other restrictions that*
10 *the Administrator determines are sufficient to*
11 *ensure that the chemical substance meets the*
12 *safety standard, reduce exposure to the substance*
13 *to the maximum extent practicable.*

14 “(C) *WORKPLACE EXPOSURES.*—*The Ad-*
15 *ministrator shall consult with the Assistant Sec-*
16 *retary of Labor for Occupational Safety and*
17 *Health before adopting any prohibition or other*
18 *restriction under this subsection to address work-*
19 *place exposures.*

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

1 “(3) *RESTRICTIONS*.—Subject to section 18, a re-
2 striction under paragraph (1) may include, as appro-
3 priate—

4 “(A) a requirement that a chemical sub-
5 stance shall be marked with, or accompanied by,
6 clear and adequate minimum warnings and in-
7 structions with respect to use, distribution in
8 commerce, or disposal, or any combination of
9 those activities, with the form and content of the
10 minimum warnings and instructions to be pre-
11 scribed by the Administrator;

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

14 “(i) make and retain records of the
15 processes used to manufacture or process the
16 chemical substance;

17 “(ii) describe and apply the relevant
18 quality control procedures followed in the
19 manufacturing or processing of the sub-
20 stance; or

21 “(iii) monitor or conduct tests that are
22 reasonably necessary to ensure compliance
23 with the requirements of any rule under
24 this subsection;

1 “(C) a restriction on the quantity of the
2 chemical substance that may be manufactured,
3 processed, or distributed in commerce;

4 “(D) a requirement to ban or phase out, or
5 otherwise restrict the manufacture, processing, or
6 distribution in commerce of the chemical sub-
7 stance for—

8 “(i) a particular use;

9 “(ii) a particular use at a concentra-
10 tion in excess of a level specified by the Ad-
11 ministrator; or

12 “(iii) all uses;

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

16 “(i) a particular use; or

17 “(ii) a particular use at a concentra-
18 tion in excess of a level specified by the Ad-
19 ministrator;

20 “(F) a requirement to ban, phase out, or
21 otherwise restrict any method of commercial use
22 of the chemical substance;

23 “(G) a requirement to ban, phase out, or
24 otherwise restrict any method of disposal of the

1 *chemical substance or any article containing the*
2 *chemical substance; and*

3 “(H) *a requirement directing manufactur-*
4 *ers or processors of the chemical substance to give*
5 *notice of the Administrator’s determination*
6 *under subsection (c)(1)(B) to distributors in*
7 *commerce of the chemical substance and, to the*
8 *extent reasonably ascertainable, to other persons*
9 *in the chain of commerce in possession of the*
10 *chemical substance.*

11 “(4) *ANALYSIS FOR RULEMAKING.—*

12 “(A) *CONSIDERATIONS.—In deciding which*
13 *restrictions to impose under paragraph (3) as*
14 *part of developing a rule under paragraph (1),*
15 *the Administrator shall take into consideration,*
16 *to the extent practicable based on reasonably*
17 *available information, the quantifiable and non-*
18 *quantifiable costs and benefits of the proposed*
19 *regulatory action and of the 1 or more primary*
20 *alternative regulatory actions considered by the*
21 *Administrator.*

22 “(B) *ALTERNATIVES.—As part of the anal-*
23 *ysis, the Administrator shall review any 1 or*
24 *more technically and economically feasible alter-*
25 *natives to the chemical substance that the Ad-*

1 *ministrator determines are relevant to the rule-*
2 *making.*

3 “(C) *PUBLIC AVAILABILITY.*—*In proposing*
4 *a rule under paragraph (1), the Administrator*
5 *shall make publicly available any analysis con-*
6 *ducted under this paragraph.*

7 “(D) *STATEMENT REQUIRED.*—*In making*
8 *final a rule under paragraph (1), the Adminis-*
9 *trator shall include a statement describing how*
10 *the analysis considered under subparagraph (A)*
11 *was taken into account.*

12 “(5) *EXEMPTIONS.*—

13 “(A) *IN GENERAL.*—*The Administrator*
14 *may, as part of a rule promulgated under para-*
15 *graph (1) or in a separate rule, exempt 1 or*
16 *more uses of a chemical substance from any re-*
17 *striction in a rule promulgated under paragraph*
18 *(1) if the Administrator determines that—*

19 “(i) *the restriction cannot be complied*
20 *with, without—*

21 “(I) *harming national security;*

22 “(II) *causing significant disrup-*
23 *tion in the national economy due to*
24 *the lack of availability of a chemical*
25 *substance; or*

1 “(III) interfering with a critical
2 or essential use for which no tech-
3 nically and economically feasible safer
4 alternative is available, taking into
5 consideration hazard and exposure; or

6 “(ii) the use of the chemical substance,
7 as compared to reasonably available alter-
8 natives, provides a substantial benefit to
9 health, the environment, or public safety.

10 “(B) EXEMPTION ANALYSIS.—In proposing
11 a rule under this paragraph, the Administrator
12 shall make publicly available any analysis con-
13 ducted under this paragraph to assess the need
14 for the exemption.

15 “(C) STATEMENT REQUIRED.—In making
16 final a rule under this paragraph, the Adminis-
17 trator shall include a statement describing how
18 the analysis considered under subparagraph (B)
19 was taken into account.

20 “(D) ANALYSIS IN CASE OF BAN OR PHASE-
21 OUT.—In determining whether an exemption
22 should be granted under this paragraph for a
23 chemical substance for which a ban or phase-out
24 is included in a proposed or final rule under
25 paragraph (1), the Administrator shall take into

1 *consideration, to the extent practicable based on*
2 *reasonably available information, the quantifi-*
3 *able and nonquantifiable costs and benefits of the*
4 *1 or more alternatives to the chemical substance*
5 *the Administrator determines to be technically*
6 *and economically feasible and most likely to be*
7 *used in place of the chemical substance under the*
8 *conditions of use.*

9 *“(E) CONDITIONS.—As part of a rule pro-*
10 *mulgated under this paragraph, the Adminis-*
11 *trator shall include conditions, including reason-*
12 *able recordkeeping, monitoring, and reporting*
13 *requirements, to the extent that the Adminis-*
14 *trator determines the conditions are necessary to*
15 *protect health and the environment while achiev-*
16 *ing the purposes of the exemption.*

17 *“(F) DURATION.—*

18 *“(i) IN GENERAL.—The Administrator*
19 *shall establish, as part of a rule under this*
20 *paragraph, a time limit on any exemption*
21 *for a time to be determined by the Adminis-*
22 *trator as reasonable on a case-by-case basis.*

23 *“(ii) AUTHORITY OF ADMINIS-*
24 *TRATOR.—The Administrator, by rule, may*
25 *extend, modify, or eliminate an exemption*

1 *if the Administrator determines, on the*
2 *basis of reasonably available information*
3 *and after adequate public justification, the*
4 *exemption warrants extension or is no*
5 *longer necessary.*

6 “(iii) *CONSIDERATIONS.—*

7 “(I) *IN GENERAL.—Subject to*
8 *subclause (II), the Administrator shall*
9 *issue exemptions and establish time pe-*
10 *riods by considering factors determined*
11 *by the Administrator to be relevant to*
12 *the goals of fostering innovation and*
13 *the development of alternatives that*
14 *meet the safety standard.*

15 “(II) *LIMITATION.—Any renewal*
16 *of an exemption in the case of a rule*
17 *under paragraph (1) requiring the ban*
18 *or phase-out of a chemical substance*
19 *shall not exceed 5 years.*

20 “(e) *IMMEDIATE EFFECT.—The Administrator may*
21 *declare a proposed rule under subsection (d)(1) to be effec-*
22 *tive on publication of the rule in the Federal Register and*
23 *until the effective date of final action taken respecting the*
24 *rule, if—*

25 “(1) *the Administrator determines that—*

1 “(A) the manufacture, processing, distribu-
2 tion in commerce, use, or disposal of the chem-
3 ical substance or mixture subject to the proposed
4 rule or any combination of those activities is
5 likely to result in a risk of serious or widespread
6 injury to health or the environment before the ef-
7 fective date; and

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

10 “(2) in the case of a proposed rule to prohibit the
11 manufacture, processing, or distribution in commerce
12 of a chemical substance or mixture because of the risk
13 determined under paragraph (1)(A), a court has
14 granted relief in an action under section 7 with re-
15 spect to that risk associated with the chemical sub-
16 stance or mixture.

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

19 “(1) a safety determination, and the associated
20 safety assessment, for a chemical substance that the
21 Administrator determines under subsection (c) meets
22 the safety standard, shall be considered to be a final
23 agency action, effective beginning on the date of
24 issuance of the final safety determination; and

1 “(2) a final rule promulgated under subsection
2 (d)(1), and the associated safety assessment and safe-
3 ty determination that a chemical substance does not
4 meet the safety standard, shall be considered to be a
5 final agency action, effective beginning on the date of
6 promulgation of the final rule.

7 “(g) *EXTENSION OF DEADLINES FOR CERTAIN CHEM-*
8 *ICAL SUBSTANCES.*—The Administrator may not extend
9 any deadline under subsection (a) for a chemical substance
10 designated as a high priority that is listed in the 2014 up-
11 date of the TSCA Work Plan without adequate public jus-
12 tification that demonstrates, following a review of the infor-
13 mation reasonably available to the Administrator, that the
14 Administrator cannot adequately complete a safety assess-
15 ment and safety determination, or a final rule pursuant
16 to subsection (d), without additional information regarding
17 the chemical substance.”; and

18 (4) in subsection (h) (as redesignated by para-
19 graph (2))—

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

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

23 **SEC. 9. IMMINENT HAZARDS.**

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

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

3 “(a) *CIVIL ACTIONS.*—

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

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

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

16 “(C) *both seizure described in subparagraph*
17 *(A) and relief described in subparagraph (B).*

18 “(2) *RULE, ORDER, OR OTHER PROCEEDING.*—*A*
19 *civil action may be commenced under this paragraph,*
20 *notwithstanding—*

21 “(A) *the existence of a decision, rule, con-*
22 *sent agreement, or order by the Administrator*
23 *under section 4, 4A, 5, or 6 or title IV or VI; or*

1 “(B) the pendency of any administrative or
2 judicial proceeding under any provision of this
3 Act.”;

4 (2) in subsection (b)(1), by striking “unreason-
5 able”;

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

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

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

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

13 (1) in subsection (a)—

14 (A) in paragraph (3)—

15 (i) in subparagraph (A)(ii)(I)—

16 (I) by striking “5(b)(4)” and in-
17 serting “5”;

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

20 (III) by striking “5(e),” and in-
21 serting “5(d)(4);”; and

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

23 “(C) Not later than 180 days after the date of
24 enactment of the Frank R. Lautenberg Chemical Safe-
25 ty for the 21st Century Act, and not less frequently

1 *than once every 10 years thereafter, the Adminis-*
 2 *trator, after consultation with the Administrator of*
 3 *the Small Business Administration, shall—*

4 *“(i) review the adequacy of the standards*
 5 *prescribed according to subparagraph (B);*

6 *“(ii) after providing public notice and an*
 7 *opportunity for comment, make a determination*
 8 *as to whether revision of the standards is war-*
 9 *ranted; and*

10 *“(iii) revise the standards if the Adminis-*
 11 *trator so determines.”; and*

12 *(B) by adding at the end the following:*

13 *“(4) RULES.—*

14 *“(A) DEADLINE.—*

15 *“(i) IN GENERAL.—Not later than 2*
 16 *years after the date of enactment of the*
 17 *Frank R. Lautenberg Chemical Safety for*
 18 *the 21st Century Act, the Administrator*
 19 *shall promulgate rules requiring the main-*
 20 *tenance of records and the reporting of ad-*
 21 *ditional information known or reasonably*
 22 *ascertainable by the person making the re-*
 23 *port, including rules applicable to proc-*
 24 *essors so that the Administrator has the in-*
 25 *formation necessary to carry out this title.*

1 “(ii) *MODIFICATION OF PRIOR*
2 *RULES.—In carrying out this subpara-*
3 *graph, the Administrator may modify, as*
4 *appropriate, rules promulgated before the*
5 *date of enactment of the Frank R. Lauten-*
6 *berg Chemical Safety for the 21st Century*
7 *Act.*

8 “(B) *CONTENTS.—The rules promulgated*
9 *pursuant to subparagraph (A)—*

10 “(i) *may impose different reporting*
11 *and recordkeeping requirements on manu-*
12 *facturers and processors; and*

13 “(ii) *shall include the level of detail*
14 *necessary to be reported, including the man-*
15 *ner by which use and exposure information*
16 *may be reported.*

17 “(C) *ADMINISTRATION.—In implementing*
18 *the reporting and recordkeeping requirements*
19 *under this paragraph, the Administrator shall*
20 *take measures—*

21 “(i) *to limit the potential for duplica-*
22 *tion in reporting requirements;*

23 “(ii) *to minimize the impact of the*
24 *rules on small manufacturers and proc-*
25 *essors; and*

1 “(iii) to apply any reporting obliga-
2 tions to those persons likely to have infor-
3 mation relevant to the effective implementa-
4 tion of this title.”;

5 (2) in subsection (b), by adding at the end the
6 following:

7 “(3) NOMENCLATURE.—

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

10 “(i) maintain the use of Class 2 no-
11 menclature in use on the date of enactment
12 of the Frank R. Lautenberg Chemical Safe-
13 ty for the 21st Century Act;

14 “(ii) maintain the use of the Soap and
15 Detergent Association Nomenclature Sys-
16 tem, published in March 1978 by the Ad-
17 ministrator in section 1 of addendum III of
18 the document entitled ‘Candidate List of
19 Chemical Substances’, and further described
20 in the appendix A of volume I of the 1985
21 edition of the Toxic Substances Control Act
22 Substances Inventory (EPA Document No.
23 EPA–560/7–85–002a); and

24 “(iii) treat all components of categories
25 that are considered to be statutory mixtures

1 *under this Act as being included on the list*
2 *published under paragraph (1) under the*
3 *Chemical Abstracts Service numbers for the*
4 *respective categories, including, without*
5 *limitation—*

6 “(I) *cement, Portland, chemicals,*
7 *CAS No. 65997–15–1;*

8 “(II) *cement, alumina, chemicals,*
9 *CAS No. 65997–16–2;*

10 “(III) *glass, oxide, chemicals,*
11 *CAS No. 65997–17–3;*

12 “(IV) *frits, chemicals, CAS No.*
13 *65997–18–4;*

14 “(V) *steel manufacture, chemicals,*
15 *CAS No. 65997–19–5; and*

16 “(VI) *ceramic materials and*
17 *wares, chemicals, CAS No. 66402–68–*
18 *4.*

19 “(B) *MULTIPLE NOMENCLATURE CONVEN-*
20 *TIONS.—*

21 “(i) *IN GENERAL.—If an existing guid-*
22 *ance allows for multiple nomenclature con-*
23 *ventions, the Administrator shall—*

24 “(I) *maintain the nomenclature*
25 *conventions for substances; and*

1 “(II) develop new guidance that—

2 “(aa) establishes equivalency
3 between the nomenclature conven-
4 tions for chemical substances on
5 the list published under para-
6 graph (1); and

7 “(bb) permits persons to rely
8 on the new guidance for purposes
9 of determining whether a chemical
10 substance is on the list published
11 under paragraph (1).

12 “(ii) *MULTIPLE CAS NUMBERS.*—For
13 any chemical substance appearing multiple
14 times on the list under different Chemical
15 Abstracts Service numbers, the Adminis-
16 trator shall develop guidance recognizing
17 the multiple listings as a single chemical
18 substance.

19 “(4) *CHEMICAL SUBSTANCES IN COMMERCE.*—

20 “(A) *RULES.*—

21 “(i) *IN GENERAL.*—Not later than 1
22 year after the date of enactment of the
23 Frank R. Lautenberg Chemical Safety for
24 the 21st Century Act, the Administrator, by
25 rule, shall require manufacturers and proc-

1 *essors to notify the Administrator, by not*
2 *later than 180 days after the date of pro-*
3 *mulgation of the rule, of each chemical sub-*
4 *stance on the list published under para-*
5 *graph (1) that the manufacturer or proc-*
6 *essor, as applicable, has manufactured or*
7 *processed for a nonexempt commercial pur-*
8 *pose during the 10-year period ending on*
9 *the day before the date of enactment of the*
10 *Frank R. Lautenberg Chemical Safety for*
11 *the 21st Century Act.*

12 *“(ii) ACTIVE SUBSTANCES.—The Ad-*
13 *ministrator shall designate chemical sub-*
14 *stances for which notices are received under*
15 *clause (i) to be active substances on the list*
16 *published under paragraph (1).*

17 *“(iii) INACTIVE SUBSTANCES.—The*
18 *Administrator shall designate chemical sub-*
19 *stances for which no notices are received*
20 *under clause (i) to be inactive substances on*
21 *the list published under paragraph (1).*

22 *“(B) CONFIDENTIAL CHEMICAL SUB-*
23 *STANCES.—In promulgating the rule established*
24 *pursuant to subparagraph (A), the Adminis-*
25 *trator shall—*

1 “(i) maintain the list under paragraph
2 (1), which shall include a confidential por-
3 tion and a nonconfidential portion con-
4 sistent with this section and section 14;

5 “(ii) require a manufacturer or proc-
6 essor that is submitting a notice pursuant
7 to subparagraph (A) for a chemical sub-
8 stance on the confidential portion of the list
9 published under paragraph (1) to indicate
10 in the notice whether the manufacturer or
11 processor seeks to maintain any existing
12 claim for protection against disclosure of
13 the specific identity of the substance as con-
14 fidential pursuant to section 14; and

15 “(iii) require the substantiation of
16 those claims pursuant to section 14 and in
17 accordance with the review plan described
18 in subparagraph (C).

19 “(C) REVIEW PLAN.—Not later than 1 year
20 after the date on which the Administrator com-
21 piles the initial list of active substances pursuant
22 to subparagraph (A), the Administrator shall
23 promulgate a rule that establishes a plan to re-
24 view all claims to protect the specific identities
25 of chemical substances on the confidential por-

tion of the list published under paragraph (1)
that are asserted pursuant to subparagraph (B).

“(D) *REQUIREMENTS OF REVIEW PLAN.*—
Under the review plan under subparagraph (C),
the Administrator shall—

“(i) require, at the time requested by
the Administrator, all manufacturers or
processors asserting claims under subpara-
graph (B) to substantiate the claim unless
the manufacturer or processor has substan-
tiated the claim in a submission made to
the Administrator during the 5-year period
ending on the date of the request by the Ad-
ministrator;

“(ii) in accordance with section 14—

“(I) review each substantiation—

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

“(bb) submitted previously
by a manufacturer or processor
and relied on in lieu of the sub-
stantiation required pursuant to
clause (i), if the substantiation

1 *has not been previously reviewed*
2 *by the Administrator, to deter-*
3 *mine if the claim warrants pro-*
4 *tection from disclosure;*

5 *“(II) approve, modify, or deny*
6 *each claim; and*

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

13 *“(aa) the person notifies the*
14 *Administrator that the person is*
15 *withdrawing the claim, in which*
16 *case the Administrator shall*
17 *promptly make the information*
18 *available to the public; or*

19 *“(bb) the Administrator oth-*
20 *erwise becomes aware that the*
21 *need for protection from disclosure*
22 *can no longer be substantiated, in*
23 *which case the Administrator*
24 *shall take the actions described in*
25 *section 14(g)(2); and*

1 “(iii) encourage manufacturers or
2 processors that have previously made claims
3 to protect the specific identities of chemical
4 substances identified as inactive pursuant
5 to subsection (f)(2) to review and either
6 withdraw or substantiate the claims.

7 “(E) *TIMELINE FOR COMPLETION OF RE-*
8 *VIEWS.—*

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

16 “(ii) *CONSIDERATIONS.—*

17 “(I) *IN GENERAL.—The Adminis-*
18 *trator may extend the deadline for*
19 *completion of the reviews for not more*
20 *than 2 additional years, after an ade-*
21 *quate public justification, if the Ad-*
22 *ministrator determines that the exten-*
23 *sion is necessary based on the number*
24 *of claims needing review and the avail-*
25 *able resources.*

1 “(II) *ANNUAL REVIEW GOAL AND*
2 *RESULTS.—At the beginning of each*
3 *year, the Administrator shall publish*
4 *an annual goal for reviews and the*
5 *number of reviews completed in the*
6 *prior year.*

7 “(5) *ACTIVE AND INACTIVE SUBSTANCES.—*

8 “(A) *IN GENERAL.—The Administrator*
9 *shall maintain and keep current designations of*
10 *active substances and inactive substances on the*
11 *list published under paragraph (1).*

12 “(B) *CHANGE TO ACTIVE STATUS.—*

13 “(i) *IN GENERAL.—Any person that*
14 *intends to manufacture or process for a*
15 *nonexempt commercial purpose a chemical*
16 *substance that is designated as an inactive*
17 *substance shall notify the Administrator be-*
18 *fore the date on which the inactive sub-*
19 *stance is manufactured or processed.*

20 “(ii) *CONFIDENTIAL CHEMICAL IDEN-*
21 *TITY CLAIMS.—If a person submitting a no-*
22 *tice under clause (i) for an inactive sub-*
23 *stance on the confidential portion of the list*
24 *published under paragraph (1) seeks to*
25 *maintain an existing claim for protection*

1 *against disclosure of the specific identity of*
2 *the inactive substance as confidential, the*
3 *person shall—*

4 *“(I) in the notice submitted under*
5 *clause (i), assert the claim; and*

6 *“(II) by not later than 30 days*
7 *after providing the notice under clause*
8 *(i), substantiate the claim.*

9 *“(iii) ACTIVE STATUS.—On receiving a*
10 *notification under clause (i), the Adminis-*
11 *trator shall—*

12 *“(I) designate the applicable*
13 *chemical substance as an active sub-*
14 *stance;*

15 *“(II) pursuant to section 14,*
16 *promptly review any claim and associ-*
17 *ated substantiation submitted pursu-*
18 *ant to clause (ii) for protection against*
19 *disclosure of the specific identity of the*
20 *chemical substance and approve, mod-*
21 *ify, or deny the claim;*

22 *“(III) except as provided in this*
23 *section and section 14, protect from*
24 *disclosure the specific identity of the*
25 *chemical substance for which the Ad-*

1 *ministrator approves a claim under*
2 *subclause (II) for a period of 10 years,*
3 *unless, prior to the expiration of the*
4 *period—*

5 *“(aa) the person notifies the*
6 *Administrator that the person is*
7 *withdrawing the claim, in which*
8 *case the Administrator shall*
9 *promptly make the information*
10 *available to the public; or*

11 *“(bb) the Administrator oth-*
12 *erwise becomes aware that the*
13 *need for protection from disclosure*
14 *can no longer be substantiated, in*
15 *which case the Administrator*
16 *shall take the actions described in*
17 *section 14(g)(2); and*

18 *“(IV) pursuant to section 4A, re-*
19 *view the priority of the chemical sub-*
20 *stance as the Administrator determines*
21 *to be necessary.*

22 *“(C) CATEGORY STATUS.—The list of inac-*
23 *tive substances shall not be considered to be a*
24 *category for purposes of section 26(c).*

1 “(6) *INTERIM LIST OF ACTIVE SUBSTANCES.*—
2 *Prior to the promulgation of the rule required under*
3 *paragraph (4)(A), the Administrator shall designate*
4 *the chemical substances reported under part 711 of*
5 *title 40, Code of Federal Regulations (as in effect on*
6 *the date of enactment of the Frank R. Lautenberg*
7 *Chemical Safety for the 21st Century Act), during the*
8 *reporting period that most closely preceded the date*
9 *of enactment of the Frank R. Lautenberg Chemical*
10 *Safety for the 21st Century Act, as the interim list*
11 *of active substances for the purposes of section 4A.*

12 “(7) *PUBLIC INFORMATION.*—*Subject to this sub-*
13 *section, the Administrator shall make available to the*
14 *public—*

15 “(A) *the specific identity of each chemical*
16 *substance on the nonconfidential portion of the*
17 *list published under paragraph (1) that the Ad-*
18 *ministrator has designated as—*

19 “(i) *an active substance; or*

20 “(ii) *an inactive substance;*

21 “(B) *the accession number, generic name,*
22 *and, if applicable, premanufacture notice case*
23 *number for each chemical substance on the con-*
24 *fidential portion of the list published under*

1 paragraph (1) for which a claim of confiden-
2 tiality was received; and

3 “(C) subject to subsections (f) and (g) of sec-
4 tion 14, the specific identity of any active sub-
5 stance for which—

6 “(i) a claim for protection against dis-
7 closure of the specific identity of the active
8 chemical substance was not asserted, as re-
9 quired under this subsection or subsection
10 (d) or (f) of section 14;

11 “(ii) a claim for protection against
12 disclosure of the specific identity of the ac-
13 tive substance has been denied by the Ad-
14 ministrator; or

15 “(iii) the time period for protection
16 against disclosure of the specific identity of
17 the active substance has expired.

18 “(8) LIMITATION.—No person may assert a new
19 claim under this subsection for protection from disclo-
20 sure of a specific identity of any active or inactive
21 chemical substance for which a notice is received
22 under paragraph (4)(A)(i) or (5)(C)(i) that is not on
23 the confidential portion of the list published under
24 paragraph (1).

1 “(9) *CERTIFICATION.*—Under the rules promul-
 2 gated under this subsection, manufacturers and proc-
 3 essors shall be required—

4 “(A) to certify that each notice or substan-
 5 tiation the manufacturer or processor submits
 6 complies with the requirements of the rule, and
 7 that any confidentiality claims are true and cor-
 8 rect; and

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

12 (3) in subsection (e)—

13 (A) by striking “Any person” and inserting
 14 the following:

15 “(1) *IN GENERAL.*—Any person”; and

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

17 “(2) *ADDITIONAL INFORMATION.*—Any person
 18 may submit to the Administrator information reason-
 19 ably supporting the conclusion that a chemical sub-
 20 stance or mixture presents, will present, or does not
 21 present a substantial risk of injury to health and the
 22 environment.”; and

23 (4) in subsection (f), by striking “For purposes
 24 of this section, the” and inserting the following: “In
 25 this section:

1 “(1) *ACTIVE SUBSTANCE*.—The term ‘active sub-
2 *stance*’ means a chemical substance—

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

8 “(B) *that is added to the list published*
9 *under subsection (b)(1) after that date of enact-*
10 *ment; or*

11 “(C) *for which a notice is received under*
12 *subsection (b)(5)(C).*

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

17 “(3) *MANUFACTURE; PROCESS*.—The”.

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

19 *Section 9 of the Toxic Substances Control Act (15*
20 *U.S.C. 2608) is amended—*

21 *(1) in subsection (a)—*

22 *(A) in paragraph (1), in the first sen-*
23 *tence—*

24 *(i) by striking “presents or will present*
25 *an unreasonable risk to health or the envi-*

1 ronment” and inserting “does not or will
2 not meet the safety standard”; and

3 (ii) by striking “such risk” the first
4 place it appears and inserting “the risk
5 posed by the substance or mixture”;

6 (B) in paragraph (2)—

7 (i) in subparagraph (A), by inserting
8 “within the time period specified by the Ad-
9 ministrator in the report” after “issues an
10 order”;

11 (ii) in subparagraph (B), by inserting
12 “responds within the time period specified
13 by the Administrator in the report and” be-
14 fore “initiates, within 90 days”; and

15 (iii) in the matter following subpara-
16 graph (B), by striking “section 6 or 7” and
17 inserting “section 6(d) or section 7”;

18 (C) by redesignating paragraph (3) as
19 paragraph (6);

20 (D) in paragraph (6) (as so redesignated),
21 by striking “section 6 or 7” and inserting “sec-
22 tion 6(d) or 7”; and

23 (E) by inserting after paragraph (2) the fol-
24 lowing:

1 “(3) *The Administrator shall take the actions de-*
2 *scribed in paragraph (4) if the Administrator makes*
3 *a report under paragraph (1) with respect to a chem-*
4 *ical substance or mixture and the agency to which the*
5 *report was made does not—*

6 “(A) *issue the order described in paragraph*
7 *(2)(A) within the time period specified by the*
8 *Administrator in the report; or*

9 “(B)(i) *respond under paragraph (1) with-*
10 *in the time frame specified by the Administrator*
11 *in the report; and*

12 “(ii) *initiate action within 90 days of pub-*
13 *lication in the Federal Register of the response*
14 *described in clause (i).*

15 “(4) *If an agency to which a report under para-*
16 *graph (1) does not take the actions described in sub-*
17 *paragraphs (A) or (B) of paragraph (3), the Admin-*
18 *istrator shall—*

19 “(A) *if a safety assessment and safety deter-*
20 *mination for the substance under section 6 has*
21 *not been completed, complete the safety assess-*
22 *ment and safety determination;*

23 “(B) *if the Administrator has determined or*
24 *determines that the chemical substance does not*

1 *meet the safety standard, initiate action under*
2 *section 6(d) with respect to the risk; or*

3 *“(C) take any action authorized or required*
4 *under section 7, as appropriate.*

5 *“(5) This subsection shall not relieve the Admin-*
6 *istrator of any obligation to complete a safety assess-*
7 *ment and safety determination or take any required*
8 *action under section 6(d) or 7 to address risks from*
9 *the manufacture, processing, distribution in com-*
10 *merce, use, or disposal of a chemical substance or*
11 *mixture, or any combination of those activities, that*
12 *are not identified in a report issued by the Adminis-*
13 *trator under paragraph (1).”;*

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

17 *(3) by adding at the end the following:*

18 *“(e) EXPOSURE INFORMATION.—If the Administrator*
19 *obtains information related to exposures or releases of a*
20 *chemical substance that may be prevented or reduced under*
21 *another Federal law, including laws not administered by*
22 *the Administrator, the Administrator shall make such in-*
23 *formation available to the relevant Federal agency or office*
24 *of the Environmental Protection Agency.”.*

1 **SEC. 12. RESEARCH, DEVELOPMENT, COLLECTION, DISSEMI-**
2 **NATION, AND UTILIZATION OF DATA.**

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

7 **SEC. 13. EXPORTS.**

8 *Section 12 of the Toxic Substances Control Act (15*
9 *U.S.C. 2611) is amended—*

10 *(1) in subsection (a), by striking paragraph (2)*
11 *and inserting the following:*

12 *“(2) EXCEPTION.—Paragraph (1) shall not*
13 *apply to—*

14 *“(A) any new chemical substance that the*
15 *Administrator determines is likely to present an*
16 *unreasonable risk of injury to health within the*
17 *United States or to the environment of the*
18 *United States, without taking into account cost*
19 *or other non-risk factors;*

20 *“(B) any chemical substance that the Ad-*
21 *ministrator determines presents or will present*
22 *an unreasonable risk of injury to health within*
23 *the United States or to the environment of the*
24 *United States, without taking into account cost*
25 *or other non-risk factors; or*

26 *“(C) any chemical substance that—*

1 “(i) the Administrator determines is
2 likely to present an unreasonable risk of in-
3 jury to health within the United States or
4 to the environment of the United States,
5 without taking into account cost or other
6 non-risk factors; and

7 “(ii) is subject to restriction under sec-
8 tion 5(d)(4).

9 “(3) *WAIVERS FOR CERTAIN MIXTURES AND AR-*
10 *TICLES.—For a mixture or article containing a chem-*
11 *ical substance described in paragraph (2), the Admin-*
12 *istrator may—*

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

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

18 “(4) *TESTING.—The Administrator may require*
19 *testing under section 4 of any chemical substance or*
20 *mixture exempted from this Act under paragraph (1)*
21 *for the purpose of determining whether the chemical*
22 *substance meets the safety standard within the United*
23 *States.”;*

24 (2) by striking subsection (b) and inserting the
25 following:

1 “(b) NOTICE.—

2 “(1) IN GENERAL.—A person shall notify the Ad-
3 ministrator that the person is exporting or intends to
4 export to a foreign country—

5 “(A) a chemical substance or a mixture con-
6 taining a chemical substance that the Adminis-
7 trator has determined under section 5 is not like-
8 ly to meet the safety standard and for which a
9 prohibition or other restriction has been proposed
10 or established under that section;

11 “(B) a chemical substance or a mixture
12 containing a chemical substance that the Admin-
13 istrator has determined under section 6 does not
14 meet the safety standard and for which a prohi-
15 bition or other restriction has been proposed or
16 established under that section;

17 “(C) a chemical substance for which the
18 United States is obligated by treaty to provide
19 export notification;

20 “(D) a chemical substance or mixture con-
21 taining a chemical substance subject to a pro-
22 posed or promulgated significant new use rule,
23 or a prohibition or other restriction pursuant to
24 a rule, order, or consent agreement in effect
25 under this Act;

1 “(E) a chemical substance or mixture for
2 which the submission of information is required
3 under section 4; or

4 “(F) a chemical substance or mixture for
5 which an action is pending or for which relief
6 has been granted under section 7.

7 “(2) RULES.—

8 “(A) IN GENERAL.—The Administrator
9 shall promulgate rules to carry out paragraph
10 (1).

11 “(B) CONTENTS.—The rules promulgated
12 pursuant to subparagraph (A) shall—

13 “(i) include such exemptions as the
14 Administrator determines to be appropriate,
15 which may include exemptions identified
16 under section 5(h); and

17 “(ii) indicate whether, or to what ex-
18 tent, the rules apply to articles containing
19 a chemical substance or mixture described
20 in paragraph (1).

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

24 “(A) for a chemical substance or mixture
25 described in subparagraph (A), (B), (D), or (F)

of paragraph (1), a notice of the determination, rule, order, consent agreement, action, relief, or requirement;

“(B) for a chemical substance described in paragraph (1)(C), a notice that satisfies the obligation of the United States under the applicable treaty; and

“(C) for a chemical substance or mixture described in paragraph (1)(E), a notice of availability of the information on the chemical substance or mixture submitted to the Administrator.”; and

(3) in subsection (c), by striking paragraph (3).

SEC. 14. CONFIDENTIAL INFORMATION.

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

“SEC. 14. CONFIDENTIAL INFORMATION.

“(a) *IN GENERAL.*—Except as otherwise provided in this section, the Administrator shall not disclose information that is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, under subsection (b)(4) of that section—

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

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

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

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

16 “(2) *Marketing and sales information.*

17 “(3) *Information identifying a supplier or cus-*
18 *tomers.*

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

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

24 “(6) *Specific production or import volumes of*
25 *the manufacturer.*

1 “(7) *Specific aggregated volumes across manu-*
2 *facturers, if the Administrator determines that disclo-*
3 *sure of the specific aggregated volumes would reveal*
4 *confidential information.*

5 “(8) *Except as otherwise provided in this section,*
6 *the specific identity of a chemical substance prior to*
7 *the date on which the chemical substance is first of-*
8 *fered for commercial distribution, including the chem-*
9 *ical name, molecular formula, Chemical Abstracts*
10 *Service number, and other information that would*
11 *identify a specific chemical substance, if the specific*
12 *identity was claimed as confidential information at*
13 *the time it was submitted in a notice under section*
14 5.

15 “(c) *INFORMATION NOT PROTECTED FROM DISCLO-*
16 *SURE.—*

17 “(1) *IN GENERAL.—Notwithstanding subsections*
18 *(a) and (b), the following information shall not be*
19 *protected from disclosure:*

20 “(A) *INFORMATION FROM HEALTH AND*
21 *SAFETY STUDIES.—*

22 “(i) *IN GENERAL.—Subject to clause*
23 (ii)—

1 “(I) any health and safety study
2 that is submitted under this Act with
3 respect to—

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

9 “(bb) any chemical substance
10 or mixture for which—

11 “(AA) testing is re-
12 quired under section 4; or

13 “(BB) a notification is
14 required under section 5; or

15 “(II) any information reported to,
16 or otherwise obtained by, the Adminis-
17 trator from a health and safety study
18 relating to a chemical substance or
19 mixture described in item (aa) or (bb)
20 of subclause (I).

21 “(ii) *EFFECT OF SUBPARAGRAPH.*—
22 Nothing in this subparagraph authorizes the
23 release of any information that discloses—

1 “(I) a process used in the manu-
2 facturing or processing of a chemical
3 substance or mixture; or

4 “(II) in the case of a mixture, the
5 portion of the mixture comprised by
6 any chemical substance in the mixture.

7 “(B) OTHER INFORMATION NOT PROTECTED
8 FROM DISCLOSURE.—

9 “(i) For information submitted after
10 the date of enactment of the Frank R. Lau-
11 tenberg Chemical Safety for the 21st Cen-
12 tury Act, the specific identity of a chemical
13 substance as of the date on which the chem-
14 ical substance is first offered for commercial
15 distribution, if the person submitting the
16 information does not meet the requirements
17 of subsection (d).

18 “(ii) A safety assessment developed, or
19 a safety determination made, under section
20 6.

21 “(iii) Any general information describ-
22 ing the manufacturing volumes, expressed
23 as specific aggregated volumes or, if the Ad-
24 ministrator determines that disclosure of
25 specific aggregated volumes would reveal

1 *confidential information, expressed in*
2 *ranges.*

3 “(iv) *A general description of a process*
4 *used in the manufacture or processing and*
5 *industrial, commercial, or consumer func-*
6 *tions and uses of a chemical substance, mix-*
7 *ture, or article containing a chemical sub-*
8 *stance or mixture, including information*
9 *specific to an industry or industry sector*
10 *that customarily would be shared with the*
11 *general public or within an industry or in-*
12 *dustry sector.*

13 “(2) *MIXED CONFIDENTIAL AND NONCONFIDEN-*
14 *TIAL INFORMATION.—Any information that is eligible*
15 *for protection under this section and is submitted*
16 *with information described in this subsection shall be*
17 *protected from disclosure, if the submitter complies*
18 *with subsection (d), subject to the condition that in-*
19 *formation in the submission that is not eligible for*
20 *protection against disclosure shall be disclosed.*

21 “(3) *BAN OR PHASE-OUT.—If the Administrator*
22 *promulgates a rule pursuant to section 6(d) that es-*
23 *tablishes a ban or phase-out of the manufacture, proc-*
24 *essing, or distribution in commerce of a chemical sub-*
25 *stance, subject to paragraphs (2), (3), and (4) of sub-*

1 *section (g), any protection from disclosure provided*
 2 *under this section with respect to the specific identity*
 3 *of the chemical substance and other information relat-*
 4 *ing to the chemical substance shall no longer apply.*

5 *“(4) CERTAIN REQUESTS.—If a request is made*
 6 *to the Administrator under section 552(a) of title 5,*
 7 *United States Code, for information that is subject to*
 8 *disclosure under this subsection, the Administrator*
 9 *may not deny the request on the basis of section*
 10 *552(b)(4) of title 5, United States Code.*

11 *“(d) REQUIREMENTS FOR CONFIDENTIALITY*
 12 *CLAIMS.—*

13 *“(1) ASSERTION OF CLAIMS.—*

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

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

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

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

10 “(iii) a reasonable basis to conclude
11 that disclosure of the information is likely
12 to cause substantial harm to the competitive
13 position of the person; and

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

17 “(C) *SPECIFIC CHEMICAL IDENTITY.*—In
18 the case of a claim under subparagraph (A) for
19 protection against disclosure of a specific chem-
20 ical identity, the claim shall include a struc-
21 turally descriptive generic name for the chemical
22 substance that the Administrator may disclose to
23 the public, subject to the condition that the ge-
24 neric name shall—

1 “(i) be consistent with guidance issued
2 by the Administrator under paragraph
3 (3)(A); and

4 “(ii) describe the chemical structure of
5 the substance as specifically as practicable
6 while protecting those features of the chem-
7 ical structure—

8 “(I) that are considered to be con-
9 fidential; and

10 “(II) the disclosure of which
11 would be likely to cause substantial
12 harm to the competitive position of the
13 person.

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

18 “(2) ADDITIONAL REQUIREMENTS FOR CON-
19 FIDENTIALITY CLAIMS.—Except for information de-
20 scribed in subsection (b), a person asserting a claim
21 to protect information from disclosure under this Act
22 shall substantiate the claim, in accordance with the
23 rules promulgated and consistent with the guidance
24 issued by the Administrator.

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

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

7 “(B) *the content and form of the statements*
8 *of need and agreements required under para-*
9 *graphs (4), (5), and (6) of subsection (e).*

10 “(4) *CERTIFICATION.—An authorized official of*
11 *a person described in paragraph (1)(A) shall certify*
12 *that the statement required to assert a claim sub-*
13 *mitted pursuant to paragraph (1)(B) and any infor-*
14 *mation required to substantiate a claim submitted*
15 *pursuant to paragraph (2) are true and correct.*

16 “(e) *EXCEPTIONS TO PROTECTION FROM DISCLO-*
17 *SURE.—Information described in subsection (a)—*

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

22 “(A) *under any law for the protection of*
23 *health or the environment; or*

24 “(B) *for a specific law enforcement purpose;*

1 “(2) shall be disclosed if the information is to be
2 disclosed to a contractor of the United States and em-
3 ployees of that contractor—

4 “(A) if, in the opinion of the Administrator,
5 the disclosure is necessary for the satisfactory
6 performance by the contractor of a contract with
7 the United States for the performance of work in
8 connection with this Act; and

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

11 “(3) shall be disclosed if the Administrator deter-
12 mines that disclosure is necessary to protect health or
13 the environment;

14 “(4) shall be disclosed if the information is to be
15 disclosed to a State or political subdivision of a State,
16 on written request, for the purpose of development,
17 administration, or enforcement of a law, if 1 or more
18 applicable agreements with the Administrator that
19 are consistent with the guidance issued under sub-
20 section (d)(3)(B) ensure that the recipient will take
21 appropriate measures, and has adequate authority, to
22 maintain the confidentiality of the information in ac-
23 cordance with procedures comparable to the proce-
24 dures used by the Administrator to safeguard the in-
25 formation;

1 “(5) shall be disclosed if a health or environ-
2 mental professional employed by a Federal or State
3 agency or a treating physician or nurse in a non-
4 emergency situation provides a written statement of
5 need and agrees to sign a written confidentiality
6 agreement with the Administrator, subject to the con-
7 ditions that—

8 “(A) the statement of need and confiden-
9 tiality agreement are consistent with the guid-
10 ance issued under subsection (d)(3)(B);

11 “(B) the written statement of need shall be
12 a statement that the person has a reasonable
13 basis to suspect that—

14 “(i) the information is necessary for,
15 or will assist in—

16 “(I) the diagnosis or treatment of
17 1 or more individuals; or

18 “(II) responding to an environ-
19 mental release or exposure; and

20 “(ii) 1 or more individuals being diag-
21 nosed or treated have been exposed to the
22 chemical substance concerned, or an envi-
23 ronmental release or exposure has occurred;
24 and

1 “(C) the confidentiality agreement shall
2 provide that the person will not use the informa-
3 tion for any purpose other than the health or en-
4 vironmental needs asserted in the statement of
5 need, except as otherwise may be authorized by
6 the terms of the agreement or by the person sub-
7 mitting the information to the Administrator,
8 except that nothing in this Act prohibits the dis-
9 closure of any such information through dis-
10 covery, subpoena, other court order, or any other
11 judicial process otherwise allowed under applica-
12 ble Federal or State law;

13 “(6) shall be disclosed if in the event of an emer-
14 gency, a treating physician, nurse, agent of a poison
15 control center, public health or environmental official
16 of a State or political subdivision of a State, or first
17 responder (including any individual duly authorized
18 by a Federal agency, State, or political subdivision of
19 a State who is trained in urgent medical care or
20 other emergency procedures, including a police officer,
21 firefighter, or emergency medical technician) requests
22 the information, subject to the conditions that—

23 “(A) the treating physician, nurse, agent,
24 public health or environmental official of a State
25 or a political subdivision of a State, or first re-

1 *sponder shall have a reasonable basis to suspect*
2 *that—*

3 *“(i) a medical or public health or envi-*
4 *ronmental emergency exists;*

5 *“(ii) the information is necessary for,*
6 *or will assist in, emergency or first-aid di-*
7 *agnosis or treatment; or*

8 *“(iii) 1 or more individuals being di-*
9 *agnosed or treated have likely been exposed*
10 *to the chemical substance concerned, or a se-*
11 *rious environmental release of or exposure*
12 *to the chemical substance concerned has oc-*
13 *curred;*

14 *“(B) if requested by the person submitting*
15 *the information to the Administrator, the treat-*
16 *ing physician, nurse, agent, public health or en-*
17 *vironmental official of a State or a political sub-*
18 *division of a State, or first responder shall, as*
19 *described in paragraph (5)—*

20 *“(i) provide a written statement of*
21 *need; and*

22 *“(ii) agree to sign a confidentiality*
23 *agreement; and*

24 *“(C) the written confidentiality agreement*
25 *or statement of need shall be submitted as soon*

1 *as practicable, but not necessarily before the in-*
 2 *formation is disclosed;*

3 *“(7) may be disclosed if the Administrator deter-*
 4 *mines that disclosure is relevant in a proceeding*
 5 *under this Act, subject to the condition that the disclo-*
 6 *sure shall be made in such a manner as to preserve*
 7 *confidentiality to the maximum extent practicable*
 8 *without impairing the proceeding;*

9 *“(8) shall be disclosed if the information is to be*
 10 *disclosed, on written request of any duly authorized*
 11 *congressional committee, to that committee; or*

12 *“(9) shall be disclosed if the information is re-*
 13 *quired to be disclosed or otherwise made public under*
 14 *any other provision of Federal law.*

15 *“(f) DURATION OF PROTECTION FROM DISCLOSURE.—*

16 *“(1) IN GENERAL.—*

17 *“(A) INFORMATION NOT SUBJECT TO TIME*
 18 *LIMIT FOR PROTECTION FROM DISCLOSURE.—*

19 *Subject to paragraph (2), the Administrator*
 20 *shall protect from disclosure information de-*
 21 *scribed in subsection (b) that meets the require-*
 22 *ments of subsections (a) and (d), unless—*

23 *“(i) the person that asserted the claim*
 24 *notifies the Administrator that the person is*
 25 *withdrawing the claim, in which case the*

1 Administrator shall promptly make the in-
2 formation available to the public; or

3 “(ii) the Administrator otherwise be-
4 comes aware that the information does not
5 qualify or no longer qualifies for protection
6 against disclosure under subsection (a), in
7 which case the Administrator shall take any
8 actions required under subsection (g)(2).

9 “(B) INFORMATION SUBJECT TO TIME LIMIT
10 FOR PROTECTION FROM DISCLOSURE.—Subject to
11 paragraph (2), the Administrator shall protect
12 from disclosure information, other than informa-
13 tion described in subsection (b), that meets the
14 requirements of subsections (a) and (d) for a pe-
15 riod of 10 years, unless, prior to the expiration
16 of the period—

17 “(i) the person that asserted the claim
18 notifies the Administrator that the person is
19 withdrawing the claim, in which case the
20 Administrator shall promptly make the in-
21 formation available to the public; or

22 “(ii) the Administrator otherwise be-
23 comes aware that the information does not
24 qualify or no longer qualifies for protection
25 against disclosure under subsection (a), in

1 *which case the Administrator shall take any*
2 *actions required under subsection (g)(2).*

3 “(C) *EXTENSIONS.*—

4 “(i) *IN GENERAL.*—Not later than the
5 *date that is 60 days before the expiration of*
6 *the period described in subparagraph (B),*
7 *the Administrator shall provide to the per-*
8 *son that asserted the claim a notice of the*
9 *impending expiration of the period.*

10 “(ii) *STATEMENT.*—

11 “(I) *IN GENERAL.*—Not later than
12 *the date that is 30 days before the expi-*
13 *ration of the period described in sub-*
14 *paragraph (B), a person reasserting*
15 *the relevant claim shall submit to the*
16 *Administrator a request for extension*
17 *substantiating, in accordance with sub-*
18 *section (d)(2), the need to extend the*
19 *period.*

20 “(II) *ACTION BY ADMINIS-*
21 *TRATOR.*—Not later than the date of
22 *expiration of the period described in*
23 *subparagraph (B), the Administrator*
24 *shall, in accordance with subsection*
25 *(g)(1)(C)—*

1 “(aa) review the request sub-
2 mitted under subclause (I);

3 “(bb) make a determination
4 regarding whether the claim for
5 which the request was submitted
6 continues to meet the relevant cri-
7 teria established under this sec-
8 tion; and

9 “(cc)(AA) grant an extension
10 of 10 years; or

11 “(BB) deny the request.

12 “(D) NO LIMIT ON NUMBER OF EXTEN-
13 SIONS.—There shall be no limit on the number
14 of extensions granted under subparagraph (C), if
15 the Administrator determines that the relevant
16 request under subparagraph (C)(ii)(I)—

17 “(i) establishes the need to extend the
18 period; and

19 “(ii) meets the requirements established
20 by the Administrator.

21 “(2) REVIEW AND RESUBSTANTIATION.—

22 “(A) DISCRETION OF ADMINISTRATOR.—The
23 Administrator may review, at any time, a claim
24 for protection of information against disclosure
25 under subsection (a) and require any person that

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

7 *“(i) after the chemical substance is*
8 *identified as a high-priority substance*
9 *under section 4A;*

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

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

15 *“(iv) in limited circumstances, if the*
16 *Administrator determines that disclosure of*
17 *certain information currently protected*
18 *from disclosure would assist the Adminis-*
19 *trator in conducting safety assessments and*
20 *safety determinations under subsections (b)*
21 *and (c) of section 6 or promulgating rules*
22 *pursuant to section 6(d).*

23 *“(B) REVIEW REQUIRED.—The Adminis-*
24 *trator shall review a claim for protection of in-*
25 *formation against disclosure under subsection (a)*

1 *and require any person that has claimed protec-*
2 *tion for that information, whether before, on, or*
3 *after the date of enactment of the Frank R. Lau-*
4 *tenberg Chemical Safety for the 21st Century*
5 *Act, to withdraw or reassert and substantiate or*
6 *resubstantiate the claim in accordance with this*
7 *section—*

8 *“(i) as necessary to determine whether*
9 *the information qualifies for an exemption*
10 *from disclosure in connection with a request*
11 *for information received by the Adminis-*
12 *trator under section 552 of title 5, United*
13 *States Code;*

14 *“(ii) if the Administrator has a rea-*
15 *sonable basis to believe that the information*
16 *does not qualify for protection against dis-*
17 *closure under subsection (a); or*

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

21 *“(C) ACTION BY RECIPIENT.—If the Admin-*
22 *istrator makes a request under subparagraph (A)*
23 *or (B), the recipient of the request shall—*

24 *“(i) reassert and substantiate or re-*
25 *substantiate the claim; or*

1 “(ii) *withdraw the claim.*

2 “(D) *PERIOD OF PROTECTION.—Protection*
3 *from disclosure of information subject to a claim*
4 *that is reviewed and approved by the Adminis-*
5 *trator under this paragraph shall be extended for*
6 *a period of 10 years from the date of approval,*
7 *subject to any subsequent request by the Admin-*
8 *istrator under this paragraph.*

9 “(3) *UNIQUE IDENTIFIER.—The Administrator*
10 *shall—*

11 “(A)(i) *develop a system to assign a unique*
12 *identifier to each specific chemical identity for*
13 *which the Administrator approves a request for*
14 *protection from disclosure, other than a specific*
15 *chemical identity or structurally descriptive ge-*
16 *neric term; and*

17 “(ii) *apply that identifier consistently to all*
18 *information relevant to the applicable chemical*
19 *substance;*

20 “(B) *annually publish and update a list of*
21 *chemical substances, referred to by unique identi-*
22 *fier, for which claims to protect the specific*
23 *chemical identity from disclosure have been ap-*
24 *proved, including the expiration date for each*
25 *such claim;*

1 “(C) ensure that any nonconfidential infor-
2 mation received by the Administrator with re-
3 spect to such a chemical substance during the pe-
4 riod of protection from disclosure—

5 “(i) is made public; and

6 “(ii) identifies the chemical substance
7 using the unique identifier; and

8 “(D) for each claim for protection of specific
9 chemical identity that has been denied by the
10 Administrator or expired, or that has been with-
11 drawn by the submitter, provide public access to
12 the specific chemical identity clearly linked to all
13 nonconfidential information received by the Ad-
14 ministrator with respect to the chemical sub-
15 stance.

16 “(g) DUTIES OF ADMINISTRATOR.—

17 “(1) DETERMINATION.—

18 “(A) IN GENERAL.—Except as provided in
19 subsection (b), the Administrator shall, subject to
20 subparagraph (C), not later than 90 days after
21 the receipt of a claim under subsection (d), and
22 not later than 30 days after the receipt of a re-
23 quest for extension of a claim under subsection
24 (f), review and approve, modify, or deny the
25 claim or request.

1 “(B) *REASONS FOR DENIAL OR MODIFICA-*
2 *TION.—If the Administrator denies or modifies a*
3 *claim or request under subparagraph (A), the*
4 *Administrator shall provide to the person that*
5 *submitted the claim or request a written state-*
6 *ment of the reasons for the denial or modifica-*
7 *tion of the claim or request.*

8 “(C) *SUBSETS.—The Administrator shall—*

9 “(i) *except for claims described in sub-*
10 *section (b)(8), review all claims or requests*
11 *under this section for the protection against*
12 *disclosure of the specific identity of a chem-*
13 *ical substance; and*

14 “(ii) *review a representative subset,*
15 *comprising at least 25 percent, of all other*
16 *claims or requests for protection against*
17 *disclosure.*

18 “(D) *EFFECT OF FAILURE TO ACT.—The*
19 *failure of the Administrator to make a decision*
20 *regarding a claim or request for protection*
21 *against disclosure or extension under this section*
22 *shall not be the basis for denial or elimination*
23 *of a claim or request for protection against dis-*
24 *closure.*

25 “(2) *NOTIFICATION.—*

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B) and subsections (c), (e), and*
3 *(f), if the Administrator denies or modifies a*
4 *claim or request under paragraph (1), intends to*
5 *release information pursuant to subsection (e), or*
6 *promulgates a rule under section 6(d) estab-*
7 *lishing a ban or phase-out of a chemical sub-*
8 *stance, the Administrator shall notify, in writing*
9 *and by certified mail, the person that submitted*
10 *the claim of the intent of the Administrator to*
11 *release the information.*

12 “(B) *RELEASE OF INFORMATION.*—*Except*
13 *as provided in subparagraph (C), the Adminis-*
14 *trator shall not release information under this*
15 *subsection until the date that is 30 days after the*
16 *date on which the person that submitted the re-*
17 *quest receives notification under subparagraph*
18 *(A).*

19 “(C) *EXCEPTIONS.*—

20 “(i) *IN GENERAL.*—*For information*
21 *under paragraph (3) or (8) of subsection*
22 *(e), the Administrator shall not release that*
23 *information until the date that is 15 days*
24 *after the date on which the person that sub-*
25 *mitted the claim or request receives a notifi-*

1 *cation, unless the Administrator determines*
 2 *that release of the information is necessary*
 3 *to protect against an imminent and sub-*
 4 *stantial harm to health or the environment,*
 5 *in which case no prior notification shall be*
 6 *necessary.*

7 “(ii) *NOTIFICATION AS SOON AS PRAC-*
 8 *TICABLE.—For information under para-*
 9 *graphs (4) and (6) of subsection (e), the Ad-*
 10 *ministrator shall notify the person that sub-*
 11 *mitted the information that the information*
 12 *has been disclosed as soon as practicable*
 13 *after disclosure of the information.*

14 “(iii) *NO NOTIFICATION REQUIRED.—*
 15 *Notification shall not be required—*

16 *“(I) for the disclosure of informa-*
 17 *tion under paragraph (1), (2), (7), or*
 18 *(9) of subsection (e); or*

19 *“(II) for the disclosure of informa-*
 20 *tion for which—*

21 *“(aa) a notice under sub-*
 22 *section (f)(1)(C)(i) was received;*
 23 *and*

24 *“(bb) no request was received*
 25 *by the Administrator on or before*

1 *the date of expiration of the pe-*
2 *riod for which protection from*
3 *disclosure applies.*

4 “(3) *REBUTTABLE PRESUMPTION.*—

5 “(A) *IN GENERAL.*—With respect to notifi-
6 *cations provided by the Administrator under*
7 *paragraph (2) with respect to information per-*
8 *taining to a chemical substance subject to a rule*
9 *as described in subsection (c)(3), there shall be a*
10 *rebuttable presumption that the public interest*
11 *in disclosing confidential information related to*
12 *a chemical substance subject to a rule promul-*
13 *gated under section 6(d) that establishes a ban or*
14 *phase-out of the manufacture, processing, or dis-*
15 *tribution in commerce of the substance outweighs*
16 *the proprietary interest in maintaining the pro-*
17 *tection from disclosure of that information.*

18 “(B) *REQUEST FOR NONDISCLOSURE.*—A
19 *person that receives a notification under para-*
20 *graph (2) with respect to the information de-*
21 *scribed in subparagraph (A) may submit to the*
22 *Administrator, before the date on which the in-*
23 *formation is to be released pursuant to para-*
24 *graph (2)(B), a request with supporting docu-*
25 *mentation describing why the person believes*

1 *some or all of that information should not be dis-*
 2 *closed.*

3 “(C) *DETERMINATION BY ADMINIS-*
 4 *TRATOR.—*

5 “(i) *IN GENERAL.—Not later than 30*
 6 *days after the Administrator receives a re-*
 7 *quest under subparagraph (B), the Admin-*
 8 *istrator shall determine whether the docu-*
 9 *mentation provided by the person making*
 10 *the request rebuts or does not rebut the pre-*
 11 *sumption described in subparagraph (A),*
 12 *for all or a portion of the information that*
 13 *the person has requested not be disclosed.*

14 “(ii) *OBJECTIVE.—The Administrator*
 15 *shall make the determination with the objec-*
 16 *tive of ensuring that information relevant to*
 17 *protection of health and the environment is*
 18 *disclosed to the maximum extent prac-*
 19 *ticable.*

20 “(D) *TIMING.—Not later than 30 days after*
 21 *making the determination described in subpara-*
 22 *graph (C), the Administrator shall make public*
 23 *the information the Administrator has deter-*
 24 *mined is not to be protected from disclosure.*

1 “(E) *NO TIMELY REQUEST RECEIVED.*—If
2 the Administrator does not receive, before the
3 date on which the information described in sub-
4 paragraph (A) is to be released pursuant to
5 paragraph (2)(B), a request pursuant to sub-
6 paragraph (B), the Administrator shall prompt-
7 ly make public all of the information.

8 “(4) *APPEALS.*—

9 “(A) *IN GENERAL.*—If a person receives a
10 notification under paragraph (2) and believes
11 disclosure of the information is prohibited under
12 subsection (a), before the date on which the infor-
13 mation is to be released pursuant to paragraph
14 (2)(B), the person may bring an action to re-
15 strain disclosure of the information in—

16 “(i) the United States district court of
17 the district in which the complainant re-
18 sides or has the principal place of business;
19 or

20 “(ii) the United States District Court
21 for the District of Columbia.

22 “(B) *NO DISCLOSURE.*—The Administrator
23 shall not disclose any information that is the
24 subject of an appeal under this section before the

1 *date on which the applicable court rules on an*
2 *action under subparagraph (A).*

3 “(5) *REQUEST AND NOTIFICATION SYSTEM.—The*
4 *Administrator, in consultation with the Director of*
5 *the Centers for Disease Control and Prevention, shall*
6 *develop a request and notification system that allows*
7 *for expedient and swift access to information disclosed*
8 *pursuant to paragraphs (5) and (6) of subsection (e)*
9 *in a format and language that is readily accessible*
10 *and understandable.*

11 “(h) *CRIMINAL PENALTY FOR WRONGFUL DISCLO-*
12 *SURE.—*

13 “(1) *OFFICERS AND EMPLOYEES OF UNITED*
14 *STATES.—*

15 “(A) *IN GENERAL.—Subject to paragraph*
16 *(2), a current or former officer or employee of the*
17 *United States described in subparagraph (B)*
18 *shall be guilty of a misdemeanor and fined*
19 *under title 18, United States Code, or impris-*
20 *oned for not more than 1 year, or both.*

21 “(B) *DESCRIPTION.—A current or former*
22 *officer or employee of the United States referred*
23 *to in subparagraph (A) is a current or former*
24 *officer or employee of the United States who—*

1 “(i) by virtue of that employment or
 2 official position has obtained possession of,
 3 or has access to, material the disclosure of
 4 which is prohibited by subsection (a); and

5 “(ii) knowing that disclosure of that
 6 material is prohibited by subsection (a),
 7 willfully discloses the material in any man-
 8 ner to any person not entitled to receive
 9 that material.

10 “(2) *OTHER LAWS.*—Section 1905 of title 18,
 11 United States Code, shall not apply with respect to
 12 the publishing, divulging, disclosure, making known
 13 of, or making available, information reported or oth-
 14 erwise obtained under this Act.

15 “(3) *CONTRACTORS.*—For purposes of this sub-
 16 section, any contractor of the United States that is
 17 provided information in accordance with subsection
 18 (e)(2), including any employee of that contractor,
 19 shall be considered to be an employee of the United
 20 States.

21 “(i) *APPLICABILITY.*—

22 “(1) *IN GENERAL.*—Except as otherwise provided
 23 in this section, section 8, or any other applicable Fed-
 24 eral law, the Administrator shall have no authority—

1 “(A) to require the substantiation or re-
2 substantiation of a claim for the protection from
3 disclosure of information reported to or otherwise
4 obtained by the Administrator under this Act be-
5 fore the date of enactment of the Frank R. Lau-
6 tenberg Chemical Safety for the 21st Century
7 Act; or

8 “(B) to impose substantiation or resubstan-
9 tiation requirements under this Act that are
10 more extensive than those required under this
11 section.

12 “(2) ACTIONS PRIOR TO PROMULGATION OF
13 RULES.—Nothing in this Act prevents the Adminis-
14 trator from reviewing, requiring substantiation or re-
15 substantiation for, or approving, modifying or deny-
16 ing any claim for the protection from disclosure of in-
17 formation before the effective date of such rules appli-
18 cable to those claims as the Administrator may pro-
19 mulgate after the date of enactment of the Frank R.
20 Lautenberg Chemical Safety for the 21st Century
21 Act.”.

22 **SEC. 15. PROHIBITED ACTS.**

23 Section 15 of the Toxic Substances Control Act (15
24 U.S.C. 2614) is amended by striking paragraph (1) and
25 inserting the following:

1 “(1) fail or refuse to comply with—

2 “(A) any rule promulgated, consent agree-
3 ment entered into, or order issued under section
4 4;

5 “(B) any requirement under section 5 or 6;

6 “(C) any rule promulgated, consent agree-
7 ment entered into, or order issued under section
8 5 or 6; or

9 “(D) any requirement of, or any rule pro-
10 mulgated or order issued pursuant to title II;”.

11 **SEC. 16. PENALTIES.**

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

14 (1) in subsection (a)(1)—

15 (A) in the first sentence, by striking
16 “\$25,000” and inserting “\$37,500”; and

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

20 (2) in subsection (b)—

21 (A) by striking “Any person who” and in-
22 serting the following:

23 “(1) *IN GENERAL.*—Any person that”;

24 (B) by striking “\$25,000” and inserting
25 “\$50,000”; and

1 (C) by adding at the end the following:

2 “(2) *IMMINENT DANGER OF DEATH OR SERIOUS*
3 *BODILY INJURY.*—

4 “(A) *IN GENERAL.*—Any person that know-
5 ingly or willfully violates any provision of sec-
6 tion 15 or 409, and that knows at the time of
7 the violation that the violation places an indi-
8 vidual in imminent danger of death or serious
9 bodily injury, shall be subject on conviction to a
10 fine of not more than \$250,000, or imprisonment
11 for not more than 15 years, or both.

12 “(B) *ORGANIZATIONS.*—An organization
13 that commits a violation described in subpara-
14 graph (A) shall be subject on conviction to a fine
15 of not more than \$1,000,000 for each violation.

16 “(C) *INCORPORATION OF CORRESPONDING*
17 *PROVISIONS.*—Subparagraphs (B) through (F) of
18 section 113(c)(5) of the Clean Air Act (42 U.S.C.
19 7413(c)(5)) shall apply to the prosecution of a
20 violation under this paragraph.”.

21 **SEC. 17. STATE-FEDERAL RELATIONSHIP.**

22 Section 18 of the Toxic Substances Control Act (15
23 U.S.C. 2617) is amended by striking subsections (a) and
24 (b) and inserting the following:

25 “(a) *IN GENERAL.*—

1 “(1) *ESTABLISHMENT OR ENFORCEMENT.*—*Ex-*
2 *cept as provided in subsections (c), (d), (e), (f), and*
3 *(g), and subject to paragraph (2), no State or polit-*
4 *ical subdivision of a State may establish or continue*
5 *to enforce any of the following:*

6 “(A) *TESTING.*—*A statute or administrative*
7 *action to require the development of information*
8 *on a chemical substance or category of substances*
9 *that is reasonably likely to produce the same in-*
10 *formation required under section 4, 5, or 6 in—*

11 “(i) *a rule promulgated by the Admin-*
12 *istrator;*

13 “(ii) *a testing consent agreement en-*
14 *tered into by the Administrator; or*

15 “(iii) *an order issued by the Adminis-*
16 *trator.*

17 “(B) *CHEMICAL SUBSTANCES FOUND TO*
18 *MEET THE SAFETY STANDARD OR RE-*
19 *STRICTED.*—*A statute or administrative action*
20 *to prohibit or otherwise restrict the manufacture,*
21 *processing, or distribution in commerce or use of*
22 *a chemical substance—*

23 “(i) *found to meet the safety standard*
24 *and consistent with the scope of the deter-*
25 *mination made under section 6; or*

1 “(ii) found not to meet the safety
2 standard, after the effective date of the rule
3 issued under section 6(d) for the substance,
4 consistent with the scope of the determina-
5 tion made by the Administrator.

6 “(C) SIGNIFICANT NEW USE.—A statute or
7 administrative action requiring the notification
8 of a use of a chemical substance that the Admin-
9 istrator has specified as a significant new use
10 and for which the Administrator has required
11 notification pursuant to a rule promulgated
12 under section 5.

13 “(2) EFFECTIVE DATE OF PREEMPTION.—Under
14 this subsection, Federal preemption of statutes and
15 administrative actions applicable to specific sub-
16 stances shall not occur until the effective date of the
17 applicable action described in paragraph (1) taken by
18 the Administrator.

19 “(b) NEW STATUTES OR ADMINISTRATIVE ACTIONS
20 CREATING PROHIBITIONS OR OTHER RESTRICTIONS.—

21 “(1) IN GENERAL.—Except as provided in sub-
22 sections (c), (d), (e), (f), and (g), beginning on the
23 date on which the Administrator defines and pub-
24 lishes the scope of a safety assessment and safety de-
25 termination under section 6(a)(2) and ending on the

1 *date on which the deadline established pursuant to*
2 *section 6(a) for completion of the safety determination*
3 *expires, or on the date on which the Administrator*
4 *publishes the safety determination under section 6(a),*
5 *whichever is earlier, no State or political subdivision*
6 *of a State may establish a statute or administrative*
7 *action prohibiting or restricting the manufacture,*
8 *processing, distribution in commerce or use of a*
9 *chemical substance that is a high-priority substance*
10 *designated under section 4A.*

11 “(2) *EFFECT OF SUBSECTION.*—

12 “(A) *IN GENERAL.*—*This subsection does*
13 *not restrict the authority of a State or political*
14 *subdivision of a State to continue to enforce any*
15 *statute enacted, or administrative action taken,*
16 *prior to the date on which the Administrator de-*
17 *finies and publishes the scope of a safety assess-*
18 *ment and safety determination under section*
19 *6(a)(2).*

20 “(B) *LIMITATION.*—*Subparagraph (A) does*
21 *not allow a State or political subdivision of a*
22 *State to enforce any new prohibition or restric-*
23 *tion under a statute or administrative action de-*
24 *scribed in that subparagraph, if the prohibition*

1 *or restriction is established after the date de-*
2 *scribed in that subparagraph.*

3 “(c) *SCOPE OF PREEMPTION.*—*Federal preemption*
4 *under subsections (a) and (b) of statutes and administrative*
5 *actions applicable to specific substances shall apply only*
6 *to—*

7 “(1) *the chemical substances or category of sub-*
8 *stances subject to a rule, order, or consent agreement*
9 *under section 4;*

10 “(2) *the hazards, exposures, risks, and uses or*
11 *conditions of use of such substances that are identified*
12 *by the Administrator as subject to review in a safety*
13 *assessment and included in the scope of the safety de-*
14 *termination made by the Administrator for the sub-*
15 *stance, or of any rule the Administrator promulgates*
16 *pursuant to section 6(d); or*

17 “(3) *the uses of such substances that the Admin-*
18 *istrator has specified as significant new uses and for*
19 *which the Administrator has required notification*
20 *pursuant to a rule promulgated under section 5.*

21 “(d) *EXCEPTIONS.*—

22 “(1) *NO PREEMPTION OF STATUTES AND ADMIN-*
23 *ISTRATIVE ACTIONS.*—

24 “(A) *IN GENERAL.*—*Nothing in this Act,*
25 *nor any amendment made by this Act, nor any*

1 *rule, standard of performance, safety determina-*
2 *tion, or scientific assessment implemented pursu-*
3 *ant to this Act, shall affect the right of a State*
4 *or a political subdivision of a State to adopt or*
5 *enforce any rule, standard of performance, safety*
6 *determination, scientific assessment, or any pro-*
7 *tection for public health or the environment*
8 *that—*

9 *“(i) is adopted or authorized under the*
10 *authority of any other Federal law or*
11 *adopted to satisfy or obtain authorization*
12 *or approval under any other Federal law;*

13 *“(ii) implements a reporting, moni-*
14 *toring, disclosure, or other information obli-*
15 *gation for the chemical substance not other-*
16 *wise required by the Administrator under*
17 *this Act or required under any other Fed-*
18 *eral law;*

19 *“(iii) is adopted pursuant to authority*
20 *under a law of the State or political sub-*
21 *division of the State related to water qual-*
22 *ity, air quality, or waste treatment or dis-*
23 *posal, except to the extent that the action—*

24 *“(I) imposes a restriction on the*
25 *manufacture, processing, distribution*

1 *in commerce, or use of a chemical sub-*
2 *stance; and*

3 “(II)(aa) *addresses the same haz-*
4 *ards and exposures, with respect to the*
5 *same conditions of use as are included*
6 *in the scope of the safety determination*
7 *pursuant to section 6, but is incon-*
8 *sistent with the action of the Adminis-*
9 *trator; or*

10 “(bb) *would cause a violation of*
11 *the applicable action by the Adminis-*
12 *trator under section 5 or 6; or*

13 “(iv) *subject to subparagraph (B), is*
14 *identical to a requirement prescribed by the*
15 *Administrator.*

16 “(B) *IDENTICAL REQUIREMENTS.—*

17 “(i) *IN GENERAL.—The penalties and*
18 *other sanctions applicable under a law of a*
19 *State or political subdivision of a State in*
20 *the event of noncompliance with the iden-*
21 *tical requirement shall be no more stringent*
22 *than the penalties and other sanctions*
23 *available to the Administrator under section*
24 *16 of this Act.*

1 “(ii) *PENALTIES.—In the case of an*
 2 *identical requirement—*

3 “(I) *a State or political subdivi-*
 4 *sion of a State may not assess a pen-*
 5 *alty for a specific violation for which*
 6 *the Administrator has assessed an ade-*
 7 *quate penalty under section 16; and*

8 “(II) *if a State or political sub-*
 9 *division of a State has assessed a pen-*
 10 *alty for a specific violation, the Ad-*
 11 *ministrator may not assess a penalty*
 12 *for that violation in an amount that*
 13 *would cause the total of the penalties*
 14 *assessed for the violation by the State*
 15 *or political subdivision of a State and*
 16 *the Administrator combined to exceed*
 17 *the maximum amount that may be as-*
 18 *essed for that violation by the Admin-*
 19 *istrator under section 16.*

20 “(2) *APPLICABILITY TO CERTAIN RULES OR OR-*
 21 *DERS.—Notwithstanding subsection (e)—*

22 “(A) *nothing in this section shall be con-*
 23 *strued as modifying the effect under this section,*
 24 *as in effect on the day before the effective date of*
 25 *the Frank R. Lautenberg Chemical Safety for the*

1 *21st Century Act, of any rule or order promul-*
2 *gated or issued under this Act prior to that effec-*
3 *tive date; and*

4 *“(B) with respect to a chemical substance or*
5 *mixture for which any rule or order was promul-*
6 *gated or issued under section 6 prior to the effec-*
7 *tive date of the Frank R. Lautenberg Chemical*
8 *Safety for the 21st Century Act with regards to*
9 *manufacturing, processing, distribution in com-*
10 *merce, use, or disposal of a chemical substance,*
11 *this section (as in effect on the day before the ef-*
12 *fective date of the Frank R. Lautenberg Chemical*
13 *Safety for the 21st Century Act) shall govern the*
14 *preemptive effect of any rule or order that is pro-*
15 *mulgated or issued respecting such chemical sub-*
16 *stance or mixture under section 6 of this Act*
17 *after that effective date, unless the latter rule or*
18 *order is with respect to a chemical substance or*
19 *mixture containing a chemical substance and fol-*
20 *lows a designation of that chemical substance as*
21 *a high-priority substance under subsection (b) or*
22 *(c) of section 4A or as an additional priority for*
23 *safety assessment and safety determination*
24 *under section 4A(c).*

25 *“(e) PRESERVATION OF CERTAIN LAWS.—*

1 “(1) *IN GENERAL.*—*Nothing in this Act, subject*
 2 *to subsection (g) of this section, shall—*

3 “(A) *be construed to preempt or otherwise*
 4 *affect the authority of a State or political sub-*
 5 *division of a State to continue to enforce any ac-*
 6 *tion taken before August 1, 2015, under the au-*
 7 *thority of a law of the State or political subdivi-*
 8 *sion of the State that prohibits or otherwise re-*
 9 *stricts manufacturing, processing, distribution in*
 10 *commerce, use, or disposal of a chemical sub-*
 11 *stance; or*

12 “(B) *be construed to preempt or otherwise*
 13 *affect any action taken pursuant to a State law*
 14 *that was in effect on August 31, 2003.*

15 “(2) *EFFECT OF SUBSECTION.*—*This subsection*
 16 *does not affect, modify, or alter the relationship be-*
 17 *tween Federal law and laws of a State or political*
 18 *subdivision of a State pursuant to any other Federal*
 19 *law.*

20 “(f) *WAIVERS.*—

21 “(1) *DISCRETIONARY EXEMPTIONS.*—*Upon ap-*
 22 *plication of a State or political subdivision of a*
 23 *State, the Administrator may by rule, exempt from*
 24 *subsection (a), under such conditions as may be pre-*
 25 *scribed in the rule, a statute or administrative action*

1 *of that State or political subdivision of the State that*
2 *relates to the effects of, or exposure to, a chemical sub-*
3 *stance under the conditions of use if the Adminis-*
4 *trator determines that—*

5 *“(A) compelling conditions warrant grant-*
6 *ing the waiver to protect health or the environ-*
7 *ment;*

8 *“(B) compliance with the proposed require-*
9 *ment of the State or political subdivision of the*
10 *State would not unduly burden interstate com-*
11 *merce in the manufacture, processing, distribu-*
12 *tion in commerce, or use of a chemical substance;*

13 *“(C) compliance with the proposed require-*
14 *ment of the State or political subdivision of the*
15 *State would not cause a violation of any appli-*
16 *cable Federal law, rule, or order; and*

17 *“(D) in the judgment of the Administrator,*
18 *the proposed requirement of the State or political*
19 *subdivision of the State is designed to address a*
20 *risk of a chemical substance, under the condi-*
21 *tions of use, that was identified—*

22 *“(i) consistent with the best available*
23 *science;*

1 “(ii) using supporting studies con-
2 ducted in accordance with sound and objec-
3 tive scientific practices; and

4 “(iii) based on the weight of the sci-
5 entific evidence.

6 “(2) *REQUIRED EXEMPTIONS.*—Upon applica-
7 tion of a State or political subdivision of a State, the
8 Administrator shall exempt from subsection (b) a
9 statute or administrative action of a State or polit-
10 ical subdivision of a State that relates to the effects
11 of exposure to a chemical substance under the condi-
12 tions of use if the Administrator determines that—

13 “(A) compliance with the proposed require-
14 ment of the State or political subdivision of the
15 State would not unduly burden interstate com-
16 merce in the manufacture, processing, distribu-
17 tion in commerce, or use of a chemical substance;

18 “(B) compliance with the proposed require-
19 ment of the State or political subdivision of the
20 State would not cause a violation of any appli-
21 cable Federal law, rule, or order; and

22 “(C) the State or political subdivision of the
23 State has a concern about the chemical substance
24 or use of the chemical substance based in peer-
25 reviewed science.

1 “(3) *DETERMINATION OF A WAIVER REQUEST.*—
 2 *The duty of the Administrator to grant or deny a*
 3 *waiver application shall be nondelegable and shall be*
 4 *exercised—*

5 “(A) *not later than 180 days after the date*
 6 *on which an application under paragraph (1) is*
 7 *submitted; and*

8 “(B) *not later than 110 days after the date*
 9 *on which an application under paragraph (2) is*
 10 *submitted.*

11 “(4) *FAILURE TO MAKE DETERMINATION.*—*If the*
 12 *Administrator fails to make a determination under*
 13 *paragraph (3)(B) during the 110-day period begin-*
 14 *ning on the date on which an application under*
 15 *paragraph (2) is submitted, the statute or adminis-*
 16 *trative action of the State or political subdivision of*
 17 *the State that was the subject of the application shall*
 18 *not be considered to be an existing statute or admin-*
 19 *istrative action for purposes of subsection (b) by rea-*
 20 *son of the failure of the Administrator to make a de-*
 21 *termination.*

22 “(5) *NOTICE AND COMMENT.*—*Except in the case*
 23 *of an application approved under paragraph (9), the*
 24 *application of a State or political subdivision of a*
 25 *State shall be subject to public notice and comment.*

1 “(6) *FINAL AGENCY ACTION.*—*The decision of the*
 2 *Administrator on the application of a State or polit-*
 3 *ical subdivision of a State shall be—*

4 “(A) *considered to be a final agency action;*
 5 *and*

6 “(B) *subject to judicial review.*

7 “(7) *DURATION OF WAIVERS.*—*A waiver granted*
 8 *under paragraph (2) or approved under paragraph*
 9 *(9) shall remain in effect until such time as the Ad-*
 10 *ministrator publishes the safety determination under*
 11 *section 6(a)(4).*

12 “(8) *JUDICIAL REVIEW OF WAIVERS.*—*Not later*
 13 *than 60 days after the date on which the Adminis-*
 14 *trator makes a determination on an application of a*
 15 *State or political subdivision of a State under para-*
 16 *graph (1) or (2), any person may file a petition for*
 17 *judicial review in the United States Court of Appeals*
 18 *for the District of Columbia Circuit, which shall have*
 19 *exclusive jurisdiction over the determination.*

20 “(9) *APPROVAL.*—

21 “(A) *AUTOMATIC APPROVAL.*—*If the Admin-*
 22 *istrator fails to meet the deadline established*
 23 *under paragraph (3)(B), the application of a*
 24 *State or political subdivision of a State under*
 25 *paragraph (2) shall be automatically approved,*

1 *effective on the date that is 10 days after the*
 2 *deadline.*

3 “(B) *REQUIREMENTS.—Notwithstanding*
 4 *paragraph (6), approval of a waiver application*
 5 *under subparagraph (A) for failure to meet the*
 6 *deadline under paragraph (3)(B) shall not be*
 7 *considered final agency action or be subject to ju-*
 8 *dicial review or public notice and comment.*

9 “(g) *SAVINGS.—*

10 “(1) *NO PREEMPTION OF COMMON LAW OR STAT-*
 11 *UTORY CAUSES OF ACTION FOR CIVIL RELIEF OR*
 12 *CRIMINAL CONDUCT.—*

13 “(A) *IN GENERAL.—Nothing in this Act,*
 14 *nor any amendment made by this Act, nor any*
 15 *safety standard, rule, requirement, standard of*
 16 *performance, safety determination, or scientific*
 17 *assessment implemented pursuant to this Act,*
 18 *shall be construed to preempt, displace, or sup-*
 19 *plant any state or Federal common law rights or*
 20 *any state or Federal statute creating a remedy*
 21 *for civil relief, including those for civil damage,*
 22 *or a penalty for a criminal conduct.*

23 “(B) *CLARIFICATION OF NO PREEMPTION.—*
 24 *Notwithstanding any other provision of this Act,*
 25 *nothing in this Act, nor any amendments made*

1 *by this Act, shall preempt or preclude any cause*
2 *of action for personal injury, wrongful death,*
3 *property damage, or other injury based on neg-*
4 *ligence, strict liability, products liability, failure*
5 *to warn, or any other legal theory of liability*
6 *under any State law, maritime law, or Federal*
7 *common law or statutory theory.*

8 “(2) *NO EFFECT ON PRIVATE REMEDIES.—*

9 “(A) *IN GENERAL.—Nothing in this Act,*
10 *nor any amendments made by this Act, nor any*
11 *rules, regulations, requirements, safety assess-*
12 *ments, safety determinations, scientific assess-*
13 *ments, or orders issued pursuant to this Act shall*
14 *be interpreted as, in either the plaintiff’s or de-*
15 *fendant’s favor, dispositive in any civil action.*

16 “(B) *AUTHORITY OF COURTS.—This Act*
17 *does not affect the authority of any court to*
18 *make a determination in an adjudicatory pro-*
19 *ceeding under applicable State or Federal law*
20 *with respect to the admission into evidence or*
21 *any other use of this Act or rules, regulations, re-*
22 *quirements, standards of performance, safety as-*
23 *sessments, scientific assessments, or orders issued*
24 *pursuant to this Act.”.*

1 **SEC. 18. JUDICIAL REVIEW.**

2 *Section 19 of the Toxic Substances Control Act (15*
 3 *U.S.C. 2618) is amended—*

4 *(1) in subsection (a)—*

5 *(A) in paragraph (1)—*

6 *(i) in subparagraph (A)—*

7 *(I) in the first sentence—*

8 *(aa) by striking “Not” and*
 9 *inserting “Except as otherwise*
 10 *provided in this title, not”;*

11 *(bb) by striking “section*
 12 *4(a), 5(a)(2), 5(b)(4), 6(a), 6(e),*
 13 *or 8, or under title II or IV” and*
 14 *inserting “this title or title II or*
 15 *IV, or an order under section*
 16 *6(c)(1)(A)”;* and

17 *(cc) by striking “judicial re-*
 18 *view of such rule” and inserting*
 19 *“judicial review of such rule or*
 20 *order”;* and

21 *(II) in the second sentence, by*
 22 *striking “such a rule” and inserting*
 23 *“such a rule or order”;* and

24 *(ii) in subparagraph (B)—*

1 (I) by striking “Courts” and in-
 2 serting “Except as otherwise provided
 3 in this title, courts”; and

4 (II) by striking “an order issued
 5 under subparagraph (A) or (B) of sec-
 6 tion 6(b)(1)” and inserting “an order
 7 issued under this title”;

8 (B) in paragraph (2), in the second sen-
 9 tence, by striking “the filing of the rulemaking
 10 record of proceedings on which the Administrator
 11 based the rule being reviewed” and inserting “the
 12 filing of the record of proceedings on which the
 13 Administrator based the rule or order being re-
 14 viewed”; and

15 (C) by striking paragraph (3) and inserting
 16 the following:

17 “(3) JUDICIAL REVIEW OF LOW-PRIORITY DECI-
 18 SIONS.—

19 “(A) IN GENERAL.—Not later than 60 days
 20 after the publication of a designation under sec-
 21 tion 4A(b)(4), or a designation under section
 22 4A(b)(8) of a chemical substance as a low-pri-
 23 ority substance, any person may commence a
 24 civil action to challenge the designation.

1 “(B) *JURISDICTION.*—*The United States*
 2 *Court of Appeals for the District of Columbia*
 3 *Circuit shall have exclusive jurisdiction over a*
 4 *civil action filed under this paragraph.”; and*
 5 *(2) in subsection (c)(1)(B)—*

6 *(A) in clause (i)—*

7 *(i) by striking “section 4(a), 5(b)(4),*
 8 *6(a), or 6(e)” and inserting “section 4(a),*
 9 *6(d), or 6(g), or an order under section*
 10 *6(c)(1)(A)”;* and

11 *(ii) by striking “evidence in the rule-*
 12 *making record (as defined in subsection*
 13 *(a)(3)) taken as a whole;” and inserting*
 14 *“evidence (including any matter) in the*
 15 *rulemaking record, taken as a whole; and”;*
 16 *and*

17 *(B) by striking clauses (ii) and (iii) and*
 18 *the matter following clause (iii) and inserting*
 19 *the following:*

20 *“(ii) the court may not review the con-*
 21 *tents and adequacy of any statement of*
 22 *basis and purpose required by section*
 23 *553(c) of title 5, United States Code, to be*
 24 *incorporated in the rule, except as part of*
 25 *the rulemaking record, taken as a whole.”.*

1 **SEC. 19. CITIZENS' CIVIL ACTIONS.**

2 *Section 20 of the Toxic Substances Control Act (15*
 3 *U.S.C. 2619) is amended—*

4 *(1) in subsection (a)(1), by striking “or order*
 5 *issued under section 5” and inserting “or order issued*
 6 *under section 4 or 5”; and*

7 *(2) in subsection (b)—*

8 *(A) in paragraph (1)(B), by striking “or”*
 9 *at the end;*

10 *(B) in paragraph (2), by striking the period*
 11 *at the end and inserting “, except that no prior*
 12 *notification shall be required in the case of a*
 13 *civil action brought to compel a decision by the*
 14 *Administrator pursuant to section 18(f)(3)(B);*
 15 *or”; and*

16 *(C) by adding at the end the following:*

17 *“(3) in the case of a civil action brought to com-*
 18 *pel a decision by the Administrator pursuant to sec-*
 19 *tion 18(f)(3)(B), after the date that is 60 days after*
 20 *the deadline specified in section 18(f)(3)(B).”.*

21 **SEC. 20. CITIZENS' PETITIONS.**

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

24 *(1) in subsection (a), by striking “an order*
 25 *under section 5(e) or 6(b)(2)” and inserting “an*
 26 *order under section 4 or 5(d)”;* and

1 (2) *in subsection (b)—*

2 (A) *in paragraph (1), by striking “an order*
 3 *under section 5(e), 6(b)(1)(A), or 6(b)(1)(B)”*
 4 *and inserting “an order under section 4 or*
 5 *5(d)”*; *and*

6 (B) *in paragraph (4), by striking subpara-*
 7 *graph (B) and inserting the following:*

8 “(B) *DE NOVO PROCEEDING.—*

9 “(i) *IN GENERAL.—In an action under*
 10 *subparagraph (A) to initiate a proceeding*
 11 *to issue a rule pursuant to section 4, 5, 6,*
 12 *or 8 or issue an order under section 4 or*
 13 *5(d), the petitioner shall be provided an op-*
 14 *portunity to have the petition considered by*
 15 *the court in a de novo proceeding.*

16 “(ii) *DEMONSTRATION.—*

17 “(I) *IN GENERAL.—The court in a*
 18 *de novo proceeding under this subpara-*
 19 *graph shall order the Administrator to*
 20 *initiate the action requested by the pe-*
 21 *titioner if the petitioner demonstrates*
 22 *to the satisfaction of the court by a*
 23 *preponderance of the evidence that—*

24 “(aa) *in the case of a peti-*
 25 *tion to initiate a proceeding for*

1 *the issuance of a rule or order*
2 *under section 4, the information*
3 *is needed for a purpose identified*
4 *in section 4(a);*

5 *“(bb) in the case of a petition*
6 *to issue an order under section*
7 *5(d), the chemical substance is not*
8 *likely to meet the safety standard;*

9 *“(cc) in the case of a petition*
10 *to initiate a proceeding for the*
11 *issuance of a rule under section*
12 *6(d), the chemical substance does*
13 *not meet the safety standard; or*

14 *“(dd) in the case of a peti-*
15 *tion to initiate a proceeding for*
16 *the issuance of a rule under sec-*
17 *tion 8, there is a reasonable basis*
18 *to conclude that the rule is nec-*
19 *essary to protect health or the en-*
20 *vironment or ensure that the*
21 *chemical substance meets the safe-*
22 *ty standard.*

23 *“(II) DEFERMENT.—The court in*
24 *a de novo proceeding under this sub-*
25 *paragraph may permit the Adminis-*

1 *trator to defer initiating the action re-*
 2 *quested by the petitioner until such*
 3 *time as the court prescribes, if the*
 4 *court finds that—*

5 *“(aa) the extent of the risk to*
 6 *health or the environment alleged*
 7 *by the petitioner is less than the*
 8 *extent of risks to health or the en-*
 9 *vironment with respect to which*
 10 *the Administrator is taking action*
 11 *under this Act; and*

12 *“(bb) there are insufficient*
 13 *resources available to the Admin-*
 14 *istrator to take the action re-*
 15 *quested by the petitioner.”.*

16 **SEC. 21. EMPLOYMENT EFFECTS.**

17 *Section 24(b)(2)(B)(ii) of the Toxic Substances Control*
 18 *Act (15 U.S.C. 2623(b)(2)(B)(ii)) is amended by striking*
 19 *“section 6(c)(3),” and inserting “the applicable require-*
 20 *ments of this Act;”.*

21 **SEC. 22. STUDIES.**

22 *Section 25 of the Toxic Substances Control Act (15*
 23 *U.S.C. 2624) is repealed.*

1 **SEC. 23. ADMINISTRATION.**

2 *Section 26 of the Toxic Substances Control Act (15*
3 *U.S.C. 2625) is amended—*

4 *(1) by striking subsection (b) and inserting the*
5 *following:*

6 *“(b) FEES.—*

7 *“(1) IN GENERAL.—The Administrator shall es-*
8 *tablish, not later than 1 year after the date of enact-*
9 *ment of the Frank R. Lautenberg Chemical Safety for*
10 *the 21st Century Act, by rule—*

11 *“(A) the payment of 1 or more reasonable*
12 *fees as a condition of submitting a notice or re-*
13 *questing an exemption under section 5; and*

14 *“(B) the payment of 1 or more reasonable*
15 *fees by a manufacturer or processor that—*

16 *“(i) is required to submit a notice pur-*
17 *suant to the rule promulgated under section*
18 *8(b)(4)(A)(i) identifying a chemical sub-*
19 *stance as active;*

20 *“(ii) is required to submit a notice*
21 *pursuant to section 8(b)(5)(B)(i) changing*
22 *the status of a chemical substance from in-*
23 *active to active;*

24 *“(iii) is required to report information*
25 *pursuant to the rules promulgated under*
26 *paragraph (1) or (4) of section 8(a); or*

1 “(iv) manufactures or processes a
2 chemical substance subject to a safety assess-
3 ment and safety determination pursuant to
4 section 6.

5 “(2) UTILIZATION AND COLLECTION OF FEES.—
6 The Administrator shall—

7 “(A) utilize the fees collected under para-
8 graph (1) only to defray costs associated with the
9 actions of the Administrator—

10 “(i) to collect, process, review, provide
11 access to, and protect from disclosure (where
12 appropriate) information on chemical sub-
13 stances under this Act;

14 “(ii) to review notices and make deter-
15 minations for chemical substances under
16 paragraphs (1) and (3) of section 5(d) and
17 impose any necessary restrictions under sec-
18 tion 5(d)(4);

19 “(iii) to make prioritization decisions
20 under section 4A;

21 “(iv) to conduct and complete safety
22 assessments and determinations under sec-
23 tion 6; and

24 “(v) to conduct any necessary rule-
25 making pursuant to section 6(d);

1 “(B) insofar as possible, collect the fees de-
 2 scribed in paragraph (1) in advance of con-
 3 ducting any fee-supported activity;

4 “(C) deposit the fees in the Fund established
 5 by paragraph (4)(A); and

6 “(D) insofar as possible, not collect excess
 7 fees or retain a significant amount of unused
 8 fees.

9 “(3) AMOUNT AND ADJUSTMENT OF FEES; RE-
 10 FUNDS.—In setting fees under this section, the Ad-
 11 ministrator shall—

12 “(A) prescribe lower fees for small business
 13 concerns, after consultation with the Adminis-
 14 trator of the Small Business Administration;

15 “(B) set the fees established under para-
 16 graph (1) at levels such that the fees will, in ag-
 17 gregate, provide a sustainable source of funds to
 18 annually defray—

19 “(i) the lower of—

20 “(I) 25 percent of the costs of con-
 21 ducting the activities identified in
 22 paragraph (2)(A), other than the costs
 23 to conduct and complete safety assess-
 24 ments and determinations under sec-

1 *tion 6 for chemical substances identi-*
2 *fied pursuant to section 4A(c); or*

3 *“(II) \$25,000,000 (subject to ad-*
4 *justment pursuant to subparagraph*
5 *(F)); and*

6 *“(ii) the full costs and the 50-percent*
7 *portion of the costs of safety assessments*
8 *and safety determinations specified in sub-*
9 *paragraph (D);*

10 *“(C) reflect an appropriate balance in the*
11 *assessment of fees between manufacturers and*
12 *processors, and allow the payment of fees by con-*
13 *sortia of manufacturers or processors;*

14 *“(D) notwithstanding subparagraph (B)*
15 *and paragraph (4)(D)—*

16 *“(i) for substances designated pursuant*
17 *to section 4A(c)(1), establish the fee at a*
18 *level sufficient to defray the full annual*
19 *costs to the Administrator of conducting the*
20 *safety assessment and safety determination*
21 *under section 6; and*

22 *“(ii) for substances designated pursu-*
23 *ant to section 4A(c)(3), establish the fee at*
24 *a level sufficient to defray 50 percent of the*
25 *annual costs to the Administrator of con-*

ducting the safety assessment and safety de-
termination under section 6;

“(E) prior to the establishment or amend-
ment of any fees under paragraph (1), consult
and meet with parties potentially subject to the
fees or their representatives, subject to the condi-
tion that no obligation under the Federal Advi-
sory Committee Act (5 U.S.C. App.) or sub-
chapter III of chapter 5 of title 5, United States
Code, is applicable with respect to such meetings;

“(F) beginning with the fiscal year that is
3 years after the date of enactment of the Frank
R. Lautenberg Chemical Safety for the 21st Cen-
tury Act, and every 3 years thereafter, after con-
sultation with parties potentially subject to the
fees and their representatives pursuant to sub-
paragraph (E), increase or decrease the fees es-
tablished under paragraph (1) as necessary to
adjust for inflation and to ensure, based on the
audit analysis required under paragraph (5)(B),
that funds deposited in the Fund are sufficient
to defray—

“(i) approximately but not more than
25 percent of the annual costs to conduct
the activities identified in paragraph

(2)(A), other than the costs to conduct and complete safety assessments and determinations under section 6 for chemical substances identified pursuant to section 4A(c); and

“(ii) the full annual costs and the 50-percent portion of the annual costs of safety assessments and safety determinations specified in subparagraph (D);

“(G) adjust fees established under paragraph (1) as necessary to vary on account of differing circumstances, including reduced fees or waivers in appropriate circumstances, to reduce the burden on manufacturing or processing, remove barriers to innovation, or where the costs to the Administrator of collecting the fees exceed the fee revenue anticipated to be collected; and

“(H) if a notice submitted under section 5 is refused or subsequently withdrawn, refund the fee or a portion of the fee if no substantial work was performed on the notice.

“(4) TSCA IMPLEMENTATION FUND.—

“(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ‘TSCA Implementation

1 *Fund*’ (referred to in this subsection as the
2 *‘Fund’*), consisting of—

3 “(i) such amounts as are deposited in
4 the *Fund* under paragraph (2)(C); and

5 “(ii) any interest earned on the invest-
6 ment of amounts in the *Fund*; and

7 “(iii) any proceeds from the sale or re-
8 demption of investments held in the *Fund*.

9 “(B) *CREDITING AND AVAILABILITY OF*
10 *FEEES.*—

11 “(i) *IN GENERAL.*—*Fees* authorized
12 under this section shall be collected and
13 available for obligation only to the extent
14 and in the amount provided in advance in
15 appropriations Acts, and shall be available
16 without fiscal year limitation.

17 “(ii) *REQUIREMENTS.*—*Fees* collected
18 under this section shall not—

19 “(I) be made available or obli-
20 gated for any purpose other than to de-
21 fray the costs of conducting the activi-
22 ties identified in paragraph (2)(A);

23 “(II) otherwise be available for
24 any purpose other than implementa-
25 tion of this Act; and

1 “(III) so long as amounts in the
2 Fund remain available, be subject to
3 restrictions on expenditures applicable
4 to the Federal government as a whole.

5 “(C) *UNUSED FUNDS.*—Amounts in the
6 Fund not currently needed to carry out this sub-
7 section shall be—

8 “(i) maintained readily available or
9 on deposit;

10 “(ii) invested in obligations of the
11 United States or guaranteed by the United
12 States; or

13 “(iii) invested in obligations, partici-
14 pations, or other instruments that are law-
15 ful investments for fiduciary, trust, or pub-
16 lic funds.

17 “(D) *MINIMUM AMOUNT OF APPROPRIA-*
18 *TIONS.*—Fees may not be assessed for a fiscal
19 year under this section unless the amount of ap-
20 propriations for the Chemical Risk Review and
21 Reduction program project of the Environmental
22 Protection Agency for the fiscal year (excluding
23 the amount of any fees appropriated for the fis-
24 cal year) are equal to or greater than the

1 *amount of appropriations for that program*
2 *project for fiscal year 2014.*

3 “(5) *AUDITING.*—

4 “(A) *FINANCIAL STATEMENTS OF AGEN-*
5 *CIES.*—*For the purpose of section 3515(c) of title*
6 *31, United States Code, the Fund shall be con-*
7 *sidered a component of an executive agency.*

8 “(B) *COMPONENTS.*—*The annual audit re-*
9 *quired under sections 3515(b) and 3521 of that*
10 *title of the financial statements of activities*
11 *under this subsection shall include an analysis*
12 *of—*

13 “(i) *the fees collected under paragraph*
14 *(1) and disbursed;*

15 “(ii) *compliance with the deadlines es-*
16 *tablished in section 6 of this Act;*

17 “(iii) *the amounts budgeted, appro-*
18 *priated, collected from fees, and disbursed to*
19 *meet the requirements of sections 4, 4A, 5,*
20 *6, 8, and 14, including the allocation of full*
21 *time equivalent employees to each such sec-*
22 *tion or activity; and*

23 “(iv) *the reasonableness of the alloca-*
24 *tion of the overhead associated with the con-*

1 *duct of the activities described in paragraph*
 2 *(2)(A).*

3 “(C) *INSPECTOR GENERAL.—The Inspector*
 4 *General of the Environmental Protection Agency*
 5 *shall—*

6 “(i) *conduct the annual audit required*
 7 *under this subsection; and*

8 “(ii) *report the findings and rec-*
 9 *ommendations of the audit to the Adminis-*
 10 *trator and to the appropriate committees of*
 11 *Congress.*

12 “(6) *TERMINATION.—The authority provided by*
 13 *this section shall terminate at the conclusion of the*
 14 *fiscal year that is 10 years after the date of enactment*
 15 *of the Frank R. Lautenberg Chemical Safety for the*
 16 *21st Century Act, unless otherwise reauthorized or*
 17 *modified by Congress.”;*

18 (2) *in subsection (e), by striking “Health, Edu-*
 19 *cation, and Welfare” each place it appears and in-*
 20 *serting “Health and Human Services”; and*

21 (3) *adding at the end the following:*

22 “(h) *PRIOR ACTIONS.—Nothing in this Act eliminates,*
 23 *modifies, or withdraws any rule promulgated, order issued,*
 24 *or exemption established pursuant to this Act before the date*

1 *of enactment of the Frank R. Lautenberg Chemical Safety*
2 *for the 21st Century Act.”.*

3 **SEC. 24. DEVELOPMENT AND EVALUATION OF TEST METH-**
4 **ODS AND SUSTAINABLE CHEMISTRY.**

5 *(a) IN GENERAL.—Section 27 of the Toxic Substances*
6 *Control Act (15 U.S.C. 2626) is amended—*

7 *(1) in subsection (a), in the first sentence by*
8 *striking “Health, Education, and Welfare” and in-*
9 *serting “Health and Human Services”; and*

10 *(2) by adding at the end the following:*

11 *“(c) NATIONAL COORDINATING ENTITY FOR SUSTAIN-*
12 *ABLE CHEMISTRY.—*

13 *“(1) ESTABLISHMENT.—Not later than 180 days*
14 *after the date of enactment of the Frank R. Lauten-*
15 *berg Chemical Safety for the 21st Century Act, the*
16 *Director of the Office of Science and Technology Pol-*
17 *icy shall convene an entity under the National*
18 *Science and Technology Council with the responsi-*
19 *bility to coordinate Federal programs and activities*
20 *in support of sustainable chemistry, including, as ap-*
21 *propriate, at the National Science Foundation, the*
22 *Department of Energy, the Department of Agri-*
23 *culture, the Environmental Protection Agency, the*
24 *National Institute of Standards and Technology, the*

1 *Department of Defense, the National Institutes of*
2 *Health, and other related Federal agencies.*

3 “(2) *CHAIRMAN.*—*The entity described in para-*
4 *graph (1) shall be chaired by the Director of the Na-*
5 *tional Science Foundation and the Assistant Admin-*
6 *istrator for the Office of Research and Development of*
7 *the Environmental Protection Agency, or their des-*
8 *ignees.*

9 “(3) *DUTIES.*—

10 “(A) *IN GENERAL.*—*The entity described in*
11 *paragraph (1) shall—*

12 “(i) *develop a working definition of*
13 *sustainable chemistry, after seeking advice*
14 *and input from stakeholders as described in*
15 *clause (v);*

16 “(ii) *oversee the planning, manage-*
17 *ment, and coordination of the Sustainable*
18 *Chemistry Initiative described in subsection*
19 *(d);*

20 “(iii) *develop a national strategy for*
21 *sustainable chemistry as described in sub-*
22 *section (f);*

23 “(iv) *develop an implementation plan*
24 *for sustainable chemistry as described in*
25 *subsection (g); and*

1 “(v) consult and coordinate with stake-
2 holders qualified to provide advice and in-
3 formation on the development of the initia-
4 tive, national strategy, and implementation
5 plan for sustainable chemistry, at least once
6 per year, to carry out activities that may
7 include workshops, requests for information,
8 and other efforts as necessary.

9 “(B) *STAKEHOLDERS*.—The stakeholders de-
10 scribed in subparagraph (A)(v) shall include rep-
11 resentatives from—

12 “(i) industry (including small- and
13 medium-sized enterprises from across the
14 value chain);

15 “(ii) the scientific community (includ-
16 ing the National Academy of Sciences, sci-
17 entific professional societies, and academia);

18 “(iii) the defense community;

19 “(iv) State, tribal, and local govern-
20 ments;

21 “(v) State or regional sustainable
22 chemistry programs;

23 “(vi) nongovernmental organizations;
24 and

25 “(vii) other appropriate organizations.

1 “(4) *SUNSET*.—

2 “(A) *IN GENERAL*.—On completion of the
3 national strategy and accompanying implemen-
4 tation plan for sustainable chemistry as de-
5 scribed in paragraph (3), the Director of the Of-
6 fice of Science and Technology Policy—

7 “(i) shall review the need for further
8 work; and

9 “(ii) may disband the entity described
10 in paragraph (1) if no further efforts are
11 determined to be necessary.

12 “(B) *NOTICE AND JUSTIFICATION*.—The Di-
13 rector of the Office of Science and Technology
14 Policy shall provide notice and justification, in-
15 cluding an analysis of options to establish the
16 Sustainable Chemistry Initiative described in
17 subsection (d) and the partnerships described in
18 subsection (e) within 1 or more appropriate Fed-
19 eral agencies, regarding a decision to disband the
20 entity not less than 90 days prior to the termi-
21 nation date to the Committee on Science, Space,
22 and Technology and the Committee on Energy
23 and Commerce of the House of Representatives
24 and the Committee on Environment and Public

1 *Works and the Committee on Commerce, Science,*
2 *and Transportation of the Senate.*

3 “(d) *SUSTAINABLE CHEMISTRY INITIATIVE.*—*The enti-*
4 *ty described in subsection (c)(1) shall oversee the establish-*
5 *ment of an interagency Sustainable Chemistry Initiative*
6 *to promote and coordinate activities designed—*

7 “(1) *to provide sustained support for sustainable*
8 *chemistry research, development, demonstration, tech-*
9 *nology transfer, commercialization, education, and*
10 *training through—*

11 “(A) *coordination and promotion of sus-*
12 *tainable chemistry research, development, dem-*
13 *onstration, and technology transfer conducted at*
14 *Federal and national laboratories and Federal*
15 *agencies and at public and private institutions*
16 *of higher education; and*

17 “(B) *to the extent practicable, encourage-*
18 *ment of consideration of sustainable chemistry*
19 *in, as appropriate—*

20 “(i) *the conduct of Federal, State, and*
21 *private science and engineering research*
22 *and development; and*

23 “(ii) *the solicitation and evaluation of*
24 *applicable proposals for science and engi-*
25 *neering research and development;*

1 “(2) to examine methods by which the Federal
2 Government can offer incentives for consideration and
3 use of sustainable chemistry processes and products
4 that encourage competition and overcoming market
5 barriers, including grants, loans, loan guarantees,
6 and innovative financing mechanisms;

7 “(3) to expand the education and training of un-
8 dergraduate and graduate students and professional
9 scientists and engineers, including through partner-
10 ships with industry as described in subsection (e), in
11 sustainable chemistry science and engineering;

12 “(4) to collect and disseminate information on
13 sustainable chemistry research, development, and
14 technology transfer, including information on—

15 “(A) incentives and impediments to devel-
16 opment, manufacturing, and commercialization;

17 “(B) accomplishments;

18 “(C) best practices; and

19 “(D) costs and benefits; and

20 “(5) to support (including through technical as-
21 sistance, participation, financial support, or other
22 forms of support) economic, legal, and other appro-
23 priate social science research to identify barriers to
24 commercialization and methods to advance commer-
25 cialization of sustainable chemistry.

1 “(e) *PARTNERSHIPS IN SUSTAINABLE CHEMISTRY.*—

2 “(1) *IN GENERAL.*—*The entity described in sub-*
3 *section (c)(1), itself or through an appropriate sub-*
4 *group designated or established by the entity, shall*
5 *work through the agencies described in subsection*
6 *(c)(1) to support, through financial, technical, or*
7 *other assistance, the establishment of partnerships be-*
8 *tween institutions of higher education, nongovern-*
9 *mental organizations, consortia, and companies*
10 *across the value chain in the chemical industry, in-*
11 *cluding small- and medium-sized enterprises—*

12 “(A) *to establish collaborative research, de-*
13 *velopment, demonstration, technology transfer,*
14 *and commercialization programs; and*

15 “(B) *to train students and retrain profes-*
16 *sional scientists and engineers in the use of sus-*
17 *tainable chemistry concepts and strategies by*
18 *methods including—*

19 “(i) *developing curricular materials*
20 *and courses for undergraduate and graduate*
21 *levels and for the professional development*
22 *of scientists and engineers; and*

23 “(ii) *publicizing the availability of*
24 *professional development courses in sustain-*

1 *able chemistry and recruiting scientists and*
2 *engineers to pursue those courses.*

3 “(2) *PRIVATE SECTOR ENTITIES.*—*To be eligible*
4 *for support under this section, a partnership in sus-*
5 *tainable chemistry shall include at least 1 private sec-*
6 *tor entity.*

7 “(3) *SELECTION OF PARTNERSHIPS.*—*In select-*
8 *ing partnerships for support under this section, the*
9 *entity and the agencies described in subsection (c)(1)*
10 *shall also consider the extent to which the applicants*
11 *are willing and able to demonstrate evidence of sup-*
12 *port for, and commitment—*

13 *“(A) to achieving the goals of the Sustain-*
14 *able Chemistry Initiative described in subsection*
15 *(d); and*

16 *“(B) to sustaining any new innovations,*
17 *tools, and resources generated from funding*
18 *under the program.*

19 “(4) *PROHIBITED USE OF FUNDS.*—*Financial*
20 *support provided under this section may not be*
21 *used—*

22 *“(A) to support or expand a regulatory*
23 *chemical management program at an imple-*
24 *menting agency under a State law; or*

1 “(B) to construct or renovate a building or
2 structure.

3 “(f) NATIONAL STRATEGY TO CONGRESS.—

4 “(1) IN GENERAL.—Not later than 2 years after
5 the date of enactment of the Frank R. Lautenberg
6 Chemical Safety for the 21st Century Act, the entity
7 described in subsection (c)(1) shall submit to the
8 Committee on Science, Space, and Technology and the
9 Committee on Energy and Commerce of the House of
10 Representatives and the Committee on Environment
11 and Public Works and the Committee on Commerce,
12 Science, and Transportation of the Senate, a national
13 strategy that shall include—

14 “(A) a summary of federally funded sus-
15 tainable chemistry research, development, dem-
16 onstration, technology transfer, commercializa-
17 tion, education, and training activities;

18 “(B) a summary of the financial resources
19 allocated to sustainable chemistry initiatives;

20 “(C) an analysis of the progress made to-
21 ward achieving the goals and priorities of the
22 Sustainable Chemistry Initiative described in
23 subsection (d), and recommendations for future
24 initiative activities, including consideration of
25 options to establish the Sustainable Chemistry

1 *Initiative and the partnerships described in sub-*
2 *section (e) within 1 or more appropriate Federal*
3 *agencies;*

4 *“(D) an assessment of the benefits of ex-*
5 *panding existing, federally supported regional*
6 *innovation and manufacturing hubs to include*
7 *sustainable chemistry and the value of directing*
8 *the establishment of 1 or more dedicated sustain-*
9 *able chemistry centers of excellence or hubs;*

10 *“(E) an evaluation of steps taken and fu-*
11 *ture strategies to avoid duplication of efforts,*
12 *streamline interagency coordination, facilitate*
13 *information sharing, and spread best practices*
14 *between participating agencies in the Sustain-*
15 *able Chemistry Initiative; and*

16 *“(F) a framework for advancing sustainable*
17 *chemistry research, development, technology*
18 *transfer, commercialization, and education and*
19 *training.*

20 *“(2) SUBMISSION TO GAO.—The entity described*
21 *in subsection (c)(1) shall submit the national strategy*
22 *described in paragraph (1) to the Government Ac-*
23 *countability Office for consideration in future Con-*
24 *gressional inquiries.*

1 “(g) *IMPLEMENTATION PLAN*.—Not later than 3 years
 2 after the date of enactment of the Frank R. Lautenberg
 3 Chemical Safety for the 21st Century Act, the entity de-
 4 scribed in subsection (c)(1) shall submit to the Committee
 5 on Science, Space, and Technology and the Committee on
 6 Energy and Commerce of the House of Representatives and
 7 the Committee on Environment and Public Works and the
 8 Committee on Commerce, Science, and Transportation of
 9 the Senate, an implementation plan, based on the findings
 10 of the national strategy and other assessments, as appro-
 11 priate, for sustainable chemistry.”.

12 (b) *SUSTAINABLE CHEMISTRY BASIC RESEARCH*.—
 13 Subject to the availability of appropriated funds, the Direc-
 14 tor of the National Science Foundation shall continue to
 15 carry out the Green Chemistry Basic Research program au-
 16 thorized under section 509 of the National Science Founda-
 17 tion Authorization Act of 2010 (42 U.S.C. 1862p–3).

18 **SEC. 25. STATE PROGRAMS.**

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

21 (1) in subsection (b)(1)—

22 (A) in subparagraphs (A) through (D), by
 23 striking the comma at the end of each subpara-
 24 graph and inserting a semicolon; and

1 (B) in subparagraph (E), by striking “,
2 and” and inserting “; and”; and
3 (2) by striking subsections (c) and (d).

4 **SEC. 26. AUTHORIZATION OF APPROPRIATIONS.**

5 Section 29 of the Toxic Substances Control Act (15
6 U.S.C. 2628) is repealed.

7 **SEC. 27. ANNUAL REPORT.**

8 Section 30 of the Toxic Substances Control Act (15
9 U.S.C. 2629) is amended by striking paragraph (2) and
10 inserting the following:

11 “(2)(A) the number of notices received during
12 each year under section 5; and

13 “(B) the number of the notices described in sub-
14 paragraph (A) for chemical substances subject to a
15 rule, testing consent agreement, or order under section
16 4;”.

17 **SEC. 28. EFFECTIVE DATE.**

18 Section 31 of the Toxic Substances Control Act (15
19 U.S.C. 2601 note; Public Law 94-469) is amended—

20 (1) by striking “Except as provided in section
21 4(f), this” and inserting the following:

22 “(a) *IN GENERAL.*—This”; and

23 (2) by adding at the end the following:

24 “(b) *RETROACTIVE APPLICABILITY.*—Nothing in this
25 Act shall be interpreted to apply retroactively to any State,

1 *Federal, or maritime legal action commenced prior to the*
 2 *effective date of the Frank R. Lautenberg Chemical Safety*
 3 *for the 21st Century Act.”.*

4 **SEC. 29. ELEMENTAL MERCURY.**

5 (a) *TEMPORARY GENERATOR ACCUMULATION.*—Sec-
 6 *tion 5 of the Mercury Export Ban Act of 2008 (42 U.S.C.*
 7 *6939f) is amended—*

8 (1) *in subsection (a)(2), by striking “2013” and*
 9 *inserting “2019”;*

10 (2) *in subsection (b)—*

11 (A) *in paragraph (1)—*

12 (i) *by redesignating subparagraphs*
 13 *(A), (B), and (C), as clauses (i), (ii), and*
 14 *(iii), respectively and indenting appro-*
 15 *priately;*

16 (ii) *in the first sentence, by striking*
 17 *“After consultation” and inserting the fol-*
 18 *lowing:*

19 “(A) *ASSESSMENT AND COLLECTION.*—*After*
 20 *consultation”;*

21 (iii) *in the second sentence, by striking*
 22 *“The amount of such fees” and inserting the*
 23 *following:*

24 “(B) *AMOUNT.*—*The amount of the fees de-*
 25 *scribed in subparagraph (A)”;*

1 *(iv) in subparagraph (B) (as so des-*
2 *ignated)—*

3 *(I) in clause (i) (as so redesign-*
4 *ated), by striking “publically avail-*
5 *able not later than October 1, 2012”*
6 *and inserting “publicly available not*
7 *later than October 1, 2018”;*

8 *(II) in clause (ii) (as so redesign-*
9 *ated), by striking “and”;*

10 *(III) in clause (iii) (as so redesign-*
11 *ated), by striking the period at the*
12 *end and inserting “, subject to clause*
13 *(iv); and”;* and

14 *(IV) by adding at the end the fol-*
15 *lowing:*

16 *“(iv) for generators temporarily accu-*
17 *mulating elemental mercury in a facility*
18 *subject to subparagraphs (B) and (D)(iv) of*
19 *subsection (g)(2) if the facility designated*
20 *in subsection (a) is not operational by Jan-*
21 *uary 1, 2019, shall be adjusted to subtract*
22 *the cost of the temporary accumulation dur-*
23 *ing the period in which the facility des-*
24 *ignated under subsection (a) is not oper-*
25 *ational.”; and*

1 (v) by adding at the end the following:

2 “(C) CONVEYANCE OF TITLE AND PERMIT-
3 TING.—If the facility designated in subsection
4 (a) is not operational by January 1, 2020, the
5 Secretary—

6 “(i) shall immediately accept the con-
7 veyance of title to all elemental mercury
8 that has accumulated in facilities in accord-
9 ance with subsection (g)(2)(D), before Janu-
10 ary 1, 2020, and deliver the accumulated
11 mercury to the facility designated under
12 subsection (a) on the date on which the fa-
13 cility becomes operational;

14 “(ii) shall pay any applicable Federal
15 permitting costs, including the costs for per-
16 mits issued under section 3005(c) of the
17 Solid Waste Disposal Act (42 U.S.C.
18 6925(c)); and

19 “(iii) shall store, or pay the cost of
20 storage of, until the time at which a facility
21 designated in subsection (a) is operational,
22 accumulated mercury to which the Sec-
23 retary has title under this subparagraph in
24 a facility that has been issued a permit

1 *under section 3005(c) of the Solid Waste*
 2 *Disposal Act (42 U.S.C. 6925(c)).”; and*

3 *(B) in paragraph (2), in the first sentence,*
 4 *by striking “paragraph (1)(C)” and inserting*
 5 *“paragraph (1)(B)(iii)”;* and
 6 *(3) in subsection (g)(2)—*

7 *(A) in the undesignated material at the end,*
 8 *by striking “This subparagraph” and inserting*
 9 *the following:*

10 *“(C) Subparagraph (B)”;*

11 *(B) in subparagraph (C) (as added by*
 12 *paragraph (1)), by inserting “of that subpara-*
 13 *graph” before the period at the end; and*

14 *(C) by adding at the end the following:*

15 *“(D) A generator producing elemental mer-*
 16 *cury incidentally from the beneficiation or proc-*
 17 *essing of ore or related pollution control activi-*
 18 *ties, may accumulate the mercury produced on-*
 19 *site that is destined for a facility designated by*
 20 *the Secretary under subsection (a), for more than*
 21 *90 days without a permit issued under section*
 22 *3005(c) of the Solid Waste Disposal Act (42*
 23 *U.S.C. 6925(c)), and shall not be subject to the*
 24 *storage prohibition of section 3004(j) of that Act*
 25 *(42 U.S.C. 6924(j)), if—*

1 “(i) the Secretary is unable to accept
2 the mercury at a facility designated by the
3 Secretary under subsection (a) for reasons
4 beyond the control of the generator;

5 “(ii) the generator certifies in writing
6 to the Secretary that the generator will ship
7 the mercury to a designated facility when
8 the Secretary is able to accept the mercury;

9 “(iii) the generator certifies in writing
10 to the Secretary that the generator is stor-
11 ing only mercury the generator has pro-
12 duced or recovered onsite and will not sell,
13 or otherwise place into commerce, the mer-
14 cury; and

15 “(iv) the generator has obtained an
16 identification number under section 262.12
17 of title 40, Code of Federal Regulations, and
18 complies with the requirements described in
19 paragraphs (1) through (4) of section
20 262.34(a) of title 40, Code of Federal Regu-
21 lations (as in effect on the date of enactment
22 of this subparagraph).

23 “(E) *MANAGEMENT STANDARDS FOR TEM-*
24 *PORARY STORAGE.*—Not later than January 1,
25 2017, the Secretary, after consultation with the

1 *Administrator of the Environmental Protection*
2 *Agency and State agencies in affected States,*
3 *shall develop and make available guidance that*
4 *establishes procedures and standards for the*
5 *management and short-term storage of elemental*
6 *mercury at a generator covered under subpara-*
7 *graph (D), including requirements to ensure ap-*
8 *propriate use of flasks or other suitable con-*
9 *tainers. Such procedures and standards shall be*
10 *protective of human health and the environment*
11 *and shall ensure that the elemental mercury is*
12 *stored in a safe, secure, and effective manner. A*
13 *generator may accumulate mercury in accord-*
14 *ance with subparagraph (D) immediately upon*
15 *enactment of this Act, and notwithstanding that*
16 *guidance called for by this paragraph (E) has*
17 *not been developed or made available.”.*

18 (b) *INTERIM STATUS.—Section 5(d)(1) of the Mercury*
19 *Export Ban Act of 2008 (42 U.S.C. 6939f(d)(1)) is amend-*
20 *ed—*

21 (1) *in the fourth sentence, by striking “in exist-*
22 *ence on or before January 1, 2013,”; and*

23 (2) *in the last sentence, by striking “January 1,*
24 *2015” and inserting “January 1, 2020”.*

1 (c) *MERCURY INVENTORY.*—Section 8(b) of the Toxic
 2 *Substances Control Act* (15 U.S.C. 2607(b)) (as amended
 3 by section 10(2)) is amended by adding at the end the fol-
 4 lowing:

5 “(10) *MERCURY.*—

6 “(A) *DEFINITION OF MERCURY.*—In this
 7 paragraph, notwithstanding section 3(2)(B), the
 8 term ‘mercury’ means—

9 “(i) elemental mercury; and

10 “(ii) a mercury compound.

11 “(B) *PUBLICATION.*—Not later than April
 12 1, 2017, and every 3 years thereafter, the Admin-
 13 istrator shall publish in the *Federal Register* an
 14 inventory of mercury supply, use, and trade in
 15 the United States.

16 “(C) *PROCESS.*—In carrying out the inven-
 17 tory under subparagraph (B), the Administrator
 18 shall—

19 “(i) identify any remaining manufac-
 20 turing processes or products that inten-
 21 tionally add mercury; and

22 “(ii) recommend actions, including
 23 proposed revisions of Federal law (including
 24 regulations), to achieve further reductions
 25 in mercury use.

1 “(D) *REPORTING.*—

2 “(i) *IN GENERAL.*—*To assist in the*
 3 *preparation of the inventory under sub-*
 4 *paragraph (B), any person who manufac-*
 5 *tures mercury or mercury-added products or*
 6 *otherwise intentionally uses mercury in a*
 7 *manufacturing process shall make periodic*
 8 *reports to the Administrator, at such time*
 9 *and including such information as the Ad-*
 10 *ministrator shall determine by rule promul-*
 11 *gated not later than 2 years after the date*
 12 *of enactment of this paragraph.*

13 “(ii) *COORDINATION.*—*To avoid dupli-*
 14 *cation, the Administrator shall coordinate*
 15 *the reporting under this subparagraph with*
 16 *the Interstate Mercury Education and Re-*
 17 *duction Clearinghouse.*

18 “(iii) *EXEMPTION.*—*This subpara-*
 19 *graph shall not apply to a person engaged*
 20 *in the generation, handling, or management*
 21 *of mercury-containing waste, unless that*
 22 *person manufactures or recovers mercury in*
 23 *the management of that waste.”.*

24 (d) *PROHIBITION ON EXPORT OF CERTAIN MERCURY*
 25 *COMPOUNDS.*—*Section 12(c) of the Toxic Substances Con-*

1 *trol Act (15 U.S.C. 2611(c)) (as amended by section 13(3))*
 2 *is amended—*

3 *(1) in the subsection heading, by inserting “AND*
 4 *MERCURY COMPOUNDS” after “MERCURY”; and*

5 *(2) by inserting after paragraph (2) the fol-*
 6 *lowing:*

7 *“(3) PROHIBITION ON EXPORT OF CERTAIN MER-*
 8 *CURY COMPOUNDS.—*

9 *“(A) IN GENERAL.—Effective January 1,*
 10 *2020, the export of the following mercury com-*
 11 *pounds is prohibited:*

12 *“(i) Mercury (I) chloride or calomel.*

13 *“(ii) Mercury (II) oxide.*

14 *“(iii) Mercury (II) sulfate.*

15 *“(iv) Mercury (II) nitrate.*

16 *“(v) Cinnabar or mercury sulphide.*

17 *“(vi) Any mercury compound that the*
 18 *Administrator, at the discretion of the Ad-*
 19 *ministrator, adds to the list by rule, on de-*
 20 *termining that exporting that mercury com-*
 21 *pound for the purpose of regenerating ele-*
 22 *mental mercury is technically feasible.*

23 *“(B) PUBLICATION.—Not later than 90*
 24 *days after the date of enactment of the Frank R.*
 25 *Lautenberg Chemical Safety for the 21st Century*

1 *Act, and as appropriate thereafter, the Adminis-*
2 *trator shall publish in the Federal Register a list*
3 *of the mercury compounds that are prohibited*
4 *from export under this paragraph.*

5 *“(C) PETITION.—Any person may petition*
6 *the Administrator to add to the list of mercury*
7 *compounds prohibited from export.*

8 *“(D) ENVIRONMENTALLY SOUND DIS-*
9 *POSAL.—This paragraph does not prohibit the*
10 *export of mercury (I) chloride or calomel for en-*
11 *vironmentally sound disposal to member coun-*
12 *tries of the Organization for Economic Coopera-*
13 *tion and Development, on the condition that no*
14 *mercury or mercury compounds are to be recov-*
15 *ered, recycled, or reclaimed for use, or directly*
16 *reused.*

17 *“(E) REPORT.—Not later than 5 years after*
18 *the date of enactment of the Frank R. Lauten-*
19 *berg Chemical Safety for the 21st Century Act,*
20 *the Administrator shall evaluate any exports of*
21 *calomel for disposal that occurred since that date*
22 *of enactment and shall submit to Congress a re-*
23 *port that contains the following:*

24 *“(i) volumes and sources of calomel ex-*
25 *ported for disposal;*

1 “(ii) receiving countries of such ex-
2 ports;

3 “(iii) methods of disposal used;

4 “(iv) issues, if any, presented by the
5 export of calomel;

6 “(v) evaluation of calomel management
7 options in the United States, if any, that
8 are commercially available and comparable
9 in cost and efficacy to methods being uti-
10 lized in the receiving countries; and

11 “(vi) a recommendation regarding
12 whether Congress should further limit or
13 prohibit the export of calomel for disposal.

14 “(F) EFFECT ON OTHER LAW.—Nothing in
15 this paragraph shall be construed to affect the
16 authority of the Administrator under Solid
17 Waste Disposal Act (42 U.S.C. 6901 et seq.).”.

18 **SEC. 30. TREVOR’S LAW.**

19 (a) *PURPOSES.*—The purposes of this section are—

20 (1) to provide the appropriate Federal agencies
21 with the authority to help conduct investigations into
22 potential cancer clusters;

23 (2) to ensure that Federal agencies have the au-
24 thority to undertake actions to help address cancer

1 *clusters and factors that may contribute to the cre-*
 2 *ation of potential cancer clusters; and*

3 *(3) to enable Federal agencies to coordinate with*
 4 *other Federal, State, and local agencies, institutes of*
 5 *higher education, and the public in investigating and*
 6 *addressing cancer clusters.*

7 *(b) DESIGNATION AND INVESTIGATION OF POTENTIAL*
 8 *CANCER CLUSTERS.—Part P of title III of the Public*
 9 *Health Service Act (42 U.S.C. 280g et seq.) is amended by*
 10 *adding at the end the following:*

11 **“SEC. 399V-6. DESIGNATION AND INVESTIGATION OF PO-**
 12 **TENTIAL CANCER CLUSTERS.**

13 *“(a) DEFINITIONS.—In this section:*

14 *“(1) CANCER CLUSTER.—The term ‘cancer clus-*
 15 *ter’ means the incidence of a particular cancer within*
 16 *a population group, a geographical area, or a period*
 17 *of time that is greater than expected for such group,*
 18 *area, or period.*

19 *“(2) PARTICULAR CANCER.—The term ‘par-*
 20 *ticular cancer’ means one specific type of cancer or*
 21 *a type of cancers scientifically proven to have the*
 22 *same cause.*

23 *“(3) POPULATION GROUP.—The term ‘population*
 24 *group’ means a group, for purposes of calculating*

1 *cancer rates, defined by factors such as race, eth-*
 2 *nicity, age, or gender.*

3 “(b) *CRITERIA FOR DESIGNATION OF POTENTIAL CAN-*
 4 *CER CLUSTERS.*—

5 “(1) *DEVELOPMENT OF CRITERIA.*—*The Sec-*
 6 *retary shall develop criteria for the designation of po-*
 7 *tential cancer clusters.*

8 “(2) *REQUIREMENTS.*—*The criteria developed*
 9 *under paragraph (1) shall consider, as appropriate—*

10 “(A) *a standard for cancer cluster identi-*
 11 *fication and reporting protocols used to deter-*
 12 *mine when cancer incidence is greater than*
 13 *would be typically observed;*

14 “(B) *scientific screening standards that en-*
 15 *sure that a cluster of a particular cancer in-*
 16 *volves the same type of cancer, or types of can-*
 17 *cers;*

18 “(C) *the population in which the cluster of*
 19 *a particular cancer occurs by factors such as*
 20 *race, ethnicity, age, and gender, for purposes of*
 21 *calculating cancer rates;*

22 “(D) *the boundaries of a geographic area in*
 23 *which a cluster of a particular cancer occurs so*
 24 *as not to create or obscure a potential cluster by*
 25 *selection of a specific area; and*

1 “(E) the time period over which the number
 2 of cases of a particular cancer, or the calculation
 3 of an expected number of cases, occurs.

4 “(c) *GUIDELINES FOR INVESTIGATION OF POTENTIAL*
 5 *CANCER CLUSTERS.*—*The Secretary, in consultation with*
 6 *the Council of State and Territorial Epidemiologists and*
 7 *representatives of State and local health departments, shall*
 8 *develop, publish, and periodically update guidelines for in-*
 9 *vestigating potential cancer clusters. The guidelines shall—*

10 “(1) require that investigations of cancer clus-
 11 ters—

12 “(A) use the criteria developed under sub-
 13 section (b);

14 “(B) use the best available science; and

15 “(C) rely on a weight of the scientific evi-
 16 dence;

17 “(2) provide standardized methods of reviewing
 18 and categorizing data, including from health surveil-
 19 lance systems and reports of potential cancer clusters;
 20 and

21 “(3) provide guidance for using appropriate epi-
 22 demiological and other approaches for investigations.

23 “(d) *INVESTIGATION OF CANCER CLUSTERS.*—

24 “(1) *SECRETARY DISCRETION.*—*The Secretary—*

1 “(A) in consultation with representatives of
2 the relevant State and local health departments,
3 shall consider whether it is appropriate to con-
4 duct an investigation of a potential cancer clus-
5 ter; and

6 “(B) in conducting investigations shall have
7 the discretion to prioritize certain potential can-
8 cer clusters, based on the availability of re-
9 sources.

10 “(2) COORDINATION.—In investigating potential
11 cancer clusters, the Secretary shall coordinate with
12 agencies within the Department of Health and
13 Human Services and other Federal agencies, such as
14 the Environmental Protection Agency.

15 “(3) BIOMONITORING.—In investigating poten-
16 tial cancer clusters, the Secretary shall rely on all ap-
17 propriate biomonitoring information collected under
18 other Federal programs, such as the National Health
19 and Nutrition Examination Survey. The Secretary
20 may provide technical assistance for relevant biomon-
21 itoring studies of other Federal agencies.

22 “(e) DUTIES.—The Secretary shall—

23 “(1) ensure that appropriate staff of agencies
24 within the Department of Health and Human Serv-
25 ices are prepared to provide timely assistance, to the

1 *extent practicable, upon receiving a request to inves-*
2 *tigate a potential cancer cluster from a State or local*
3 *health authority;*

4 *“(2) maintain staff expertise in epidemiology,*
5 *toxicology, data analysis, environmental health and*
6 *cancer surveillance, exposure assessment, pediatric*
7 *health, pollution control, community outreach, health*
8 *education, laboratory sampling and analysis, spatial*
9 *mapping, and informatics;*

10 *“(3) consult with community members as inves-*
11 *tigations into potential cancer clusters are conducted,*
12 *as the Secretary determines appropriate;*

13 *“(4) collect, store, and disseminate reports on in-*
14 *vestigations of potential cancer clusters, the possible*
15 *causes of such clusters, and the actions taken to ad-*
16 *dress such clusters; and*

17 *“(5) provide technical assistance for inves-*
18 *tigating cancer clusters to State and local health de-*
19 *partments through existing programs, such as the*
20 *Epi-Aids program of the Centers for Disease Control*
21 *and Prevention and the Assessments of Chemical Ex-*

- 1 *posures program of the Agency for Toxic Substances*
- 2 *and Disease Registry.”.*

Attest:

Secretary.

114TH CONGRESS
1ST SESSION

H.R. 2576

AMENDMENT