

5.776

D. BISHOP

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DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) Human beings and the environment are exposed each year to a large and constantly growing number of chemical substances.

(2) Some chemical substances may pose an unreasonable risk to human health or the environment.

(3) The effective regulation of commerce in the

1 interest of protecting human beings and the environment
2 necessitates adequate data development with respect to,
3 and necessary restrictions on, such substances.

4 (b) *POLICY*.—It is therefore declared to be the policy
5 of the Congress in this Act that—

6 (1) adequate data should be developed with respect
7 to chemical substances with respect to their effect on
8 human health and the environment;

9 (2) such data development should be the responsi-
10 bility of the persons who manufacture, import, or process
11 such chemical substances;

12 (3) adequate authority should exist in the Environ-
13 mental Protection Agency to regulate the manufacturing,
14 importation, processing, and distribution in commerce of
15 chemical substances which are found to pose an unrea-
16 sonable risk to human health and the environment; ~~and~~

17 (4) such authority should be exercised in such a
18 manner as to assure that technological innovation and
19 commerce in chemical substances and products contain-
20 ing chemical substances are not unduly impeded while
21 assuring that the manufacturing, importation, processing,
22 or distribution in commerce of such substances do not
23 pose an unreasonable risk to human health and the
24 environment; and

(c) *Congressional intent* — It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that he shall consider the environmental health, and social impact of any action he proposes to

→ Same as H 7229
Purpose to Supplement Economic Impact & Statement proposed as an Amendment to Sec. 6

~~DEFINITIONS~~~~SEC. 3. As used in this Act, the term~~

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical ^{biological} or chemical properties, ~~in biological action, in use or in mode of entrance into the human body or into the environment, or the members of which are in some other way suitable for classification as such for purposes of this Act,~~ except that the term does not mean all new chemical substances;

(3) "chemical substance" means (A) an organic or inorganic substance of a particular molecular identity, or a combination of such substances occurring as a result of a chemical reaction and not separated into its constituent components; (B) an uncombined radical or element; or (C) any mixture or category of mixtures specified by the Administrator in this discretion with respect to any provision of this Act. In specifying a mixture or category of mixtures under subparagraph (C) the Administrator shall consider the extent to which actions taken with respect to a mixture or mixtures so specified could be reasonably and as efficiently taken

insert "and which may have similar effects on health and the environment"

5. the Administrator shall carry out this Act in a reasonable and prudent manner and that he shall consider the environmental health, economic and social impact of any action he

1 with respect to the component chemical substances which
2 comprise such mixture or mixtures;

3 (4) "commerce" means trade, traffic, transporta-
4 tion, communication, or exchange (A) between a place in
5 a State and any place outside of such State, or (B)
6 which affects trade, traffic, transportation, communica-
7 tion, or exchange described in subparagraph (A);

8 (5) "criteria for data development" means a pre-
9 scription of (A) the manner in which data are to be
10 developed with respect to the human health and en-
11 vironmental effects of a chemical substance; (B) any
12 analysis that is to be performed on such data, and (C)
13 any requirements to be met in the design of any test or
14 study necessary to insure the reliability and adequacy of
15 such data;

16 (6) "distribute in commerce" or "distribution in
17 commerce" means to sell in commerce, to introduce or
18 deliver for introduction into commerce, or to hold for
19 sale or distribution after introduction into commerce,
20 including use and disposal thereafter;

21 (7) "environment" includes man and the human
22 environment, water, air, land, all living things therein,
23 and the interrelationships which exist among and be-
24 tween these;

25 (8) "health and safety data" means data that
26 relate to the effect of a chemical substance on human

1 health and the environment, including data developed
2 pursuant to health and safety studies. The term in-
3 cludes consumer or other individual correspondence re-
4 garding alleged adverse effects of a chemical substance
5 on human health and the environment, reports of worker
6 illness or injury allegedly related to exposure to a chem-
7 ical substance, and complaints or other notices with re-
8 spect to judicial or administrative proceedings initiated
9 by local, State, or Federal authorities or other persons
10 on account of any injury to human health and/or the
11 environment that is alleged to have been caused by a
12 chemical substance;

13 (9) "health and safety study" means a study
14 of any effects of a chemical substance on human health
15 and/or the environment. The term includes epidemio-
16 logical studies, studies of occupational exposure to a
17 chemical substance, toxicological studies, clinical studies,
18 ecological studies, environmental monitoring studies, and
19 all tests performed pursuant to this Act;

20 (10) "human health and the environment" should
21 be read as if human health and/or the environment were
22 set forth;

23 (11) "includes" should be read as if the phrase "but
24 not limited to" were also set forth;

25 (12) "import" means to introduce, transport, or
26 bring (A) into the United States from any place outside

1 the United States; or (B) into the customs territory of
2 the United States (as defined in general headnote 2 to
3 the Tariff Schedules of the United States) from any place
4 outside the customs territory of the United States;

5 (13) "importer" means a person who imports a
6 chemical substance for distribution in commerce for com-
7 mercial purpose;

8 (14) "manufacture" means to produce or manufac-
9 ture;

10 (15) "manufacturer" means a person who manu-
11 factures a chemical substance;

12 (16) "mixture" means a combination of two or more
13 chemical substances (A) that occurs naturally other than
14 in the cause of the manufacture of chemical substance; or
15 (B) that is produced by deliberate mixing according to
16 plan but without intent to cause a chemical reaction and
17 which does not result in a chemical reaction;

18 (17) "new chemical substance" means a chemi-
19 cal substance not included in the inventory compiled
20 and published under section 8(b);

21 (18) "paragraph" means a paragraph of the sub-
22 section in which the term is used;

23 (19) "person" means an individual, corporation,
24 partnership, association, State, municipality, or political
25 subdivision of a State;

1 (20) "process" means to prepare a chemical sub-
2 stance for distribution in commerce (A) in the
3 same or in a different form, (B) in the same or in a
4 different physical state, or (C) as part of another
5 product;

6 (21) "processor" means a person who processes
7 a chemical substance;

8 (22) "research and laboratory chemicals" means
9 chemical substances manufactured, processed, or im-
10 ported in small quantities solely for experimental use by
11 professionally trained personnel;

12 (23) "section" means a section of this Act;

13 (24) "State" means a State, the District of
14 Columbia, the Commonwealth of Puerto Rico, the Vir-
15 gin Islands, Guam, the Canal Zone, or American
16 Samoa;

17 (25) "subparagraph" means a subparagraph of the
18 paragraph in which the term is used;

19 (26) "subsection" means a subsection of the section
20 in which the term is used;

21 (27) "test protocol" means a specific method or pro-
22 cedure to be followed in a test or tests to determine the
23 effects on human health and the environment of the man-
24 ufacture, processing, importing, or distribution in com-
25 merce of a chemical substance;

(28) "United States" means all the States; and

(29) "unreasonable risk to human health and the environment" means ~~any risk~~ ^{a significant level of risk} associated with the manu-

facture, processing, importation, or distribution in commerce for a specific purpose ~~if such risk outweighs the~~ ^{which is not outweighed by the}

benefits associated with such manufacture, processing, importation, or distribution in commerce. Any chemical

substance which has been found, after appropriate evalu-

ative tests (such as tests with animals) or other tech-

niques, to have the potential to induce in human beings

(1) cancer, (2) gene mutations, or (3) birth defects,

shall be ~~considered~~ ^{presumed} to present an unreasonable risk to

human health or the environment and the Administrator

shall ~~take appropriate action under section 5(e)(2),~~ ^{assess the benefits associated with such}

~~6(a), or 7 with respect to any manufacture, processing,~~ ^{manufacture, processing}

importation, or distribution in commerce. ~~which results~~

~~in exposure to human beings with respect to such sub-~~

stance. ~~Unless the Administrator finds, by rule, that the~~

~~benefits associated with such manufacture, processing,~~

~~importation, or distribution in commerce, outweighs the~~

~~appropriate action under sec 5(e), 6(a) or 7 with respect to~~

~~any manufacture, processing, importation or distribution~~

~~such chemicals under section 6(a) or 7 (or rules issued~~

~~in commerce of such substance which results in levels~~

~~by the Administrator finding that the benefits outweigh~~

~~exposure to humans at levels which, with an appropriate~~

~~margin of safety have been shown to induce (1) cancer,~~

~~or gene mutations or (3) birth defects. The Administrator~~

~~shall assess the benefits of such chemicals and shall~~

(cont.) or promulgate his findings that ^{where} completely the benefits with respect to such substance outweigh the risks as soon as possible but not later than 3 years after the date of enactment of this Act.

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~~CRITERIA FOR DATA DEVELOPMENT~~

1 ~~SEC. 4. (a)~~ GENERAL.—(1) If the Administrator
 2 determines that—

3 (A) because of known or anticipated manufactur-
 4 ing, processing, importing, or distribution in commerce
 5 of a chemical substance there is reason to believe that
 6 such substance may present an unreasonable risk to
 7 human health and the environment; and

8 (B) data development with respect to such risks
 9 ~~ad necessary~~ ~~would assist~~ in making a determination of whether an
 10 unreasonable risk to human health and the environment
 11

12 does or does not exist, *and is necessary in light of the*
 13 *possible risk measured against the possible costs of such data*
 14 *development* then he shall, by rule, prescribe criteria for data development

15 for such chemical substance. Such criteria shall include
 16 (i) the prescription of the human health and environmental
 17 effects for which data are required to be developed; (ii) the
 18 date by which such data should be submitted to the Adminis-
 19 trator; and (iii) a requirement, subject to subsection (d),
 20 that such data be developed by each person who is or will be
 21 a manufacturer, a processor, or an importer of such sub-
 22 stance.

23 (2) The Administrator shall require, pursuant to each
 24 rule issued under paragraph (1), that data be developed with
 25 respect to those human health and/or environmental effects
 26 which the Administrator specifies to be relevant with respect
 to the substance affected by such rule. In specifying such

1 effects, as to which data development are required, the Ad-
2 ministrator shall consider—

3 (A) the actual or estimated magnitude and duration
4 of human exposure to such substance, and the possible
5 consequences thereof with respect to human health;
6 and

7 (B) the actual or estimated magnitude and duration
8 of environmental exposure to such substance and the
9 possible consequences thereof with respect to the environ-
10 ment.

11 The human health and environmental effects for which cri-
12 teria for data development may be prescribed include carcino-
13 genesis, mutagenesis, teratogenesis, behavioral disorders,
14 acute toxicity, subacute toxicity, chronic toxicity, cumulative
15 or synergistic effects, ecological effects, persistence, and any
16 other effects that may cause an unreasonable risk to human
17 health and the environment. The methodologies that may be
18 prescribed in criteria for data development include epidemi-
19 ology, serial, battery, or hierarchical tests; in vitro tests; and
20 whole animal tests.

21 (3) From time to time, but not less than once each 12
22 months, the Administrator shall review the adequacy of the
23 criteria for data development established under this subsec-
24 tion, and shall promulgate appropriate revisions thereof.

25 (b) NEW CHEMICAL SUBSTANCES.—Within 1 year

1 after the date of enactment of this Act, and from time to
 2 time thereafter, the Administrator shall by rule, prescribe
 3 criteria for data development, pursuant to subsection (a),
 4 that shall be applicable to new chemical substances and
 5 categories of new chemical substances.

6 (c) EXISTING CHEMICAL SUBSTANCES.—(1) Within
 7 1 year after the date of enactment of this Act, the Ad-
 8 ministrator shall establish, and shall thereafter continually
 9 maintain, a list of ~~not less than 300~~ chemical substances,
 10 (other than new chemical substances) which are, in the Ad-
 11 ministrator's discretion, the highest priority candidates for
 12 the establishment of criteria for data development pursuant
 13 to subsection (a). From time to time thereafter, but not
 14 less than once every 2 years, the Administrator shall
 15 review and revise such list. Whenever the Administrator
 16 promulgates, or determines not to promulgate, a final rule
 17 pursuant to subsection (a), with respect to any chemical
 18 substance so listed, the Administrator shall delete
 19 such substance from such list and shall make any necessary
 20 additions to ~~maintain the size of~~ ^{of such list.} such list. Such list, and any
 21 revisions thereof, shall subject to section 14 (c) or (e) be
 22 published in the Federal Register together with the following
 23 information with respect to each chemical substance listed,
 24 to the extent that such information can be reasonably ascer-
 25 tained by the Administrator:

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 list?

1 (A) the volume of production and use thereof;

2 (B) categories of use thereof;

3 (C) the magnitude, means, and duration of expo-
4 sure to human beings and the environment that are
5 associated with such substance;

6 (D) the extent to which such substance is phys-
7 ically or chemically similar to chemical substances with
8 known adverse effects on human health and the environ-
9 ment; and

10 (E) any other property, or possible property, of
11 such substance that may form a reasonable basis for
12 placing such substance on such list.

13 (2) Within 1 year after the initial publication of the
14 list under paragraph (1), the Administrator shall promul-
15 gate initial criteria for data development pursuant to sub-
16 section (a), with respect to any or all of the chemical sub-
17 stance which appear on such list. The Administrator may
18 promulgate criteria for data development pursuant to sub-
19 section (a) for any other chemical substance.

20 (d) EXEMPTION.—(1) The Administrator may per-
21 mit two or more persons who are required to develop data
22 in accordance with subsection (a) to designate one such
23 person, or a qualified and independent third party, to de-
24 velop such data pursuant to a cost-sharing arrangement.
25 If such an arrangement is made and approved by the Ad-

1 *ministrator, the remaining such persons shall be exempted,*
2 *pursuant to paragraph (2).*

3 *(2)(A) The Administrator shall exempt a person*
4 *from the obligation to develop data in accordance with sub-*
5 *section (a), upon a determination that the data to be de-*
6 *veloped by such person would be duplicative of data previous-*
7 *ly received or which are in the process of being developed:*
8 *Provided, That no exemption shall be granted before the*
9 *person petitioning for such exemption—*

10 *(i) has demonstrated, to the satisfaction of the Ad-*
11 *ministrator, that the chemical substance for which the*
12 *exemption is requested (including any contaminants*
13 *and/or byproduct impurities present in it) is equivalent*
14 *to the chemical substance upon which the original test*
15 *data was, or is in the process of being, developed; and*

16 *(ii) agrees to provide reimbursement, pursuant to*
17 *subparagraphs (B) and (C).*

18 *(B) If the Administrator exempts a person from the*
19 *obligation to develop data in accordance with subsection (a)*
20 *because of the existence of previously submitted data or data*
21 *which are in the process of being developed, and if such*
22 *exemption takes effect during the reimbursement period for*
23 *such data, as defined in subparagraph (C), the Administra-*
24 *tor shall, as a condition of such exemption, order such person*
25 *to provide fair and equitable reimbursement, on the basis of*

1 market shares and other appropriate factors, by agreement
2 or in an amount and subject to conditions determined under
3 rules of the Administrator—

4 (i) to any person who previously submitted data or
5 is developing such data, as a consequence of the avail-
6 ability of which such exemption is granted, for a por-
7 tion of the relevant costs incurred by such person, and

8 (ii) to any other person who has previously been
9 required under this paragraph to contribute with respect
10 to such data.

11 An order under this paragraph shall be considered a final
12 agency action for purposes of judicial review.

13 (C) For purposes of subparagraph (B), the reimburse-
14 ment period for any previously submitted data or data in the
15 process of being developed is a period—

16 (i) beginning on the earliest date on which a rele-
17 vant exemption was granted under paragraph (1); and

18 (ii) ending 2 years after the data, with respect to
19 which such exemption was granted, were submitted to the
20 Administrator (or at the expiration of a period after such
21 date equal in length to the period which the Administra-
22 tor determines was necessary to develop the previously
23 submitted data).

24 (3) In any case in which a person provides reimburse-
25 ment, in accordance with paragraph (2), section 14(c) shall

1 not be construed to prevent such person from having access to
2 any data submitted as a result of the data development with
3 respect to which such contribution or reimbursement was
4 provided.

5 (e) *SUBMISSION.*—When the criteria for data develop-
6 ment are satisfied by a person required to develop data in ac-
7 cordance with subsection (a), such data shall be submitted
8 promptly, but not less than 10 days later, to the Administra-
9 tor. The Administrator may require such a person to submit
10 preliminary data or other information during the course of
11 data development in accordance with subsection (a).

12 (f) *NOTICE.*—Upon the receipt of any data under this
13 section, and subject to sections 14(c) or 14(e), the Adminis-
14 trator shall promptly publish a notice of such receipt in the
15 *Federal Register*. Each such notice shall (1) identify the
16 chemical substance for which data have been received; (2)
17 list the uses or intended uses of such substance, and in-
18 formation required by the applicable criteria; and (3) de-
19 scribe the nature of the data developed. Such data shall be
20 made available by the Administrator for examination by any
21 person, except as otherwise provided in sections 14(c) or
22 14(e).

23 (g) *PROCEDURE.*—Rules issued under this section (and
24 amendments thereto or repeals thereof) shall be promulgated
25 pursuant to section 553 of title 5, United States Code. In

of Substantial danger to health + Environ.
(Hard language)
alternate
soft language

MCA substitutes new language
Propose to identify a list - definition

1 promulgating, amending, or repealing any criteria for data
2 development or any other rule under this section (1) the
3 Administrator shall give interested persons an opportunity
4 for the oral presentation of data, views, or arguments, in
5 addition to an opportunity to make written submission; and
6 (2) a transcript shall be made of any oral presentation.

~~PREMARKET SCREENING OF CHEMICAL SUBSTANCES~~

8 ~~SEC. 5. (a) GENERAL.~~ (1) Commencing 270 days
9 after the date of enactment of this Act, a manufacturer or im-
10 porter shall notify the Administrator of the planned manufac-
11 ture or importation of a new chemical substance (other than a
12 mixture), at least 90 days prior to the commencement of such
13 manufacture or importation. Such notice shall be accompanied
14 by any pertinent information referred to in section 8(a)(1),
15 whether or not the Administrator has required the submis-
16 sion thereof under section 8(a)(1).

17 (2) The Administrator shall give priority attention to
18 a chemical substance with respect to which information is
19 received indicating that serious economic or other hardships
20 are likely to result if there is any significant delay in manu-
21 facture or importation. If the Administrator finds that such
22 a substance does not present an unreasonable risk to human
23 health and the environment, he may reduce the number of
24 days, after submission of such information, during which
25 manufacture or importation may not occur. The Administra-

1 tor shall promptly publish his findings and the basis therefor
2 in the Federal Register.

3 (b) SUBMISSION OF DATA.—After the effective date
4 of any criteria for data development issued under sec-
5 tion 4(a), any manufacturer, processor, or importer of a
6 new chemical substance that is covered by such criteria, and
7 who first manufactures, processes, or imports such substance
8 after such date, shall submit to the Administrator (in addi-
9 tion to the information required in subsection (a)), at least
10 90 days prior to such manufacture, processing, or importa-
11 tion, the data developed in accordance with such criteria.

12 (c) DATA AVAILABILITY.—The Administrator shall
13 promptly publish in the Federal Register (subject to section
14 14(c) and 14(e)) the identity of each chemical substance for
15 which a notice has been received under subsection (a) or
16 (b), intended use or distribution of such substance, and a
17 statement of the availability of any data and other informa-
18 tion submitted.

19 (d) EXTENSION.—The Administrator may extend, for
20 an additional period beyond the 90-day period referred to in
21 subsection (a) or (b), the date after which a new chemical
22 substance may be manufactured, processed, or imported for
23 any particular distribution in commerce. Such additional
24 period may not exceed 90 days and shall not be imposed except
25 for good cause shown. Notice of any such extension, and the

1 reasons therefor, shall be published in the Federal Register.
2 Such an extension shall constitute a final action for purposes
3 of judicial review.

4 (e) ORDERS.—(1) (A) If the Administrator finds, dur-
5 ing the 90-day period referred to in subsection (a) or (b)
6 or during any extension thereof, with respect to any new
7 chemical substance for which notification is required under
8 this section—

9 (i) that such new chemical substance is covered by
10 criteria for data development promulgated under section
11 4(a), but that such criteria require additions or revisions
12 with respect to such substance; or

13 (ii) that such new chemical substance is not covered
14 by criteria for data development promulgated under
15 section 4(a), but that such criteria should be established;
16 he shall issue an order in accordance with this subsection.
17 Such an order shall appropriately prohibit or restrict the
18 manufacture, processing, or distribution in commerce of such
19 new chemical substance pending the completion of a rule-
20 making proceeding under section 4(a) and the submission of
21 any data required thereunder, as described under subpara-
22 graph (B); shall contain a proposed rule under section 4(a);
23 and shall be immediately effective.

24 (B) Upon the issuance of any order under subpara-
25 graph (A), the Administrator shall proceed with a rulemak-

1 ing procedure as expeditiously as practicable under section 4
2 (a). During the course of, or upon the completion of, such
3 rulemaking, the Administrator shall, if necessary, appro-
4 priately modify or rescind any order issued under sub-
5 paragraph (A). If criteria for data development are estab-
6 lished as a result of such rulemaking, any provision of such
7 order restricting the manufacture, processing, or distribution
8 in commerce of such substance shall remain in effect, unless
9 modified or rescinded, pending the submission of such data
10 to the Administrator and the completion of procedures de-
11 scribed in subsection (b) or any extension imposed under
12 subsection (d).

13 (2)(A) If the Administrator finds, during the 90-day
14 period referred to in subsection (a) or (b) or during any
15 extension thereof, with respect to any new chemical sub-
16 stance for which notification is required under this section,
17 that a rule is appropriate under section 6(a), he shall issue
18 an order in accordance with this subsection. Such an order
19 shall appropriately prescribe such requirements as are au-
20 thorized under section 6(a); shall contain a proposed rule
21 under section 6(a); and shall be immediately effective.

22 (B) Upon the issuance of any order under subparagraph
23 (A), the Administrator shall proceed with a rulemaking pro-
24 cedure as expeditiously as practicable under section 6(a).
25 During the course of, or upon the completion of such rule-

1 making, the Administrator shall, if necessary, appropriately
2 modify or rescind any order issued under subparagraph (A).

3 (f) *FAILURE TO ISSUE ORDER.*—Unless the Adminis-
4 trator, within 90 days after the submission under subsection
5 (a) or (b) of data and information with respect to a new
6 chemical substance, or within such period as extended under
7 subsection (d), issues an order under subsection (e) with
8 respect to such substance, manufacturing, processing, or im-
9 porting, as appropriate, may commence. ~~The Adminis-~~
10 ~~trator's failure to issue such an order under subsection (e)~~
11 ~~is an action subject to judicial review in accordance with~~
12 ~~section 12(a).~~ Nothing in this subsection prohibits the Ad-
13 ministrator from—

14 (1) promulgating a rule pursuant to section 6 or 4,
15 with respect to such a substance, after such manufactur-
16 ing, processing, or importing has commenced;

17 (2) taking action against any chemical substance
18 which is found to be an imminent hazard pursuant to
19 section 7; or

20 (3) taking any other action authorized by this Act.

21 (g) *EXEMPTION.*—(1) Upon petition, the Administra-
22 tor shall exempt any person from the obligation to submit
23 data under this section, if he determines that the submission
24 of data by such person would be duplicative of data pre-
25 viously received: Provided, That no such determination

1 shall be made before the person petitioning for such exemp-
2 tion has demonstrated, to the satisfaction of the Adminis-
3 trator, that the chemical substance for which the exemption is
4 requested (including any contaminants and/or byproduct
5 impurities present in it) is equivalent to the chemical sub-
6 stance upon which the original test data was developed and
7 that reimbursement to the manufacturer, processor, or
8 importer of such chemical substance as provided in para-
9 graphs (2) and (3) shall be a condition precedent to the
10 granting of any exemption to manufacturers, processors, or
11 importers by the Administrator. Any person to whom an
12 exemption has been granted under this paragraph shall not
13 manufacture, process, or distribute in commerce such new
14 chemical substance prior to the date after which such sub-
15 stance may be manufactured, processed, or imported under
16 this section. Any chemical substance, or any manufacturer,
17 processor, or importer thereof referred to in the preceding
18 sentence, shall be subject to all the other provisions of this
19 Act.

20 (2) If the Administrator exempts any person from sub-
21 mitting data under this section because of the existence of
22 previously submitted data, and if such exemption takes
23 effect during the reimbursement period for such data, as
24 defined in paragraph (3), the Administrator shall order the
25 exempt person to provide fair and equitable reimbursement,

1 on the basis of market shares and other appropriate factors,
2 by agreement or in an amount and subject to conditions
3 determined under rules of the Administrator—

4 (A) to any person who previously submitted data,
5 as a consequence of the availability of which such
6 exemption is granted, for a portion of the relevant
7 costs incurred by such person, and

8 (B) to any other person who has previously been
9 required under this paragraph to contribute with respect
10 to such data.

11 An order under this paragraph shall be considered a final
12 agency action, for purposes of judicial review.

13 (3) For purposes of paragraph (2), the reimburse-
14 ment period for any previously submitted data is a period—

15 (A) beginning on the earliest date (after submis-
16 sion of such data), on which a person who previously
17 submitted data on which the exemption was based, was
18 no longer prohibited from proceeding with the manu-
19 facture and distribution in commerce of a chemical sub-
20 stance to which such data applied, and

21 (B) ending two years after such date (or, if later,
22 at the expiration of a period after such date equal in
23 length to the period which the Administrator determines
24 was necessary to develop the previously-submitted data).

25 (4) In any case in which a person provides reimburse-

1 ment in accordance with paragraph (2), section 14(c) shall
2 not be construed to prevent such person from having access
3 to any data submitted as a result of the data development with
4 respect to which such reimbursement was provided.

5 (h) *SIGNIFICANT NEW USE.*—(1) Within 6 months
6 after the date of enactment of this Act, and from time to time
7 thereafter, the Administrator shall, by rule, establish criteria
8 defining a significant new distribution in commerce of a
9 chemical substance. In establishing such criteria, the Admin-
10 istrator shall take into account—

11 (A) projected volume of production;

12 (B) projected category or categories or uses;

13 (C) projected increase in magnitude and duration
14 of human and environmental exposure;

15 (D) route or routes of exposure of human beings
16 or of the environment that are attributable to such signif-
17 icant new use; and

18 (E) the human health and environmental effects
19 thereof.

20 (2) A chemical substance may not be manufactured or
21 imported for a use that is identified by the Administrator,
22 in a rule, as a significant new distribution in commerce, un-
23 less, at least 90 days prior to such manufacture or importa-
24 tion, the person intending to manufacture or import such
25 substance for such use submits a notice of his intention to do

1 so and any data required to be developed under section 4(a)
2 to the Administrator. Any such use of such substance shall be
3 subject to all of the provisions of this section.

4 (i) *SPECIAL EXEMPTION.*—The Administrator may,
5 upon application and by rule, exempt any person from the
6 foregoing requirements of this section for the purpose of per-
7 mitting such person to manufacture, process, import or dis-
8 tribute in commerce a new chemical substance to which a rule
9 under section 4(a) is applicable for test marketing purposes
10 or specially limited purposes (1) upon a showing by such per-
11 son that such activity will not pose an unreasonable risk to
12 human health and/or the environment and (2) under such
13 restrictions as the Administrator considers appropriate.

14

~~HAZARDOUS CHEMICAL SUBSTANCES~~

15

~~SEC. 6 (a) GENERAL~~—If the Administrator determines
16 that a rule with respect to a chemical substance is necessary
17 to protect against an unreasonable risk to human health
18 and the environment, he shall prescribe such a rule under
19 this section. Such a rule shall impose one or more of the
20 following types of requirements to the extent necessary to
21 protect against any such risk:

22 (1) Requirements (A) prohibiting the manufac-
23 turing, processing, importing, or distribution in com-
24 merce of the chemical substance involved, or (B) limiting
25 the amount of such substance which may be manufac-
26 tured, processed, imported or distributed in commerce.

1 (2) Requirements (A) prohibiting the manufac-
2 turing, processing, importing, or distribution in com-
3 merce of the chemical substance involved for a par-
4 ticular distribution in commerce, or (B) limiting the
5 amount of, or regulating the conditions under which, such
6 substances may be manufactured, processed, imported
7 and/or distributed in commerce for such particular dis-
8 tribution.

9 (3) Requirements mandating that the chemical
10 substance involved, or an article containing such sub-
11 stance, be marked with or accompanied by clear and ade-
12 quate warnings and instructions with respect to its use or
13 disposal, in such form and bearing such content as the
14 Administrator determines to be appropriate: Provided,
15 That the Administrator shall consider the extent to which
16 it is required to be marked under any other Federal law
17 so that uniform markings may be developed to the maxi-
18 mum extent practicable.

19 (4) Requirements mandating that persons subject to
20 requirements described in paragraphs (1), (2), or (3),
21 make and retain records, and monitor or conduct tests,
22 which are reasonable and necessary to assure compliance
23 with such requirements.

24 The Administrator shall, in addition, by rule, direct manu-
25 facturers, importers, and processors of chemical substances
26 to make and retain records of the processes used to manu-

1 *facture or process such substances and to monitor or conduct*
2 *tests necessary to determine whether such substances, as manu-*
3 *factured, imported, or processed by them, are adulterated*
4 *(within the meaning of subsection (e)(2)), and to retain rec-*
5 *ords of such tests. Any records or data required under this*
6 *subsection shall not be considered research data or process*
7 *technology for purposes of section 14(a).*

8 (b) *REVIEW.—As soon as practicable, the Administrator*
9 *shall conduct and complete a systematic and comprehensive*
10 *review of the chemical substances subject to this Act, for the*
11 *purpose of determining the extent to which rules under this*
12 *section are warranted. A statement of the progress made to-*
13 *ward meeting this objective shall be transmitted to the Con-*
14 *gress by the Administrator as a part of each annual report*
15 *required by section 16.*

16 (c) *APPLICABILITY.—(1) The applicability of any rule*
17 *issued under this section may be limited to specified geo-*
18 *graphic areas, if there is a valid reason for such limita-*
19 *tion in terms of the nature and extent of the risk involved.*

20 (2) *The authority of the Administrator, under subsec-*
21 *tion (a), to prescribe a rule prohibiting the manufacturing,*
22 *processing, importing, or distribution in commerce of a chem-*
23 *ical substance for a particular use or other distribution in*
24 *commerce includes the authority to prohibit such distribution*
25 *for a particular use in a concentration in excess of the level*
26 *specified in such rule.*

1 (3) *Rules limiting the amount of a chemical substance*
2 *which may be manufactured, processed, imported, or dis-*
3 *tributed in commerce, or limiting the quantity of such sub-*
4 *stance which may be manufactured, processed, imported, or*
5 *distributed for a particular distribution or use, shall, upon*
6 *the petition of any manufacturer, processor, importer, or dis-*
7 *tributor in commerce thereof, provide for assigning production,*
8 *processing, and distribution quotas, to the extent necessary,*
9 *with respect to the chemical substance involved. The permissi-*
10 *ble quota for each person who applies to manufacture,*
11 *process, or import such substance or to engage in its dis-*
12 *tribution in commerce shall be determined in accordance*
13 *with criteria which the Secretary of Commerce, in consulta-*
14 *tion with the Administrator and the Attorney General, shall*
15 *prescribe by rule. Such criteria shall take into account all*
16 *relevant factors, including (A) effects on competition; (B)*
17 *the market shares, productive capacity, and product and raw*
18 *material inventories of the precursors of the chemical sub-*
19 *stance of persons applying for quotas; (C) emergency condi-*
20 *tions; and (D) effects on technological innovation.*

21 (d) *FACTORS.—In promulgating rules under subsection*
22 *(a), the Administrator shall consider relevant factors,*
23 *including—*

24 (1) *the effects of the substance on health, and the*
25 *magnitude and duration of human exposure to it;*

1 (2) the effects of the substance on the environment,
2 and the magnitude and duration of environmental ex-
3 posure to it; and

4 (3) the benefits of the substance for a distribution in
5 commerce, and the availability of less hazardous alter-
6 natives.

7 (e) *EFFECTIVE DATE.*—The Administrator shall spec-
8 ify the proposed effective date of any rule proposed under
9 subsection (a). The effective date shall not be later than
10 6 months after the date on which any such rule is promulgated
11 as a final rule, unless the Administrator, for good cause
12 shown, determines that a later date is appropriate.

13 (f) *QUALITY CONTROL OF ADULTERATED CHEMICAL*
14 *SUBSTANCES.*—(1) If the Administrator has good cause to
15 believe that a particular chemical substance is being manu-
16 factured, imported, or processed in a manner which permits
17 or causes the adulteration of such chemical substance—

18 (A) the Administrator shall (i) require from manu-
19 facturers, importers, or processors a detailed description
20 of quality control procedures followed in such manu-
21 facturing, processing, or importing, and (ii) take any
22 other actions that are authorized by this Act; and

23 (B) if the Administrator thereafter determines by
24 rule that such quality control procedures are inadequate
25 to prevent the adulteration of such chemical substance, the

1 Administrator may order manufacturers, importers, or
 2 processors to revise such quality control procedures to the
 3 extent which the Administrator finds reasonable and nec-
 4 essary to remedy such inadequacy.

5 (2) As used in this subsection, a chemical substance
 6 is adulterated if it, or any precursor substance used or pro-
 7 duced in its manufacture or processing, contains any other
 8 chemical substance or contaminant which itself, or in com-
 9 bination with such chemical substance, is found by the Ad-
 10 ministrator ^{in sufficient quantities} to pose or be likely to pose an unreasonable risk
 11 to human health and/or the environment.

12 (g) PROCEDURE.—Rules issued under subsections (a)
 13 and (f) (and amendments thereto or repeals thereof) shall
 14 be promulgated pursuant to section 553 of title 5, United
 15 States Code; except that in promulgating any such rule,
 16 amendment, or repeal (A) the Administrator shall give
 17 interested persons an opportunity for the oral presentation
 18 of data, views, or arguments, in addition to an opportunity
 19 to make written submissions; (B) a transcript shall be made
 20 of any oral presentation; and (C) the Administrator shall
 21 provide for cross-examination to such extent, and in such
 22 manner, as the Administrator, in his discretion, determines
 23 is necessary and appropriate in view of the nature of the issue
 24 involved, the number of the participants, and the nature of
 25 the interests of such participants.

The Administrator, at the time he proposes any rule or requirement under this Section, shall include a detailed statement on the economic impact of such an action, including, but not limited to, consideration of the effect on the national economy, and on innovation.

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~~IMMINENT HAZARD~~

1
2 ~~SEC. 7. (a) DEFINITION.~~ An imminent hazard shall
3 be considered to exist when the evidence is sufficient to show
4 that the manufacturing, processing, importing, or distribution
5 in commerce of a chemical substance, or of a product contain-
6 ing such substance, ^{will present an unreasonable risk} ~~will result in an unreasonable risk to~~
7 ^{of death, severe personal injury or serious environmental harm} ~~human health and the environment,~~ prior to the completion
8 of an administrative hearing or other proceeding ^{authorized} ~~held pur-~~
9 ^{under any other section of this act.} ~~suant to this Act.~~

10 (b) DETERMINATION.—If the Administrator determines
11 that an imminent hazard exists, he shall (1) petition an
12 appropriate district court of the United States, or he may
13 request the United States attorney for such district to do so,
14 to restrict the manufacture, processing, importing, or distribu-
15 tion in commerce of the chemical substance or of the product
16 responsible for the hazard, or to take such other action as is
17 appropriate; or ~~(2) by suspension order issued in accordance~~
18 ~~with subsection (c), restrict the manufacturing, processing,~~
19 ~~importing, or distribution in commerce of the chemical sub-~~
20 ~~stance or of the product responsible for the hazard. The~~
21 ~~Administrator shall, as soon as practicable, if he has not done~~
22 ~~so, propose any rule, pursuant to section 6, which may be~~
23 ~~warranted.~~

24 (c) SUSPENSION ORDER.—(1) Except as provided in
25 paragraph (3), the Administrator shall publish his intent

1 to issue a suspension order in the Federal Register and shall
 2 notify, to the maximum extent practicable, any person
 3 against whom such an order is applicable. Such pub-
 4 lication and notice shall include findings pertaining to the
 5 Administrator's determination that an imminent hazard exists.
 6 A person as to whom such an order is applicable shall there-
 7 after be granted an opportunity, in accordance with the pro-
 8 visions of paragraph (2), for an expedited hearing before the
 9 Administrator on the question of whether an imminent hazard
 10 exists.

11 (2) If no request for a hearing is submitted to the Ad-
 12 ministrator within 5 days after such publication or notifica-
 13 tion to such person, the suspension order may be issued and
 14 shall take effect and shall not be subject to judicial review. ←

15 If a hearing is requested, it shall commence within 5 days of
 16 the receipt of the request for a hearing, unless the person
 17 requesting such hearing and the Administrator agree that
 18 it shall commence at a later time. Within 10 days after the
 19 conclusion of any such hearing, the Administrator shall
 20 render a final order on the issue of suspension.

21 (3) If the Administrator determines that an emergency
 22 exists and that as a consequence thereof he is unable to comply
 23 with paragraphs (1) and (2), the Administrator shall issue
 24 a suspension order prior to the notification required under
 25 paragraph (1), in which event the procedures specified in

1 paragraph (2) shall apply, except that the suspension order
2 shall be in effect pending the expeditious completion of such
3 procedures.

4 REPORTS

5 ~~SEC. 8. (a) GENERAL~~ — (1) The Administrator shall,
6 by rule, require any manufacturer or importer of a chemical
7 substance other than a mixture, and may, at his discretion,
8 require manufacturers, importers, or processors of mixtures
9 to maintain such records and to submit such reports (an-
10 nually and at more frequent intervals as prescribed) as he
11 may reasonably require. The Administrator may require
12 any or all of the following information:

13 (A) the common or trade name, the chemical iden-
14 tity, the molecular structure and location of manufacture
15 of each chemical substance for which a report is re-
16 quired, insofar as known to the person making the
17 report or insofar as reasonably ascertainable;

18 (B) the categories or proposed categories of use of
19 each such substance, insofar as known to the person
20 making the report, or insofar as reasonably ascertain-
21 able;

22 (C) reasonable estimates of the amounts of each
23 substance manufactured, imported, or processed by such
24 person for each such use or other distribution in
25 commerce;

1 (D) a description of any byproducts resulting from
2 the manufacture, processing, or distribution in commerce
3 of each such substance, insofar as known to the person
4 making the report or insofar as reasonably ascertainable;
5 and

6 (E) the number of workers exposed, or projected to
7 be exposed, to such chemical substance during its manu-
8 facture, importation, or processing by such person, as
9 appropriate, and the levels of exposure to such substance.

10 (2) As used in this subsection, the term "byprod-
11 uct" means a chemical substance which is produced or re-
12 sults, as a consequence of the manufacture, importation,
13 processing, or distribution in commerce of some other
14 chemical substance.

15 (b) INVENTORY.—The Administrator shall compile and
16 publish, within 150 days after the enactment of this Act, and
17 shall periodically update, a listing of each chemical substance
18 which any manufacturer, processor or importer reports (un-
19 der this section) is manufactured, processed or imported into
20 the United States. A chemical substance shall be included in
21 such listing as of the earliest date (as determined by the Ad-
22 ministrator) on which such substance was manufactured or
23 processed in or imported into the United States.

24 (c) SUBMISSION.—Test data or other information re-
25 quired to be submitted pursuant to this Act shall be sub-

mitted to the Administrator promptly but not later than 10 days after it becomes available. The Administrator may require the submission of preliminary and other reports during the course of any monitoring or testing.

~~(d) HEALTH AND SAFETY DATA.~~ A person who manufactures, processes, imports, or distributes in commerce a chemical substance shall maintain records of health and safety data, with respect to effects alleged or shown to have been caused by such substance. Upon the receipt or development of any such data such person shall immediately transmit such data to the Administrator.

~~(e) HEALTH AND SAFETY STUDIES.~~ (1) A person who manufactures, imports, processes, or distributes in commerce any chemical substance shall report to the Administrator with respect to any such substance—

(A) a list of all health and safety studies in progress on the date of enactment of this Act, that have been conducted by or for the person and such list shall be updated by such person immediately upon the initiation of any such study after the date of enactment of this Act;

and relating to the chronic effects of exposure to any chemical substance, including all epidemiological studies

(B) a list of all health and safety studies conducted by or for such person within the 40-year period prior to the date of enactment of this Act. Such list shall be submitted to the Administrator within 180 days after the

date of enactment of this Act.

Added: Provided that the Administrator may exclude certain types of studies from the reg's. of this subsection if he finds that submission of lists of such studies is unnecessary for the carrying out of such purposes of the Act.

1 The Administrator may require the submission of any study
2 appearing on such lists.

3 (2)(A) Any person who manufactures, imports, proc-
4 esses, or distributes in commerce any chemical substance, or
5 any chemical substances liability insurer, shall report to the
6 Administrator any and all health and safety studies con-
7 ducted by such person or insurer, or known to such person
8 or insurer, which indicates that any chemical substance being
9 manufactured, imported, processed, or distributed in com-
10 merce may have adverse effects on human health or the
11 environment.

12 (B) As used in this paragraph, the term "chemical sub-
13 stances liability insurer" means a legally constituted and au-
14 thorized entity that—

15 (i) has entered into a contract or agreement, or that
16 is otherwise legally obligated, to pay or compensate any
17 injured person for losses associated with a chemical sub-
18 stance subject to this Act; or

19 (ii) has insured a manufacturer, processor, or dis-
20 tributor in commerce of a chemical substance subject to
21 this Act against risks to human health or the environ-
22 ment, or both, associated with any such chemical
23 substance.

24 (f) COMMENTS.—Whenever the Administrator deter-
25 mines that such action would be necessary to assist him in
26 carrying out his responsibilities and authorities under this

1 Act, he may, by publishing a notice in the Federal Register,
 2 invite and afford all interested persons an opportunity to pro-
 3 vide information and comment in writing respecting the
 4 health or environmental effects of a chemical substance. Such
 5 an invitation and opportunity shall not be deemed a proceed-
 6 ing for purposes of requiring the release of information
 7 under section 14(c)(1)(B).

8 ~~EXEMPTIONS AND RELATIONSHIP TO OTHER FEDERAL~~

9 ~~LAWS~~

10 ~~SEC. 9. (a) EXEMPTIONS.~~ This Act shall not apply
 11 to—

12 (1) any pesticide (as defined in the Federal In-
 13 secticide, Fungicide, and Rodenticide Act) when manu-
 14 factured, processed, or distributed in commerce for use
 15 as a pesticide;

16 (2) ^{drugs and cosmetics} drugs (as such term is defined in section 201

17 (g) of the Federal Food, Drug, and Cosmetic Act);
 18 ^{and food additives and color additives (as defined in Section 201}

18 (3) food (as defined in section 201(f) of the Federal
 19 Food, Drug, and Cosmetic Act, including poultry and
 20 poultry products (as defined in section 4 (e) and (f)
 21 of the Poultry Products Inspection Act), meat and
 22 meat food products (as defined in section 1(j) of the
 23 Federal Meat Inspection Act) and egg and egg products
 24 (as defined in section 4 of the Egg Products Inspection
 25 Act));

1 (4) tobacco or tobacco products; and

2 (5) research and laboratory chemicals; except that
3 (A) such chemical substances shall be subject to section
4 (8)(e)(2); and (B) the Administrator may by rule
5 include such chemicals within coverage under any other
6 provision of this Act, in whole or in part, if he deter-
7 mines that such inclusion is necessary to protect against
8 unreasonable risks to human health and the environ-
9 ment.

10 (b) ABSENCE OF AUTHORITY.—The Administrator
11 shall have no authority under sections 5(e), 6, and 7 to take
12 action to prevent or reduce an unreasonable risk to human
13 health and the environment associated with the manufacture,
14 processing, or distribution in commerce of a chemical sub-
15 stance or an article containing such substance—

16 (1) to the extent that the Administrator in his
17 discretion determines the risk associated with such sub-
18 stance or article may be prevented or reduced to a
19 sufficient extent under any Federal law administered,
20 in whole or in part by the Administrator, unless he
21 finds that the risk associated with such substance or
22 such article cannot be prevented or reduced as effectively
23 by his action under such other Federal law; and

24 (2) to the extent that such authority under section
25 5(e), 6, or 7 would duplicate the authority contained in

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1 any other Federal law (other than the National Envi-
2 ronmental Policy Act of 1969) not administered in
3 whole or in part by the Administrator, except that nothing
4 contained herein shall prevent the Administrator from
5 considering the full range of risks to human health and
6 the environment in taking action under such section 5(e),
7 6, or 7 to prohibit the manufacture, importation, or
8 processing of a chemical substance or in taking such other
9 action which does not duplicate the authority contained
10 in such other Federal law.

11 (c) NOTICE.—Whenever the Administrator determines
12 that any chemical substance may pose an unreasonable risk to
13 human health and the environment and that such risk
14 could be prevented or reduced to a sufficient extent by actions
15 taken under other Federal laws not administered by the
16 Administrator, he shall transmit, and give public notice of
17 such transmittal, any data received from manufacturers, im-
18 porters, or processors, or data otherwise in his possession
19 which is relevant to such risk, to the Federal agency, inde-
20 pendent regulatory agency, or other instrumentality of the
21 Federal Government which has legal authority to take action.
22 Whenever such transmittal occurs, such Federal agency, in-
23 dependent regulatory agency, or other instrumentality, shall,
24 within 180 days thereafter, or in the case of an imminent
25 hazard, within 30 days thereafter, (1) complete such action as

1 is necessary to prevent or reduce any such unreasonable risk in
2 accordance with such other Federal law, or (2) publish in the
3 Federal Register reasons for declining to take any such action.
4 Nothing contained in this subsection shall (A) affect the
5 manner in which final action is taken by such agency with
6 respect to such risk, or (B) in any way affect the extent to
7 which human health and the environment is to be protected
8 under such other Federal law.

9 ~~COORDINATION, CONSULTATION, AND COOPERATION~~

10 ~~SEC. 10. (a) INTERAGENCY COORDINATING COMMITTEE~~

11 ~~TEE.~~ (1) The Administrator, in cooperation with other
12 appropriate Federal agencies, shall establish and be respon-
13 sible for the continuing activities of an interagency coordi-
14 nating committee. The committee shall design and coordinate
15 an efficient and effective system for the collection, utilization
16 and dissemination of data that are (A) submitted to the
17 Administrator under the terms of this Act, (B) in the pos-
18 session of other Federal agencies, or (C) are available to the
19 Administrator or to other Federal agencies; and which could
20 be useful to the Administrator, in carrying out the purposes
21 of this Act, or useful to other Federal agencies charged with
22 responsibility for collecting data on and regulating chemical
23 substances. This system shall be made available for use by
24 all Federal agencies and other interested agencies and per-
25 sons who have responsibilities with respect to the regulation

1 or study of chemical substances in terms of their effect on
2 human health and the environment.

3 (2) The Administrator, in consultation with other appro-
4 priate Federal agencies, is authorized to make contracts
5 and grants for the development of a data retrieval system
6 suitable for carrying out the purposes described in paragraph
7 (1).

8 (3) The interagency coordinating committee shall be
9 responsible for coordinating the regulatory responsibilities
10 and research activities of all Federal agencies with respect to
11 chemical substances, in order to avoid duplication and pro-
12 mote efficiency: Provided, That nothing contained in this
13 paragraph shall affect the authority of any Federal agency
14 or the administering officers thereof. The Administrator shall
15 report annually to the Congress on actions taken to coordinate
16 with other Federal agencies, and on the activities of the inter-
17 agency coordinating committee in carrying out its responsi-
18 bilities under this subsection.

19 (b) CONSULTATION.—Prior to the establishment and
20 publication of a priority list under section 4(c)(1) and the
21 promulgation of initial criteria for data development, sections
22 4(b) and 4(c)(2), and from time to time thereafter, the
23 Administrator shall solicit and consider* the views of the
24 Department of Health, Education, and Welfare, the inter-
25 agency coordinating committee established under subsection

Consistent with the purpose

1 (a) (1), and other appropriate Federal agencies with respect
2 to the establishment and revision^{*} of such list and the promul-
3 gation of such criteria. At his discretion, the Administrator
4 shall also solicit comments from such Department, committee,
5 and agencies on the Administrator's other duties under this
6 Act. The Secretary of Health, Education, and Welfare,
7 utilizing the expertise of the National Institute of Environ-
8 mental Health Sciences, the National Institute of Occupa-
9 tional Safety and Health, or any other agency of that De-
10 partment, and any other Federal agency from which views
11 have been solicited, shall cooperate and respond to any such
12 solicitation received.

13 (c) COOPERATION OF FEDERAL AGENCIES.—Upon re-
14 quest by the Administrator, each Federal agency is author-
15 ized—

16 (1) to make its services, personnel, and facilities
17 available (with or without reimbursement as determined
18 by the Administrator) to the Administrator to assist him
19 in the performance of his duties under this Act; and

20 (2) to furnish to the Administrator such informa-
21 tion, data, estimates, and statistics, and to allow the
22 Administrator access to all information in its possession
23 as the Administrator may reasonably determine to be
24 necessary for the performance of his duties under this
25 Act.

1 (d) *RESEARCH AND MONITORING.*—The Administrator
2 shall, in consultation and cooperation with the Secretary of
3 Health, Education, and Welfare, other Federal agencies, and
4 the interagency coordinating committee established under
5 section 10(a), conduct, and cause to be conducted by appro-
6 priate Federal agencies, such research and monitoring as is
7 necessary to carry out the purposes of this Act.

8 **EXPORTS AND IMPORTS**

9 **SEC. 11. (a) EXPORTS.**—(1) This Act shall not apply
10 to any chemical substance, or to any article containing such
11 substance, if (A) it can be shown that such substance or
12 article is manufactured, processed, sold, or held for sale for
13 export from the United States (or that such substance was
14 imported for export), unless such substance or article is, in
15 fact, manufactured, processed, or distributed in commerce for
16 use in the United States, and (B) such substance or article,
17 when distributed in commerce, or any container in which it
18 is enclosed when so distributed, bears a stamp or label stating
19 that such chemical substance or article is intended for export;
20 except that (A) any manufacturer, processor, or exporter
21 of such chemical substance who, but for this section, would
22 be subject to section 8 shall remain subject to the reporting
23 requirements of section 8; (B) this subsection shall not apply
24 to any such substance or article if the Administrator finds
25 that it will, directly or indirectly, pose an unreasonable risk
26 to health within the United States and to the environment

1 of the United States; and (C) such chemical shall be subject
2 to sections 4 and 5.

3 (2) If the submission of test data is required for a
4 chemical substance under section 4 or 5, or if rules applicable
5 to such substance, or to an article containing such substance,
6 have been prescribed or proposed under section 5 or 6, the
7 Administrator —

8 (A) shall (subject to section 14(c) or section 14(e))
9 furnish to the governments of the foreign nations to
10 which he knows such substance or article is exported, or
11 is intended to be exported, notice of the availability of the
12 data submitted to the Administrator under section 4 or
13 5 concerning such chemical substance;

14 (B) may require warning labels to be affixed to
15 any package containing such substance or article; and

16 (C) shall make available to any such government,
17 upon request, notice of any rule applicable to such
18 substance or article which has been prescribed or pro-
19 posed by the Administrator under this Act.

20 ~~(b) IMPORTS.~~ — (1) The Secretary of the Treasury shall
21 refuse entry into the customs territory of the United States
22 of any chemical substance or of any article containing such
23 a substance if such substance or article fails to conform with
24 the requirements of this Act, or if it is otherwise prohibited
25 pursuant to this Act from being distributed in commerce. If
26 such a substance or article is refused entry, the Secretary of

1 the Treasury shall (1) refuse delivery to the consignee and
2 (2) cause the disposal or storage thereof if it is not exported
3 by the consignee within 3 months from the date of receipt of
4 notice of such refusal, under such regulations as the Secretary
5 of the Treasury may prescribe. Notwithstanding the foregoing,
6 the Secretary of the Treasury may deliver such substance or
7 article to the consignee pending examination and decision in
8 the matter, upon execution by the consignee of a bond for
9 the amount of the full invoice value of such substance or
10 article, together with the duty thereon, and providing for
11 forfeiture of the full amount of such bond by the consignee
12 on refusal to return such substance or article to the custody
13 of such Secretary, when demanded for any cause, or for
14 any other purpose. All charges for storage, cartage, and
15 labor on substances or articles which are refused admis-
16 sion or delivery under this section shall be paid by the
17 owner or consignee. In default of payment of such charges,
18 they shall constitute a lien against any future entry into
19 the United States made by such owner or consignee.

20 (2) The Secretary of the Treasury, after consultation
21 with the Administrator, shall issue regulations for the ad-
22 ministration and enforcement of paragraph (1).

23 ~~REVIEW OF ADMINISTRATIVE ACTION~~

24 ~~SEC. 12. (a) JUDICIAL REVIEW.~~—(1) Not later than
25 60 days following the promulgation of any rule or order

1 under this Act or the failure to issue an order under section
2 5(f), ~~any interested person may file a petition for judicial~~
3 ~~review of~~ such rule or order with the United States Court
4 of Appeals for the District of Columbia, or for the circuit
5 in which such person resides or has his principal place of
6 business. Copies of the petition shall be forthwith transmitted
7 by the clerk of such court to the Administrator and to the
8 Attorney General. The Administrator shall transmit to the
9 Attorney General, who shall file in the court, the record of
10 the proceedings on which the Administrator based his rule or
11 order, as provided in section 2112 of title 28, United States
12 Code. For purposes of this section, the term "record" means
13 (A) such rule; (B) the transcript required of any oral pres-
14 entation; (C) any written submission of interested parties;
15 (D) any statement of purpose and justification required
16 under section 14 (f); and (E) any other information which
17 the Administrator considers relevant to such rule.

18 (2) If the petitioner applies to the court for leave to
19 make additional submissions and shows to the satisfaction of
20 the court that such additional submissions are material and
21 that there are reasonable grounds for the petitioner's failure
22 to make such submissions in the proceeding before the Admin-
23 istrator, the court may order the Administrator to provide
24 additional opportunity to make such submissions. The Ad-
25 ministrator may modify or set aside the rule or order involved

1 by reason of the additional submissions and shall file such
 2 modified or new rule or order with the return of such additional
 3 submissions. The court shall thereafter review such new or
 4 modified rule or order.

5 (3)(A) Upon the filing of a petition under paragraph
 6 (1), the court shall have jurisdiction (i) to review the rule or
 7 order involved, in accordance with chapter 7 of title 5, United
 8 States Code, and (ii) to grant appropriate relief, including
 9 interim relief, as provided in such chapter, except that any
 10 rule or order promulgated by the Administrator under section
 11 6 and reviewed under this section shall be affirmed, unless the
 12 findings required to be made under the applicable section are
 13 not supported by substantial evidence on the record as required
 14 to be developed, or as actually developed, in accordance with
 15 this Act.

16 (B) The judgment of the court affirming or setting
 17 aside, in whole or in part, a rule or order reviewed in accord-
 18 ance with this section shall be final, subject to review by the
 19 Supreme Court of the United States upon certiorari or cer-
 20 tification, as provided in section 1254 of title 28, United
 21 States Code.

22 ~~(b) CITIZEN'S PETITIONS (1)~~ Any person may
 23 petition the Administrator to commence a proceeding for the
 24 issuance, amendment, or revocation of a rule under sections
 25 4(a), 6(a), 6(f), or 8(a), or an order under sections 5(e)
 26 or 7(b).

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1 (2) Such a petition shall be filed in the principal office of
2 the Administrator and shall set forth (A) the basis for which
3 it is claimed establish that such rule or order or an amend-
4 ment or revocation thereof is necessary, and (B) a brief
5 description of the content of the rule or order or amendment
6 thereof which it is claimed should be issued, amended, or re-
7 voked by the Administrator.

8 (3) The Administrator may hold a public hearing or
9 may conduct such investigation or proceeding as he deems ap-
10 propriate in order to determine whether or not such peti-
11 tion should be granted.

12 (4) Within 120 days after the filing of a petition de-
13 scribed in paragraph (2), the Administrator shall either
14 grant or deny such petition. If the Administrator grants such
15 petition, he shall promptly commence an appropriate pro-
16 ceeding under section 4, 6, or 7. If the Administrator denies
17 such petition, he shall publish such denial, including the rea-
18 sons therefor, in the Federal Register.

19 (5) (A) If the Administrator denies the petition under
20 this section (or if he fails to grant or deny such petition within
21 the 120-day period) the petitioner may commence a civil ac-
22 tion in a district court of the United States to compel the Ad-
23 ministrator to initiate a proceeding with respect to the action
24 requested. Any such civil action shall be filed within 60 days
25 after the Administrator's denial of the petition, or (if the Ad-
26 ministrator fails to grant or deny the petition within 120 days

1 after the filing of the petition) within 60 days after the expira-
 2 tion of the 120-day period.

3 (B) If the petitioner can demonstrate to the satisfaction
 4 of the court, by a preponderance of the evidence in a de novo
 5 proceeding before such court, that such chemical substance
 6 presents an unreasonable risk to human health and the en-
 7 vironment, or both, the court shall order the Administrator to
 8 initiate an action to prevent such unreasonable risk.

9 (C) In any civil action under this subsection, the district
 10 court shall have no authority to compel the Administrator to
 11 take any action other than the initiation of a rulemaking or
 12 other proceeding under section 4, 6, or 7.

13 (6) The remedies under this section shall be in addition
 14 to, and not in lieu of, other remedies provided by law.

15 (7) Paragraphs (4) and (5) shall not become effective
 16 with respect to petitions submitted under section 4(a) until
 17 2 years after the date of enactment of this Act.

18 **ENFORCEMENT**

19 ~~SEC. 13. (a) PROHIBITED ACTS.~~ It shall be unlawful
 20 for any person to—

21 (1) fail or refuse to comply with any provision of
 22 sections 4, 5, or 6, or any rule or order prescribed under
 23 any of those sections or any order under section 7(b).

24 (2) fail or refuse to comply with section 8 or any
 25 rule or order prescribed under that section;

1 (3) fail or refuse to permit access to or copying
2 of records, fail or refuse to permit entry or inspection,
3 or fail to take any other action required under section
4 14(a);

5 (4) fail or refuse to comply with instructions issued
6 in accordance with a rule described in section 6(a)(3);

7 (5) distribute in commerce, or use for commercial
8 purpose, a chemical substance which such person knew
9 or had reason to know was manufactured or distributed
10 in commerce in violation of section 5 or 6;

11 (6) violate any condition specified by the Adminis-
12 trator under section 14(c)(2); or

13 (7) fail or refuse to comply with any rule or regu-
14 lation promulgated pursuant to this Act.

15 (b) *PENALTIES.*—(1)(A) Any person who violates
16 a provision of subsection (a) shall be liable to the United
17 States for a civil penalty. Each day of a continuing viola-
18 tion is a separate violation for purposes of this subsection.
19 The amount of such civil penalty shall be assessed by
20 the Administrator by written notice after completion of
21 procedures specified under section 554 of title 5, United
22 States Code. In determining the amount of such penalty, the
23 Administrator shall take into account the nature, circum-
24 stances, extent, and gravity of the violation or violations and,
25 with respect to the violator, ability to pay, effect on ability to

1 continue to do business, any history of prior such violations,
2 the degree of culpability, and such other matters as justice
3 may require: Provided, that the amount of each penalty shall
4 not exceed \$25,000 for each such violation.

5 (B) Any person who is aggrieved by the assessment
6 of a civil penalty under this subsection may appeal such
7 decision of the Administrator by bringing a civil action
8 against the Administrator for rescission or modification of
9 such penalty, in the district court of the United States for
10 the District of Columbia or for any judicial district in which
11 he resides or transacts business, within 30 days from the
12 date on which he is notified of such decision by certified
13 mail. In any such judicial proceeding, the factual findings
14 of the Administrator shall be sustained if supported by sub-
15 stantial evidence on the record considered as a whole.

16 (C) The Administrator may, in his discretion, com-
17 promise, modify, or remit, with or without conditions, any
18 civil penalty imposed or subject to imposition under this
19 subsection. The amount of such penalty, when finally deter-
20 mined, or the amount agreed upon in compromise, may be
21 deducted from any sums owing by the United States to the
22 person charged.

23 (D) If any person fails to pay an assessment of a civil
24 penalty after it has become final and the time for appeal has
25 run, or after the appropriate court has entered final judgment

1 in favor of the Administrator, the Attorney General shall
2 recover the amount assessed (plus interest at currently prevail-
3 ing rates from such date) in any appropriate district court
4 of the United States. In such action, the validity, amount,
5 and appropriateness of such penalty shall not be subject to
6 review.

7 (2)(A) Any person who knowingly or willfully violates
8 any provision of subsection (a) shall, in addition to or in
9 lieu of a civil penalty imposed under subsection (a) be
10 liable, upon conviction, to a fine of not more than \$25,000
11 for each day of violation, or to imprisonment for not more
12 than 1 year, or both.

13 (B) As used in this paragraph the term "knowingly"
14 means having actual knowledge.

15 (c) INJUNCTIONS.—(1) Upon application by the Ad-
16 ministrator or the Attorney General, the district courts of
17 the United States shall have jurisdiction to restrain any act
18 prohibited under subsection (a) or to compel the taking of
19 any action required by this Act or any rule issued thereunder.

20 (2)(A) The court in which an action is filed under
21 paragraph (1) or section 7 shall have power to grant such
22 temporary or permanent relief as may be necessary to protect
23 human health and the environment from an unreasonable
24 risk associated with the chemical substance involved in such
25 action. Such relief may require (in the case of an action

1 under paragraph (1) or under section 7) a mandatory
2 order requiring (i) notification of such risk to those pur-
3 chasers of such substance or of an article containing such sub-
4 stance who are known to the defendant; (ii) public notice;
5 (iii) recall; and (iv) the replacement or refund of such sub-
6 stance or article. A manufacturer, processor, importer, or dis-
7 tributor in commerce of such substance or article may be re-
8 quired by such an order to reimburse any other person (in-
9 cluding wholesalers, retailers, and distributors) for such other
10 person's expenses in connection with implementing such order,
11 if the court determines that such reimbursement would be
12 equitable.

13 (B) An action under paragraph (1) or under sec-
14 tion 7 may be maintained in the United States District Court
15 for the District of Columbia or in the district court of the
16 United States for any judicial district in which any of the
17 defendants is found, resides, or transacts business. In any
18 such action, process may be served on a defendant in any
19 other district in which such defendant resides or may be
20 found. Subpenas requiring attendance of witnesses in such
21 an action may run into any other judicial district. The
22 court shall take into account the convenience of the parties
23 in determining the appropriate judicial district for an action
24 under this subsection which may otherwise be brought in
25 more than one judicial district.

1 (d) *SEIZURE*.—A chemical substance, or an article con-
2 taining such a substance, which was manufactured, processed,
3 or distributed in commerce in violation of this Act, or which
4 is the subject of an action under section 7, shall be liable
5 to be proceeded against by process of libel for the seizure and
6 condemnation of such substance or article in any district
7 court of the United States within the jurisdiction of which
8 such substance or article is found. Such proceedings shall
9 conform as nearly as possible to proceedings in rem in
10 admiralty.

11 (e) *SPECIFIC RELIEF*.—In any action requesting
12 equitable relief, under any Act administered by the Adminis-
13 trator, or instituted at the request of the Administrator, where
14 a risk to human health is alleged and established, a failure by
15 the party requesting such relief to prove that demonstrable
16 harm to health now exists or will result, shall not, in and of
17 itself, constitute a permissible basis upon which to deny such
18 relief. When such risk is established, the court shall consider
19 the probability that demonstrable harm exists or will result and
20 the human health consequences from such harm. The preceding
21 two sentences shall govern all proceedings in actions brought
22 after the date of enactment of this Act and all further pro-
23 ceedings in actions then pending, except to the extent that in
24 the opinion of the court their application in a particular

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delete { 1 action then pending would not be feasible or would work
2 injustice.

3 (f) CITIZEN'S CIVIL ACTION.—(1) Except as pro-
4 vided in paragraph (2), any interested person may com-
5 mence a civil action for injunctive relief on his own behalf—

6 (A) against any person (including (i) the United
7 States, and (ii) any other governmental instrumentality
8 or agency to the extent permitted by the eleventh amend-
9 ment to the Constitution) who is alleged to be in viola-
10 tion of any rule or order prescribed under section 4, 5,
11 or 6; or

12 (B) against the Administrator where there is alleged
13 a failure of the Administrator to perform any act or
14 duty under this Act which is not discretionary.

15 Any action under subparagraph (A) shall be brought in the
16 district court of the United States for the district in which
17 the alleged violation occurred. Any action brought under
18 subparagraph (B) shall be brought in such district court for
19 the District of Columbia, or in such district court for the
20 judicial district in which the plaintiff is domiciled. The dis-
21 trict courts shall have jurisdiction over suits brought under
22 this section, without regard to the amount in controversy or
23 the citizenship of the parties.

24 (2) No civil action may be commenced—

25 (A) under paragraph (1)(A)—

26 (i) prior to 60 days after the plaintiff has

1 given notice of the alleged violation to the Adminis-
2 trator, and to any alleged violator of the rule or
3 order, or

4 (ii) if the Administrator (or Attorney General
5 on his behalf) has commenced and is diligently
6 prosecuting a civil action in a court of the United
7 States to require compliance with the rule or order:
8 Provided, That when such action is commenced after
9 notice has been given, any such person giving such
10 notice may intervene as a matter of right in such
11 action; or

12 (B) under paragraph (1)(B), prior to 60 days
13 after the plaintiff has given notice of such action to the
14 Administrator, except that such action may be brought
15 10 days after such notification in the case of an action
16 under this section for an alleged failure of the Admin-
17 istrator to act under section 7.

18 Notice under this subsection shall be given in such manner
19 as the Administrator shall prescribe by rule.

20 (3)(A) In any action under this section, the Adminis-
21 trator, if not a party, may intervene as a matter of right.

22 (B) The court, in issuing any final order in any action
23 brought pursuant to paragraph (1), may award reasonable
24 fees for attorneys and expert witnesses, whenever the court
25 determines that such an award is appropriate.

1 (C) Nothing in this section shall restrict any right which
2 any person (or class of persons) may have under any statute
3 or of common law to seek enforcement of any rule or order or
4 to seek any other relief.

5 (D) For purposes of this subsection, the term "person"
6 means an individual, corporation, partnership, association,
7 State, municipality, or political subdivision of a State.

8 (4) When actions brought under paragraph (1)(A)
9 involving the same defendant and the same issues or viola-
10 tions are pending in two or more jurisdictions, such pending
11 proceedings, upon application of the defendant reasonably
12 made to the court of one such jurisdiction, may, if the court
13 in its discretion so decides, be consolidated for trial by order
14 of such court. If no order for consolidation is so made within
15 a reasonable time, the defendant may apply to the court of
16 one such jurisdiction, and such court (after giving all parties
17 reasonable notice and opportunity to be heard) may by order,
18 unless good cause to the contrary is shown, specify a district
19 of reasonable proximity to the applicant's principal place of
20 business, in which all such pending proceedings shall be con-
21 solidated for trial and tried. Such order of consolidation
22 shall not apply so as to require the removal of any case the
23 date for trial of which has been fixed. The court granting
24 such order shall give prompt notification thereof to the other
25 courts having jurisdiction of the cases covered thereby.

ADMINISTRATIVE PROVISIONS.

1
2 SEC. 14. (a) INSPECTIONS.—The Administrator may
3 authorize any officer, employee, or agent to enter upon,
4 inspect, and examine at reasonable times and in a reasonable
5 manner the records and properties of persons to the extent that
6 such records and properties relate to the manufacturing,
7 processing, importing, or distribution in commerce of a chemi-
8 cal substance, or an article containing such substance, subject
9 to this Act. Any such officer, employee, or agent shall, upon
10 request, display proper credentials. Unless the owner, opera-
11 tor, or agent in charge of such records and properties so con-
12 sents in writing, no inspection authorized by this section shall
13 extend to (1) financial data other than that relating to the
14 costs of data development under section (4) or (5); (2)
15 sales data other than shipments data including information
16 relating to quantities and destinations; (3) pricing data;
17 (4) personnel data other than job assignments, work history
18 of production workers, and curricula vitae of individuals
19 responsible for developing data under section 4; (5) research
20 data (other than data required by this Act); or (6) process
21 technology (other than information relating to the authority
22 of the Administrator under section 6).

23 (b) SUBPOENA POWER.—In carrying out his duties
24 under the provisions of this Act, the Administrator may by
25 subpoena require the attendance and testimony of witnesses and

1 the production of reports, papers, documents, answers to ques-
 2 tions, or other information that the Administrator deems ad-
 3 visable in carrying out his functions under this Act. Witnesses
 4 shall be paid the same fees and mileage that are paid witnesses
 5 in the courts of the United States. In the event of contumacy,
 6 failure, or refusal of any person to obey any such order, any
 7 district court of the United States in which venue is proper
 8 shall have jurisdiction to order any such person to comply
 9 therewith. The failure to obey such order of the Court is
 10 punishable by the Court as a contempt thereof.

11 ~~(C) CONFIDENTIALITY~~ (1) Any information reported
 12 to, or otherwise obtained by, the Administrator or his repre-
 13 sentative, under this Act, which is a trade secret or another
 14 confidential matter referred to in section 1905 of title 18,
 15 United States Code, which if disclosed would result in signifi-
 16 cant competitive damage, shall be considered confidential and
 17 shall not be disclosed; except that such information may be
 18 disclosed—

19 (A) to officers or employees of the United States,
 20 where necessary in the performance of their official duties.
 (B) when relevant in any proceeding under this

21 Act, except that disclosure in such a proceeding shall
 22 be made in such manner as to preserve confidentiality
 23 to the extent practicable without impairing the pro-
 24 ceeding, or

25 (C) to the extent that the Administrator deter-

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1 mines it is necessary to protect human health and the
2 environment.

3 (2) Notwithstanding any limitations contained in subsec-
4 tion (a) or any other provision of law all information re-
5 ported to or otherwise obtained by the Administrator or his
6 representative shall be made available, upon request to quali-
7 fied scientists under conditions specified by the Administrator
8 to ensure that release of such information will not result
9 in significant competitive damage to the originator of the
10 information.

11 (3) Notwithstanding any limitation contained in sub-
12 section (a) or in any other provision of law, all information
13 reported to or otherwise obtained by the Administrator or his
14 representative shall be made available upon request of any
15 duly authorized committee of the Congress.

16 (4) Names of individuals maintained in records per-
17 taining to health and safety data shall only be made public
18 after written permission is obtained by the Administrator
19 from the individuals in question. The confidentiality of medi-
20 cal records shall be maintained insofar as it is reasonable
21 and appropriate for purposes of this Act.

22 (5) Not less than 30 days prior to the public disclosure
23 of any information obtained from any person under this Act,
24 or the disclosure of such information to qualified scientists
25 under paragraph (2) (other than any disclosure under para-

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graph (1) (A) or (B) or paragraph (3)), which is designated by such person to be a trade secret or other confidential matter referred to in section 1905 of title 18, United States Code, the Administrator shall, to the extent practicable, notify and provide a summary of the information to be disclosed to the person from which such information was obtained. The Administrator shall provide such person a reasonable opportunity to submit comments to the Administrator with respect to the release of such information. The Administrator shall take all reasonable steps to assure, prior to the disclosure of such information, that the prohibitions contained in paragraph (1) shall not be violated.

(d) ASSISTANT ADMINISTRATOR.—The President, by and with the advice and consent of the Senate, shall appoint an Assistant Administrator for Toxic Substances of the Environmental Protection Agency. Such assistant administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct a program concerning the effects of chemicals on human health and the environment. Such Assistant Administrator shall be responsible for the collection of data, the preparation of studies, and the making of recommendations to the Administrator for regulatory and other actions to carry out the purposes, and to facilitate the administration, of this Act.

(e) NATIONAL DEFENSE WAIVER.—The Administra-

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If the Administrator shall be disclosed, he shall afford such person 10 days in which to act to determine if such information is to be released or not.

1 tor shall waive compliance with any provision of this Act
 2 upon the request of the Secretary of Defense, and upon a
 3 determination by the President that the requested waiver is
 4 necessary in the interest of national defense. The Adminis-
 5 trator shall maintain a written record of the basis upon which
 6 such waiver was granted and shall make such record available
 7 for in camera examination when relevant in a judicial pro-
 8 ceeding under this Act. Upon the issuance of such a waiver,
 9 the Administrator shall publish in the Federal Register a
 10 notice that the waiver was granted for national defense pur-
 11 poses, unless, upon the request of the Secretary of Defense,
 12 the Administrator omits such publication because the Adminis-
 13 trator determines that such publication would be contrary to
 14 the interests of national defense, in which event the Adminis-
 15 trator shall submit notice thereof to the Armed Services
 16 Committee of the Senate and of the House of Representatives.

17 (f) STATEMENT OF PURPOSE AND JUSTIFICATION.—
 18 Any proposed or final rule or order issued under this Act
 19 shall be accompanied by a statement of purpose and justifi-
 20 cation. Such a statement shall be considered part of the
 21 "record of the proceedings" for purposes of judicial review
 22 under section 12(a).

23 ~~MISCELLANEOUS PROVISIONS~~

24 ~~SEC. 15. (a) CATEGORIES.~~ Except for an action under
 25 section 6, any action which may be taken by the Admin-

1 *istrator under any provision of this Act, with respect to a*
2 *chemical substance, may be taken with respect to a cate-*
3 *gory of chemical substances or to classes of uses of chemi-*
4 *cal substances. Whenever the Administrator takes an action*
5 *with respect to a category of chemical substances under*
6 *any provision of this Act, any reference in this Act to a*
7 *chemical substance (insofar as such reference relates to*
8 *such action) shall be deemed to be a reference to each chemical*
9 *substance in any such category.*

10 *(b) STATE REGULATION.—(1) Nothing in this Act*
11 *shall affect the authority of any State or local govern-*
12 *ment to regulate any chemical substance, or to establish*
13 *and enforce standards for test protocols for chemical sub-*
14 *stances to protect human health and the environment, ex-*
15 *cept that—*

16 *(A) if the Administrator prescribes, under section*
17 *6 a rule applicable to a chemical substance, a State*
18 *or local government may not, after the effective date of*
19 *such rule, establish or continue to enforce any differ-*
20 *ent restriction of its own on the manufacture, processing,*
21 *or distribution in commerce of such substance for pur-*
22 *poses similar to those set forth in such rule, other than a*
23 *total prohibition on the use or distribution of such sub-*
24 *stance within the territorial jurisdiction of such govern-*
25 *ment; and*

1 (B) if the Administrator prescribes, under section
2 4, a rule applicable to a chemical substance, a State
3 or local government may not, after the effective date
4 of such rule impose requirements of its own applicable
5 to such substance for purposes similar to those set
6 forth in such rule.

7 (2) The Administrator may, by rule, upon the peti-
8 tion of any State or local government or upon his own
9 initiative, exempt any State or local government from a pro-
10 hibition in paragraph (1). Such an exemption shall be
11 granted unless the Administrator finds that it will, because of
12 difficulties in marketing, distribution, or other factors, result
13 in placing an unreasonable burden upon commerce or will not
14 result in a higher degree of protection accorded human health
15 and/or the environment.

16 (c) **ADVISORY COMMITTEES.**—Nothing contained herein
17 shall prevent the Administrator from establishing any ad-
18 visory committee under the Federal Advisory Committee Act
19 (Public Law 92-463, 86 Stat. 770) to provide technical ad-
20 vice to the Administrator with respect to his functions under
21 this Act. No such advisory committee may be established for
22 any other purpose.

23 **ANNUAL REPORT**

24 **SEC. 16.** The Administrator shall report to the Congress
25 not later than March 1 of the year following the date of enact-

1 *ment of this Act and each year thereafter on all activities re-*
2 *lating to, and all measures taken to implement and carry out,*
3 *this Act during the preceding calendar year. Each such report*
4 *shall include—*

5 *(1) a thorough appraisal, including analysis, esti-*
6 *mates, and long-term projections, as to the relationship*
7 *between chemical substances; human health and the en-*
8 *vironment; and the provisions of, and activities under,*
9 *this Act;*

10 *(2) a survey and summary, in such detail as is*
11 *deemed advisable, of the criteria for data development*
12 *established under section 4 and of the data and other in-*
13 *formation submitted to the Administrator under this Act;*

14 *(3) a survey and summary of new chemical sub-*
15 *stances manufactured, processed, or imported, including*
16 *new uses;*

17 *(4) a survey and summary of any rules promul-*
18 *gated under section 6; the effectiveness of such rules in*
19 *protecting human health and the environment; and any*
20 *enforcement measures in support thereof;*

21 *(5) a summary of outstanding problems confronting*
22 *the administration of this Act, in order of priority, and*
23 *a short-term and long-range plans for solving such*
24 *problems and for other activities to implement the pur-*
25 *poses of this Act; and*

1 (6) such recommendations for additional legislation
2 as are deemed necessary or appropriate.

3 ~~EMPLOYEE PROTECTION~~

4 ~~SEC. 17. (a) GENERAL.~~—No employer may discharge
5 any employee or otherwise discriminate against any em-
6 ployee with respect to his compensation, terms, conditions,
7 or privileges of employment because the employee (or any
8 person acting pursuant to a request of the employee) has—

9 (1) commenced, caused to be commenced, or is about
10 to commence or cause to be commenced a proceeding
11 under this Act;

12 (2) testified or is about to testify in any such pro-
13 ceeding; or

14 (3) assisted or participated or is about to assist or
15 participate in any manner in such a proceeding or in
16 any other action to carry out the purposes of this Act.

17 (b) REMEDY.—(1) Any employee who believes that
18 he has been discharged or otherwise discriminated against by
19 any person in violation of subsection (a) may, within 30
20 days after such alleged violation occurs, file (or have any
21 person file on his behalf) a complaint with the Secretary of
22 Labor (hereinafter in this section referred to as the "Sec-
23 retary") alleging such discharge or discrimination. Upon
24 receipt of such a complaint, the Secretary shall notify the
25 person named in the complaint of the filing of the complaint.

1 (2)(A) Upon receipt of a complaint filed under para-
2 graph (1), the Secretary shall conduct an investigation of
3 the violation alleged in the complaint. Within 30 days of the
4 receipt of such complaint, the Secretary shall complete such
5 investigation and shall notify in writing the complainant (and
6 any person acting in his behalf) and the person alleged to
7 have committed such violation of the results. Within 90 days
8 of the receipt of such complaint the Secretary shall, unless
9 the proceeding on the complaint is terminated by the Secre-
10 tary on the basis of a settlement entered into by the Secre-
11 tary and the person alleged to have committed such violation,
12 issue an order either providing the relief prescribed by
13 subparagraph (B) or denying the complaint. An order of
14 the Secretary shall be made on the record after notice and
15 opportunity for agency hearing. The Secretary may not
16 enter into a settlement terminating a proceeding on a com-
17 plaint without the participation and consent of the com-
18 plainant.

19 (B) If in response to a complaint filed under paragraph
20 (1) the Secretary determines that a violation of subsection
21 (a) has occurred, the Secretary shall order the person who
22 committed such violation to take affirmative action to abate
23 the violation, as the Secretary deems appropriate, including
24 requiring (i) such person to reinstate the complainant to
25 his former position together with the compensation (includ-

1 ing back pay), terms, conditions, and privileges of his em-
2 ployment, (ii) compensatory damages, and (iii) where
3 appropriate, exemplary damages. If such an order is issued,
4 the Secretary, at the request of the complainant, shall assess
5 against the person against whom the order is issued a sum
6 equal to the aggregate amount of all costs and expenses
7 (including attorney's fees) reasonably incurred, as deter-
8 mined by the Secretary, by the complainant for, or in con-
9 nection with, the bringing of the complaint upon which the
10 order was issued.

11 (c) REVIEW.—(1) Any person adversely affected or
12 aggrieved by an order issued under subsection (b) may
13 obtain review of the order in the United States Court of
14 Appeals for the circuit in which the violation, with respect
15 to which the order was issued, allegedly occurred. The peti-
16 tion for review must be filed within 60 days from the
17 issuance of the Secretary's order. The commencement of pro-
18 ceedings under this subparagraph shall not, unless ordered
19 by the court, operate as a stay of the Secretary's order.

20 (2) An order of the Secretary, with respect to which
21 review could have been obtained under paragraph (1), shall
22 not be subject to judicial review in any criminal or other
23 civil proceeding.

24 (d) ENFORCEMENT.—(1) Whenever a person has failed
25 to comply with an order issued under subsection (b)(2),

1 the Secretary shall file a civil action in the United States
2 district court for the district in which the violation was found
3 to occur to enforce such order. In actions brought under this
4 subsection, the district courts shall have jurisdiction to grant
5 all appropriate relief including, but not limited to, injunctive
6 relief and compensatory and exemplary damages in addi-
7 tion to those which may have been imposed by such order
8 of the Secretary. Civil actions filed under this subsection shall
9 be heard and decided expeditiously.

10 (e) *ORDERS.*—In carrying out his duties under the pro-
11 visions of this section, the Secretary of Labor may order the
12 attendance and testimony of witnesses and the production of
13 reports, papers, documents, answers to questions, or other in-
14 formation that he deems advisable in carrying out his func-
15 tions under this section. Witnesses shall be paid the same fees
16 and mileage that are paid witnesses in the courts of the United
17 States. In the event of contumacy, failure, or refusal of any
18 person to obey any such order, any district court of the
19 United States in which venue is proper shall have jurisdiction
20 to order any such person to comply therewith. The failure to
21 obey such order of the Court is punishable by the Court as a
22 contempt thereof.

23 (f) *EMPLOYMENT EFFECTS.*—(1) The Administrator
24 shall conduct continuing evaluations of the potential loss or
25 shifts of employment which may result from the issuance of

1 any rule or order under this Act, including, where appro-
2 priate, investigating threatened plant closures or reductions in
3 employment allegedly resulting from such rule or order.

4 (2) Any employee who is discharged or whose employ-
5 ment is otherwise interrupted, or is threatened with discharge
6 or such interruption, or otherwise discriminated against by
7 any person because of the results of any rule or order issued
8 under this Act, or a representative of such employee, may
9 request the Administrator to conduct a full investigation
10 of the matter. The Administrator shall thereupon investigate
11 the matter and, at the request of any interested party, shall
12 hold a public hearing on not less than 5 days' notice, and
13 shall at such hearings require the parties, including the em-
14 ployer involved, to present information relating to the actual
15 or potential effect of such rule or order on employment and
16 on any alleged discharge, interruption of employment, or
17 other discrimination and the detailed reasons or justification
18 therefor. Any such hearing shall be of record and shall be
19 conducted in accordance with section 554 of title V, United
20 States Code.

21 (3) Upon receiving the report of any such investigation,
22 the Administrator shall make findings of fact as to the effect
23 of such rule or order on employment and the alleged dis-
24 charge, interruption of employment, or discrimination and
25 shall make such recommendations as he deems appropriate.

1 Such report, findings, and recommendations shall be available
2 to the public.

3 (4) Nothing in this subsection shall be construed to re-
4 quire the Administrator to modify or withdraw any rule
5 or order issued under this Act.

6 ~~AUTHORIZATION FOR APPROPRIATIONS, FEES, AND~~

7 ~~CONGRESSIONAL RELATIONS~~

8 ~~SEC. 18. (a) AUTHORIZATION.~~ There is authorized to
9 be appropriated to the Administrator, for purposes of carry-
10 ing out this Act, not to exceed \$11,100,000 for the fiscal year
11 ending June 30, 1976, not to exceed \$2,600,000 for the tran-
12 sitional quarter ending September 30, 1976, and not to exceed
13 \$10,100,000 for the fiscal year ending September 30, 1977.
14 No part of the funds so authorized to be appropriated shall be
15 used to construct any research laboratories.

16 (b) FEES.—The Administrator may, by rule, require the
17 payment of a reasonable fee from any person required to sub-
18 mit information under sections 4 and 5 to defray the cost of
19 administering this Act. Such rules shall not provide for any
20 fee in excess of \$2,500. In setting such a fee, the Administra-
21 tor shall take into account the ability to pay of the person
22 required to submit the data and the cost of the Administrator
23 of reviewing such data. Such rules may provide for sharing
24 such a fee, in any case in which the expenses of testing are
25 shared under section 4(d).

1 (c) CONGRESSIONAL RELATIONS.—Whenever the Ad-
 2 ministrator submits, in connection with this Act, any budget
 3 requests, supplemental budget estimates, legislative recom-
 4 mendations, prepared testimony for congressional hearings,
 5 or comments on legislation to the President or to the Office of
 6 Management and Budget, he shall concurrently transmit a
 7 copy thereof to the Congress. No officer or agency of the
 8 United States shall have any authority to require the Admin-
 9 istrator to submit budget requests or estimates, legislative rec-
 10 ommendations, prepared testimony for congressional hearings,
 11 or comments on legislation relating to this Act to any officer
 12 or agency of the United States for approval, comments, or
 13 review, prior to the submission of such recommendations,
 14 testimony, or comments to the Congress.

~~Amend the title so as to read: "A bill to regulate com-
 merce and protect human health and the environment by
 requiring data development, and for other purposes."~~