

[DISCUSSION DRAFT]

119TH CONGRESS
2D SESSION

H. R. _____

To amend the Toxic Substances Control Act to [____], and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Toxic Substances Control Act to [____], and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “[____] Act”.

5 **SEC. 2. DEFINITIONS.**

6 Section 3(4) of the Toxic Substances Control Act (15
7 U.S.C. 2602(4)) is amended to read as follows:

8 “(4) The term ‘conditions of use’ means the cir-
9 cumstances, as determined by the Administrator, under

1 which a chemical substance is intended or known to be,
2 or reasonably foreseen as more likely than not to be, man-
3 ufactured, processed, distributed in commerce, used, or
4 disposed of.”.

5 **SEC. 3. TESTING OF CHEMICAL SUBSTANCES AND MIX-**
6 **TURES.**

7 (a) TESTING REQUIREMENTS.—Section 4(a) of the
8 Toxic Substances Control Act (15 U.S.C. 2603(a)) is
9 amended—

10 (1) in paragraph (1)—

11 (A) in subparagraph (A)—

12 (i) in clause (i)(II), by striking “there
13 is insufficient information and” and insert-
14 ing “the Administrator lacks sufficient in-
15 formation that meets the weight of sci-
16 entific evidence and best available science
17 standards, as may be established by the
18 Administrator, and lacks”;

19 (ii) in clause (ii)(I), by striking “a
20 chemical substance or mixture is or will be
21 produced in substantial quantities, and
22 (aa) it enters or may reasonably be antici-
23 pated to enter the environment in substan-
24 tial quantities or (bb) there is or may be
25 significant or substantial human exposure

1 to such substance or mixture,” and insert-
2 ing “a chemical substance or mixture is or
3 will be produced in substantial quantities,
4 such chemical substance or mixture enters
5 or may reasonably be anticipated to enter
6 the environment in substantial quantities,
7 and there is or may be significant or sub-
8 stantial human exposure to such chemical
9 substance or mixture;”; and

10 (iii) in clause (ii)(II), by striking
11 “there is insufficient information and” and
12 inserting “the Administrator lacks suffi-
13 cient information that meets the weight of
14 scientific evidence and best available
15 science standards, as may be established
16 by the Administrator, and lacks”; and

17 (B) by striking “subparagraph (A)(i), by
18 rule, order, or consent agreement, require that
19 testing be conducted on such substance or mix-
20 ture to develop information with respect to the
21 health and environmental effects for which
22 there is an insufficiency of information and ex-
23 perience and which is relevant to a determina-
24 tion that the manufacture,” and inserting “sub-
25 paragraph (A)(i), by rule, order, or consent

1 agreement, require that testing be conducted on
2 such substance or mixture (other than an impu-
3 rity or unintentional byproduct exempted from
4 reporting requirements by the Administrator) to
5 develop information with respect to the health
6 and environmental effects for which there is an
7 insufficiency of information and experience and
8 which is relevant to a determination by the Ad-
9 ministrator that the manufacture,”;

10 (2) in paragraph (2)—

11 (A) in the matter preceding subparagraph
12 (A), by inserting “if the Administrator makes a
13 finding under each of subclauses (II) and (III)
14 of paragraph (1)(A)(i) with respect to a chem-
15 ical substance or mixture,” before “the Admin-
16 istrator may”;

17 (B) in subparagraph (A)—

18 (i) in the matter preceding clause (i),
19 by striking “a chemical substance” and in-
20 serting “the chemical substance”;

21 (ii) in clause (ii), by striking the semi-
22 colon and inserting “; or”; and

23 (iii) by striking clause (iii) and redес-
24 ignating clause (iv) as clause (iii); and

1 (C) in subparagraph (B), in the matter
2 preceding clause (i), by striking “a chemical
3 substance” and inserting “the chemical sub-
4 stance”.

5 (b) TESTING REQUIREMENT RULE, ORDER, OR CON-
6 SENT AGREEMENT.—Section 4(b)(1)(B) of the Toxic Sub-
7 stances Control Act (15 U.S.C. 2603(b)(1)(B)) is amend-
8 ed—

9 (1) by striking “methodologies” and inserting
10 “technically feasible methodologies”; and

11 (2) by inserting “the intended and known pur-
12 poses to be manufactured, processed, distributed in
13 commerce, used, or disposed of for” after “the devel-
14 opment of information for”.

15 (c) REQUIRED ACTIONS.—Section 4(f) of the Toxic
16 Substances Control Act (15 U.S.C. 2603(f)) is amended,
17 in the matter following paragraph (2), by striking “, made
18 without consideration of costs or other nonrisk factors,”.

19 (d) TESTING MODERNIZATION.—Section 4(h) of the
20 Toxic Substances Control Act (15 U.S.C. 2603(h)) is
21 amended—

22 (1) in paragraph (1)(B)(i), by inserting “, in-
23 cluding by requiring the use of relevant Test Guide-
24 lines that are published by the Organisation for Eco-
25 nomic Co-operation and Development and identified

1 by the Administrator and included on the list under
2 paragraph (2)(C)” before the semicolon; and

3 (2) in paragraph (2)—

4 (A) in subparagraph (C), by striking “on
5 a regular basis” and inserting “at least once
6 every 2 years”;

7 (B) in subparagraph (D)—

8 (i) by striking “public notice and com-
9 ment on the contents of the plan” and in-
10 serting “public notice and comment on—

11 “(i) the contents of the plan”; and

12 (ii) by striking “subparagraph (C);”
13 and inserting “subparagraph (C); and”;
14 and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(ii) the test methods and strategies
18 proposed to be identified pursuant to sub-
19 paragraph (C) for inclusion on the list
20 under such subparagraph;”.

21 **SEC. 4. NEW CHEMICAL REVIEWS.**

22 (a) IN GENERAL.—Section 5(a) of the Toxic Sub-
23 stances Control Act (15 U.S.C. 2604(a)) is amended—

24 (1) in paragraph (3)—

1 (A) in the matter preceding subparagraph
2 (A), by striking “determine—” and inserting
3 “determine in writing—”;

4 (B) in subparagraph (A)—

5 (i) by inserting “and it is more likely
6 than not such unreasonable risk will
7 occur” after “environment”; and

8 (ii) by inserting “identified by the
9 submitter of the notice” after “conditions
10 of use”;

11 (C) in subparagraph (B)—

12 (i) in clause (i), by striking “or sig-
13 nificant” and inserting “and significant”;

14 (ii) in clause (ii)(I), by inserting “,
15 and it is more likely than not that such
16 unreasonable risk will occur” after “rel-
17 evant by the Administrator”; and

18 (iii) in the matter following subclause
19 (II), by striking “shall” and inserting
20 “may”; and

21 (D) in subparagraph (C), by inserting
22 “identified by the submitter of the notice” after
23 “conditions of use”;

24 (2) in paragraph (4)—

25 (A) in subparagraph (B)(i)—

1 (i) by inserting “in writing” after
2 “Administrator certifies”; and

3 (ii) by striking “unduly” and inserting
4 “intentionally”; and

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

6 “(C) JUSTIFICATION.—If the Adminis-
7 trator fails to make a determination on a notice
8 under paragraph (3) by the end of the applica-
9 ble review period, the Administrator shall issue
10 a statement in writing describing the reasons
11 for such failure to make a determination by the
12 end of such applicable review period. The Ad-
13 ministrator may not delegate the issuance of
14 such a statement.”; and

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

16 “(6) PRIORITIZATION.—The Administrator
17 shall make best efforts to prioritize the review of no-
18 tices relating to chemical substances or significant
19 new uses with respect to which the Administrator
20 has been informed under subsection (d)(4) and to
21 make a determination on such a notice within the
22 applicable review period.”.

23 (b) SUBMISSION OF INFORMATION.—Section 5(b) of
24 the Toxic Substances Control Act (15 U.S.C. 2604(b)) is
25 amended by adding at the end the following:

1 “(5)(A) Not later than 10 days after the Adminis-
2 trator receives a notice under subsection (a)(1), the Ad-
3 ministrator shall assign appropriate staff, including
4 human health risk assessors and industrial hygienists, to
5 review such notice.

6 “(B) Not later than 30 days after the Administrator
7 receives a notice under subsection (a)(1), staff assigned
8 under subparagraph (A) shall meet and confer with the
9 person submitting the notice.”.

10 (c) LIMITATION ON SUSPENSION OF REVIEW PE-
11 RIOD.—Section 5(c) of the Toxic Substances Control Act
12 (15 U.S.C. 2604(c)) is amended—

13 (1) in the subsection heading, by inserting “,
14 AND LIMITATION ON SUSPENSION,” after “EXTEN-
15 SION”;

16 (2) by striking “The Administrator” and insert-
17 ing the following:

18 “(1) EXTENSION.—The Administrator”; and

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

20 “(2) SUSPENSION.—A person submitting a no-
21 tice under section 5(a) may voluntarily request in
22 writing that the Administrator suspend review of
23 such notice for a period not to exceed 180 days.”.

24 (d) ADDITIONAL PROCESS AND INFORMATION ON
25 MANUFACTURING AND PROCESSING NOTICES.—Section

1 5(d) of the Toxic Substances Control Act (15 U.S.C.
2 2604(d)) is amended by adding at the end the following:

3 “(4) PRIORITY CATEGORIES FOR NEW CHEMI-
4 CALS.—A person submitting a notice under sub-
5 section (a) seeking priority review under subsection
6 (a)(6) shall include in the notice information suffi-
7 cient to demonstrate and certify that the new chem-
8 ical substance, or significant new use, that is the
9 subject of the notice is—

10 “(A) reasonably believed or intended by
11 the person to be a substitute for a chemical
12 substance that is included on the inventory
13 under section 8(b) that results in reduced risk
14 to workers, human health, or the environment;

15 “(B) eligible for inclusion in the Safer
16 Choice program or a similar pollution preven-
17 tion program administered by the Adminis-
18 trator; or

19 “(C) reasonably believed or intended by the
20 person to be necessary to improve the security
21 and resiliency of United States domestic critical
22 material supply chains identified by the Sec-
23 retary of Commerce.”.

1 (e) REGULATION PENDING DEVELOPMENT OF IN-
2 FORMATION.—Section 5(e) of the Toxic Substances Con-
3 trol Act (15 U.S.C. 2604(e)) is amended—

4 (1) in paragraph (1)(A)(i), by striking “or” and
5 inserting “and”;

6 (2) in paragraph (1)(A)(ii)(I), by inserting “,
7 and it is more likely than not that such unreason-
8 able risk will occur” after “conditions of use”;

9 (3) in the matter following paragraph
10 (1)(A)(ii)(II)—

11 (A) by striking “shall issue an order, to
12 take effect on the expiration of the applicable
13 review period,” and inserting “may issue an
14 order, to take effect on the expiration of the ap-
15 plicable review period, or issue a significant new
16 use rule, which shall relate back to the expira-
17 tion of the applicable review period,”; and

18 (B) by striking “the order.” and inserting
19 “the applicable order or significant new use
20 rule. Any use of a chemical commenced in the
21 interim between the issuance of a determination
22 under section 5(a)(3)(B) and the issuance of a
23 corresponding significant new use rule shall not
24 be considered to be an existing use and shall
25 not bar the promulgation of a subsequent final

1 significant new use rule under subsections
2 (a)(2) to the extent the rule is consistent with
3 the terms of the corresponding determination
4 under section 5(a)(3)(B).”; and
5 (4) by adding at the end the following:

6 “(2) Any order pending developing of information
7 issued under this subsection shall terminate when the Ad-
8 ministrator determines that such order is no longer nec-
9 essary to protect against the unreasonable risk, or when
10 the Administrator issues a rule under subsection (f).”.

11 (f) PROTECTION AGAINST UNREASONABLE RISKS.—
12 Section 5(f) of the Toxic Substances Control Act (15
13 U.S.C. 2604(f)) is amended—

14 (1) in paragraph (1), by inserting “and there is
15 a reasonable likelihood of such unreasonable risk oc-
16 curring” after “injury to health or environment”;

17 (2) in paragraph (2)—

18 (A) by striking “proposed rule” in each
19 place it appears and inserting “direct final
20 rule”; and

21 (B) by inserting “and considered final
22 agency action” after “Federal Register”; and

23 (3) in paragraph (4), by inserting “direct final”
24 after “whether to promulgate a”.

1 (g) EXEMPTIONS.—Section 5(h) of the Toxic Sub-
2 stances Control Act (15 U.S.C. 2604(h) is amended—

3 (1) in paragraph (6), by striking “or (5)” and
4 inserting “, (5), or (6)”;

5 (2) by redesignating paragraph (6) as para-
6 graph (7);

7 (3) by inserting after paragraph (5) the fol-
8 lowing:

9 “(6) The Administrator may, upon application, ex-
10 empt any person from any requirement of subsection (a)
11 or (b) to permit such person to manufacture or process
12 a chemical substance in the United States upon a showing
13 by such person satisfactory to the Administrator that the
14 manufacture, processing, distribution in commerce, use,
15 and disposal of such substance, and that any combination
16 of such activities, has been approved by a competent regu-
17 latory authority of a country that is a member of the
18 Organisation for Economic Co-operation and Development
19 for the specific conditions of use identified in the applica-
20 tion. In evaluating such application, the Administrator
21 shall apply a rebuttable presumption that the approval by
22 the other competent regulatory authority for specific con-
23 ditions of use, and any related restrictions imposed by the
24 other competent regulatory body, will not present any un-
25 reasonable risk of injury to health or the environment, in-

cluding an unreasonable risk to a potentially exposed or susceptible subpopulation identified by the Administrator for the specific conditions of use identified in the application.”; and

(4) by adding at the end the following:

“(8) No later than 60 days after the date of enactment of the [_____ Act], and annually thereafter, the Administrator shall publish in the Federal Register a notice soliciting applications for exemptions for new chemical substances or categories of new chemical substances for consideration under paragraph (4).”.

SEC. 5. REVIEW OF EXISTING CHEMICALS.

(a) SCOPE OF REGULATION.—Section 6(a) of the Toxic Substances Control Act (15 U.S.C. 2605(a)) is amended, in the matter preceding paragraph (1), by striking “apply one or more of the following requirements to such substance or mixture to the extent necessary so that the chemical substance or mixture no longer presents such risk:” and inserting “apply, to the extent necessary, one or more of the following requirements to such substance or mixture in order to minimize, to the extent reasonably feasible, such risk of injury to health or the environment:”.

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

1 (1) in subparagraph (F)—

2 (A) by amending clause (ii) to read as fol-
3 lows:

4 “(ii) consider—

5 “(I) only hazards and exposures
6 that are more likely than not to result
7 in an unreasonable risk of injury to
8 health or the environment;

9 “(II) sentinel exposures to the
10 chemical substance; and

11 “(III) aggregate exposures only if
12 the Administrator issues a written de-
13 termination that such consideration is
14 necessary to provide greater clarity or
15 precision in the risk evaluation;”;

16 (B) in clause (iv), by striking “; and” and
17 inserting a semicolon;

18 (C) in clause (v), by striking the period at
19 the end and inserting a semicolon; and

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

21 “(vi) consider any exposure limits or
22 thresholds relating to the chemical sub-
23 stance developed by another Federal de-
24 partment or agency under any applicable
25 law or regulation; and

1 “(vii) not assume noncompliance with
2 any such applicable law or regulation relat-
3 ing to the chemical substance, including
4 any occupational safety and health stand-
5 ard promulgated under section 6 of the
6 Occupational Safety and Health Act of
7 1970 (29 U.S.C. 655) relating to the
8 chemical substance.”;

9 (2) in subparagraph (H), by striking “30 days”
10 and inserting “60 days”; and

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

12 “(I) INTERAGENCY REVIEW.—In con-
13 ducting a risk evaluation under this subsection,
14 the Administrator shall provide a process for
15 Federal departments and agencies to submit in-
16 formation and feedback on critical uses, alter-
17 natives, and supply chain impacts, including by
18 providing not less than 30 days to submit com-
19 ments on the draft risk evaluation prior to pro-
20 viding public notice and an opportunity for
21 comment in accordance with subparagraph
22 (H).”.

23 (c) PROMULGATION OF SUBSECTION (A) RULES.—
24 Section 6(c) of the Toxic Substances Control Act (15
25 U.S.C. 2605(c)) is amended—

1 (1) in paragraph (1)—

2 (A) in subparagraph (B), by striking “;
3 and” and inserting a semicolon;

4 (B) in subparagraph (C), by striking the
5 period at the end and inserting “; and”; and

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

7 “(D) if a petition is filed under section 19
8 for judicial review of the final risk evaluation
9 regarding the chemical substance, may extend
10 the deadlines for the publication of a final rule
11 under this paragraph, in addition to any exten-
12 sion under subparagraph (C), for a period of
13 time equal to the period that begins on the date
14 the petition is filed and ends on the date that
15 a final disposition of such petition is made.”;

16 (2) in paragraph (2)—

17 (A) by amending subparagraph (B) to read
18 as follows:

19 “(B) SELECTING REQUIREMENTS.—In se-
20 lecting among requirements under subsection
21 (a), the Administrator shall—

22 “(i) factor in, to the extent prac-
23 ticable—

1 “(I) the considerations under
2 subparagraph (A), in accordance with
3 subsection (a); and

4 “(II) any occupational safety and
5 health standards promulgated under
6 section 6 of the Occupational Safety
7 and Health Act of 1970 (29 U.S.C.
8 655) relating to the chemical sub-
9 stance; and

10 “(ii) select those requirements that, to
11 the extent applicable—

12 “(I) are cost-effective in relation
13 to the minimization of the unreason-
14 able risk; and

15 “(II) do not result in the creation
16 of greater risks for health or the envi-
17 ronment.”;

18 (B) in subparagraph (C)—

19 (i) by striking “whether technically
20 and economically feasible alternatives that
21 benefit health or the environment, com-
22 pared to the use so proposed to be prohib-
23 ited or restricted” and inserting “whether
24 technically and economically feasible alter-
25 natives (to the chemical substance or mix-

1 ture or to the specific condition of use)
2 that benefit health or the environment,
3 compared to the specific condition of use
4 so proposed to be prohibited or restricted”;
5 and

6 (ii) by adding at the end the fol-
7 lowing: “A restriction on a specific condi-
8 tion of use of a chemical substance or mix-
9 ture with which compliance is not tech-
10 nically or economically feasible shall be
11 considered to substantially prevent the spe-
12 cific condition of use.”; and

13 (C) in subparagraph (D)—

14 (i) by redesignating clause (ii) as
15 clause (iii);

16 (ii) in clause (iii) (as so redesign-
17 ated)—

18 (I) in subclause (I), by striking
19 “redesign or replace; and” and insert-
20 ing “redesign or replace;”;

21 (II) in subclause (II), by striking
22 the period at the end and inserting “;
23 and”; and

24 (III) by adding at the end the
25 following:

1 “(III) the term ‘covered replace-
2 ment part’ means a replacement part
3 that is—

4 “(aa) for a complex durable
5 good or a complex consumer
6 good; and

7 “(bb) designed prior to the
8 date of publication in the Federal
9 Register of a rule promulgated
10 under subsection (a) that im-
11 poses a requirement on a chem-
12 ical substance contained in the
13 part of the complex durable good
14 or complex consumer good that is
15 being replaced.”; and

16 (iii) by striking clause (i) and insert-
17 ing the following:

18 “(i) EXEMPTION.—The Administrator
19 shall exempt a covered replacement part
20 from any requirement in a rule promul-
21 gated under subsection (a) that would, if
22 applied to the covered replacement part,
23 restrict the manufacture, processing, dis-
24 tribution in commerce, use, or disposal of
25 such covered replacement part, unless the

1 Administrator makes an express written
2 finding, based on substantial evidence in a
3 risk evaluation conducted under subsection
4 (b)(4)(A), that manufacture, processing,
5 distribution in commerce, use, or disposal
6 of such covered replacement part by itself
7 contributes significantly to the risk identi-
8 fied in such risk evaluation to the general
9 population or to an identified potentially
10 exposed or susceptible subpopulation.

11 “(ii) TRANSITION PERIOD.—Any rule
12 under subsection (a) that imposes a re-
13 quirement that restricts the manufacture,
14 processing, distribution in commerce, use,
15 or disposal of a covered replacement part
16 shall provide that the requirement not
17 apply to the covered replacement part for
18 a period of not less than 10 years after
19 promulgation of such rule.”;

20 (D) in subparagraph (E), by striking “so
21 that the substance or mixture does not present”
22 and inserting “to minimize, to the extent rea-
23 sonably feasible,”; and

24 (E) by adding at the end the following:

1 “(F) ONBOARD AEROSPACE FIRE SUP-
2 PRESSION.—The Administrator shall not pro-
3 hibit or restrict the manufacture, processing, or
4 use of chemical substances or mixtures replac-
5 ing halon, whether on its own or in a mixture,
6 for onboard aerospace fire suppression systems
7 or equipment certified by the Federal Aviation
8 Administration or specified by the Department
9 of Defense.”; and

10 (3) in paragraph (3)(A), by inserting “and pro-
11 viding at least 90 days for public comment on the
12 proposed rule” before the semicolon.

13 (d) FINAL AGENCY ACTION.—Section 6(i) of the
14 Toxic Substances Control Act (15 U.S.C. 2605(i)) is
15 amended—

16 (1) in paragraph (1), by striking “that a chem-
17 ical substance does not present an unreasonable risk
18 of injury to health or the environment”; and

19 (2) in paragraph (2), by striking “, including
20 the associated determination by the Administrator
21 under subsection (b)(4)(A) that a chemical sub-
22 stance presents an unreasonable risk of injury to
23 health or the environment,”.

1 (e) COMPENSATION FOR CERTAIN COSTS.—Section 6
2 of the Toxic Substances Control Act (15 U.S.C. 2605) is
3 amended by adding at the end the following:

4 “(k) COMPENSATION FOR CERTAIN COSTS.—

5 “(1) IN GENERAL.—A covered submitter may
6 seek compensation from a reliant manufacturer or
7 processor for eligible costs in accordance with this
8 subsection.

9 “(2) NOTICE.—In order to receive compensa-
10 tion for eligible costs under this subsection, a cov-
11 ered submitter shall, not later than 5 years after a
12 final agency action described in subsection (i) with
13 respect to the relevant chemical substance is taken,
14 transmit to the Administrator and the applicable re-
15 liant manufacturer or processor a notice that such
16 covered submitter is seeking such compensation.

17 “(3) TERMS AND AMOUNT.—

18 “(A) AGREEMENT.—Subject to subpara-
19 graph (B), the amount of compensation re-
20 ceived under this subsection by a covered sub-
21 mitter, and the terms for such compensation,
22 may be set by an agreement entered into be-
23 tween the covered submitter and the applicable
24 reliant manufacturer or processor.

1 “(B) LIMITATION.—A covered submitter
2 may not, with respect to a chemical substance,
3 receive from one or more reliant manufacturers
4 or processors a total amount of compensation
5 under this subsection that exceeds the total eli-
6 gible costs of the covered submitter.

7 “(4) ARBITRATION.—If a covered submitter
8 and a reliant manufacturer or processor are unable
9 to reach an agreement on compensation under para-
10 graph (3) not later than 90 days after the date on
11 which the covered submitter transmitted a notice to
12 the reliant manufacturer or processor under para-
13 graph (2), either person may initiate binding arbi-
14 tration proceedings with respect to compensation for
15 eligible costs under this subsection by requesting the
16 Federal Mediation and Conciliation Service to ap-
17 point an arbitrator from the roster of arbitrators
18 maintained by such Service. The procedure and rules
19 of the Service shall be applicable to the selection of
20 such arbitrator and to such arbitration proceedings,
21 and the findings and determination of the arbitrator
22 shall be final and conclusive, and no official or court
23 of the United States shall have power or jurisdiction
24 to review any such findings and determination, ex-
25 cept for fraud, misrepresentation, or other mis-

1 conduct by one of the parties to the arbitration or
2 the arbitrator where there is a verified complaint
3 with supporting affidavits attesting to specific in-
4 stances of such fraud, misrepresentation, or other
5 misconduct. The parties to the arbitration shall
6 share equally in the payment of the fee and expenses
7 of the arbitrator.

8 “(5) FAILURE TO PARTICIPATE.—

9 “(A) RELIANT MANUFACTURER OR PROC-
10 ESSOR.—If the Administrator determines that a
11 reliant manufacturer or processor has failed to
12 participate in a procedure for reaching an
13 agreement under paragraph (3) for compensa-
14 tion or in an arbitration proceeding initiated
15 under paragraph (4), or failed to comply with
16 the terms of such an agreement or arbitration
17 decision concerning compensation under this
18 subsection, the Administrator shall impose a
19 fine on the reliant manufacturer or processor in
20 an amount that is proportionate to the annual
21 volume of the relevant chemical substance man-
22 ufactured or processed, as applicable, by the re-
23 liant manufacturer or processor in relation to
24 the total annual volume of the chemical sub-

1 stance manufactured or processed, as applica-
2 ble, in the United States.

3 “(B) NOTICE.—Before the Administrator
4 imposes a fine on a reliant manufacturer or
5 processor under subparagraph (A), the Admin-
6 istrator shall furnish to the reliant manufac-
7 turer or processor, by certified mail, notice of
8 intent to impose such fine and allow 15 days
9 from the date of delivery of the notice for the
10 reliant manufacturer or processor to respond.

11 “(6) DEFINITIONS.—In this subsection:

12 “(A) COVERED SUBMITTER.—The term
13 ‘covered submitter’ means a person who—

14 “(i) has, with respect to a chemical
15 substance or significant new use of a
16 chemical substance, submitted a notice
17 under section 5(a) that results in a risk
18 evaluation being conducted for such chem-
19 ical substance under subsection (b) of this
20 section; and

21 “(ii) has paid a fee to the Adminis-
22 trator under section 26(b) for such risk
23 evaluation.

24 “(B) ELIGIBLE COST.—The term ‘eligible
25 cost’ means, with respect to a chemical sub-

1 stance that is the subject of a risk evaluation
2 under subsection (b)—

3 “(i) the amount of any fee paid under
4 section 26(b) for such risk evaluation; and

5 “(ii) the cost of any testing of such
6 chemical substance conducted pursuant to
7 section 4.

8 “(C) RELIANT MANUFACTURER OR PROC-
9 ESSOR.—The term ‘reliant manufacturer or
10 processor’ means a person who manufactures
11 or processes a chemical substance that is the
12 subject of a risk evaluation for which a fee has
13 been paid under section 26(b) by a different
14 person who is a covered submitter.”.

15 **SEC. 6. MANUFACTURING AND PROCESSING NOTICES.**

16 Section 8(b) of the Toxic Substances Control Act (15
17 U.S.C. 2607(b)) is amended—

18 (1) in paragraph (3)(B), by striking “may” and
19 inserting “shall”; and

20 (2) by adding at the end the following:

21 “(11) EQUIVALENT CHEMICAL SUBSTANCES.—

22 “(A) IN GENERAL.—If a UVCB chemical
23 substance is equivalent to, as described in sub-
24 paragraph (B), a different chemical substance
25 that is included in the list published under

1 paragraph (1), then such UVCB chemical sub-
2 stance shall be, for purposes of this Act—

3 “(i) considered to be included in such
4 list and treated in the same manner as
5 such different chemical substance; and

6 “(ii) not considered to be a new chem-
7 ical substance.

8 “(B) EQUIVALENCY.—A UVCB chemical
9 substance is equivalent to a different chemical
10 substance if the manufacturer or processor of
11 the UVCB chemical substance demonstrates to
12 the Administrator that such UVCB chemical
13 substance is within the compositional variability
14 of the different chemical substance—

15 “(i) taking into consideration process
16 descriptors, predominant carbon-number
17 range, approximate boiling point range,
18 and other relevant information found in
19 the name and definition of the different
20 chemical substance; and

21 “(ii) without consideration of the
22 source of the raw materials used in manu-
23 facturing the UVCB chemical substance.

1 “(C) DEFINITION.—In this paragraph, the
2 term ‘UVCB chemical substance’ means a
3 chemical substance that—

4 “(i) is—

5 “(I) of unknown or variable com-
6 position;

7 “(II) a complex reaction product;

8 or

9 “(III) biological material; and

10 “(ii) has no definite molecular for-
11 mula representation and either partial
12 structural diagrams or no structural dia-
13 grams.”.

14 **SEC. 7. RELATIONSHIP TO OTHER FEDERAL LAWS.**

15 Section 9(a) of the Toxic Substances Control Act (15
16 U.S.C. 2608(c)) is amended by adding at the end the fol-
17 lowing:

18 “(7) PROHIBITION.—The Administrator may
19 not apply a requirement with respect to a chemical
20 substance under section 6(a) that is inconsistent
21 with another requirement applied with respect to the
22 chemical substance under any Federal law not ad-
23 ministered by the Administrator.”.

1 **SEC. 8. CITIZENS' PETITIONS.**

2 (a) IN GENERAL.—Section 21(a) of the Toxic Sub-
3 stances Control Act (15 U.S.C. 2620(a)) is amended by
4 striking “the issuance, amendment, or repeal of a rule
5 under section 4, 6, or 8 or an order under section 4 or
6 5(e) or (f)” and inserting “the issuance, amendment, or
7 repeal of a rule under section 4 or 8 or an order under
8 section 4 or 5(e) or (f), the amendment or repeal of a
9 rule issued under section 6(a), or the consideration of a
10 chemical substance for designation as a high-priority sub-
11 stance under section 6(b)”.

12 (b) PROCEDURES.—Section 21(b) of the Toxic Sub-
13 stances Control Act (15 U.S.C. 2620(b)) is amended—

14 (1) in paragraph (1), by striking “issue, amend,
15 or repeal a rule under section 4, 6, or 8 or an order
16 under section 4 or 5(e) or (f)” and inserting “issue,
17 amend, or repeal a rule under section 4 or 8 or an
18 order under section 4 or 5(e) or (f), amend or repeal
19 a rule issued under section 6(a), or consider a chem-
20 ical substance for designation as a high-priority sub-
21 stance under section 6(b)”; and

22 (2) in paragraph (4)—

23 (A) in subparagraph (A), by striking “a
24 rulemaking proceeding as requested in the peti-
25 tion. Any such action” and inserting “the ac-

1 tion requested in the petition. Any such civil ac-
2 tion”; and

3 (B) in subparagraph (B)—

4 (i) in the matter preceding clause (i),
5 by striking “to issue a rule under section
6 4, 6, or 8 or an order under section 4 or
7 5(e) or (f)” and inserting “to issue a rule
8 under section 4 or 8 or an order under sec-
9 tion 4 or 5(e) or (f), or consider a chemical
10 substance for designation as a high-priority
11 substance under section 6(b),”;

12 (ii) in clause (i)(II), by striking “; or”
13 and inserting a semicolon;

14 (iii) in clause (ii)—

15 (I) by striking “the issuance of a
16 rule under section 6(a) or 8” and in-
17 serting “the issuance of a rule under
18 section 8”;

19 (II) by striking “, without consid-
20 eration of costs or other nonrisk fac-
21 tors”; and

22 (III) by striking the semicolon at
23 the end and inserting “; or”; and

1 (iv) by inserting after clause (ii) (be-
2 fore the matter following such clause) the
3 following:

4 “(iii) in the case of a petition to initiate a pro-
5 ceeding for the consideration of a chemical substance
6 for designation as a high-priority substance under
7 section 6(b);”.

8 **SEC. 9. NATIONAL DEFENSE WAIVER.**

9 Section 22 of the Toxic Substances Control Act (15
10 U.S.C. 2621) is amended by striking “Armed Services
11 Committees of the Senate and the House of Representa-
12 tives” and inserting “Committee on Energy and Com-
13 merce of the House of Representatives, the Committee on
14 Environment and Public Works of the Senate, the Com-
15 mittee on Armed Services of the House of Representatives,
16 and the Committee on Armed Services of the Senate”.

17 **SEC. 10. FEE REAUTHORIZATION AND USE.**

18 (a) FEES.—Section 26(b) of the Toxic Substances
19 Control Act (15 U.S.C. 2625(b)) is amended—

20 (1) in paragraph (3)(D)—

21 (A) in clause (i), by adding “, including an
22 accounting of amounts disbursed from the
23 Fund used for administering each category of
24 activities performed under sections 4, 5, and 6,
25 for collecting, processing, reviewing, and pro-

1 viding access to and protecting from disclosure
2 as appropriate under section 14 information on
3 chemical substances under this title, and for
4 contractor costs incurred by the Adminis-
5 trator,” after “disbursed from the Fund”; and

6 (B) in clause (ii)(II)—

7 (i) in item (bb), by striking “and” at
8 the end; and

9 (ii) by striking item (cc) and inserting
10 the following:

11 “(cc) the number of rules,
12 orders and consent agreements
13 issued under section 4;

14 “(dd) the number of notices
15 received, reviewed, and pending
16 under section 5; and

17 “(ee) the number of requests
18 for a risk evaluation made by
19 manufacturers under section
20 6(b)(4)(C)(ii).”; and

21 (2) in paragraph (6), by striking “Frank R.
22 Lautenberg Chemical Safety for the 21st Century
23 Act” and inserting “[_____ Act]”.

24 (b) Section 26(d) of the Toxic Substances Control
25 Act (15 U.S.C. 2625(d)) is amended by inserting “Such

1 office shall provide any person interested in submitting a
2 notice under section 5 an opportunity meet and confer
3 prior to the submission of such notice.” after “such re-
4 quirements.”.

5 (c) Section 26(j) of the Toxic Substances Control Act
6 (15 U.S.C. 2625(j)) is amended—

7 (1) in paragraph (4), by striking “and” at the
8 end;

9 (2) in paragraph (5), by striking the period at
10 the end and inserting a semicolon;

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

13 (4) by redesignating paragraphs (3) through
14 (5) as subparagraphs (D) through (F), respectively;

15 (5) by striking “Subject to section 14” and in-
16 serting the following:

17 “(1) CATEGORIES OF INFORMATION.—Subject
18 to section 14”;

19 (6) by inserting after subparagraph (B) (as so
20 redesignated) the following:

21 “(C) a nontechnical summary of each no-
22 tice submitted under section 5(a);”; and

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

24 “(G) the name and contact information of
25 an Agency representative for each chemical sub-

1 stance subject to an action pending under sec-
2 tion 4, 5, or 6; and

3 “(H) the status of any notice submitted
4 under section 5 and risk evaluation under sec-
5 tion 6, including key milestones during the re-
6 view process and expected deadline for comple-
7 tion.

8 “(2) DASHBOARD.—Subject to section 14, the
9 Administrator shall make available to the public a
10 regularly updated electronic dashboard on the Envi-
11 ronmental Protection Agency’s website that in-
12 cludes—

13 “(A) the categories of information required
14 under paragraph (1);

15 “(B) the average of the time the Environ-
16 mental Protection Agency took to complete re-
17 view of notices submitted under section 5, orga-
18 nized by year;

19 “(C) the average time period the Environ-
20 mental Protection Agency spends reviewing no-
21 tices submitted under section 5; and

22 “(D) copies of the most recent report to
23 Congress required to be submitted under sub-
24 section (b)(3)(D)(i) of this section.”.

1 (d) REASONABLY AVAILABLE INFORMATION.—Sec-
2 tion 26(k) of the Toxic Substances Control Act (15 U.S.C.
3 2625(k)) is amended to read as follows:

4 “(k) REASONABLY AVAILABLE INFORMATION.—

5 “(1) IN GENERAL.—In carrying out sections 4,
6 5, and 6, the Administrator shall use information re-
7 lating to a chemical substance or mixture, including
8 hazard and exposure information, under the condi-
9 tions of use, that is reasonably available to the Ad-
10 ministrator, including—

11 “(A) any data or information that the Ad-
12 ministrator required to be provided from a sub-
13 mitter of a notice under section 5(a)(1), manu-
14 facturer, or processor; and

15 “(B) existing requirements, prohibitions,
16 or restrictions for a particular chemical sub-
17 stance under any other Federal law.

18 “(2) CONSIDERATIONS.—In carrying out para-
19 graph (1), the Administrator shall—

20 “(A) give the highest priority to the use of
21 reasonably available information that directly
22 concerns the applicable chemical substance or
23 mixture;

24 “(B) after giving highest priority to the
25 use of reasonably available information de-

1 scribed in subparagraph (A), give priority to
2 the use of reasonably available information on
3 chemical substances or mixtures in the same
4 category as the applicable chemical substance or
5 mixture; and

6 “(C) give the least weight to the use of
7 reasonably available information from models.

8 “(3) JUSTIFICATION.—In carrying out sections
9 4, 5, and 6, the Administrator shall make publicly
10 available the rationale for why any reasonably avail-
11 able information was not used with regard to a
12 chemical substance or mixture, including if the use
13 of such information would not have been consistent
14 with the requirements of subsection (h).”.