in certain cases if acceptable substitutes are not yet developed.

For example, an electric company must show that continued use of PCB's in transformers is necessary to guarantee safety from fire and that they are making a good faith research effort to find substitutes.

Mr. Chairman, the amendment which has been drawn by the gentleman from Michigan and myself is well thought out.

It provides a timetable which will speedily eliminate the introduction of additional PCB's into the environment without damage to the citizens and industry.

The Japanese people suffered a terrible tragedy from PCB poisoning; probably because of the centralized system of their government they were able to move swiftly and eliminate this product from the industrial and business technology of their country. Because of the need for conformance of State regulations and requirements that would provide for PCB substitutes the amendment my colleague, the gentleman from Michigan (Mr. DINGELL), and I have offered will give a strong impetus to the phasing out of the manufacture and distribution of all PCB's.

This is a bad problem; it has already caused millions of dollars of damages to the fisheries across the Nation. It is a problem that has been identified by the State and Federal governments—let's act before we have another environmental tragedy.

Mr. Chairman, I urge the adoption of the amendment.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. ECKHARDT asked and was given permission to revise and extend his remarks.)

Mr. ECKHARDT. Mr. Chairman, we have today in the legislation of the United States four environmental and safety laws of major significance. We have the Clean Air Act, the Water Pollution Control Act. We have OSHA and we have the Product Safety Act. This would be a fifth major piece of legislation to protect the environment and the safety of the people. But we are now just initiating a new act in an extremely important field and we have not ordinarily, when we enacted legislation in any of these fields, attempted to address specifically particular scientific questions. I think we have done well not to do so here.

Why should we, in enacting this act, move specifically to deal with PCB's and not PBB's? We are not attempting to, and of course it is a little too late to deal with vinyl chlorides by preventing their entry into the market. Nor are we attempting to regulate OMB's, a pernicious and persistent toxin that get in the legislative environment. I do not think we should try to anticipate each specific danger to the environment. If we do, we will overly encumber this bill.

Suppose it is discovered that in the entire range of dangerous substances some type of pattern of removing them from the marketplace or limiting their use to control the environment is desirable; then the agency may set up regulations in which the treatment of PCB's is specifically dealt with in a different way than the present pattern of control which may ultimately seem the most desirable. Why carve out one chemical to treat in this manner? There are many other chemicals that presently pose potential danger. I think that we would be well advised to let the agency chart its course in the same manner that we have let other agencies with like authority chart their courses, and not foist upon a preconceived manner of control before we find whether they will in due course address the question.

As has been pointed out before, the EPA has already indicated its willingness to move in this direction.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Certainly I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Texas. I would like to ask the gentleman some questions. I would like to ask the gentleman whether under section 6 of the bill the Administrator has not the authority during the pendency of the administrative law making the function of immediately prohibiting the manufacturing or processing of chemical substances such as PCB's?

Mr. ECKHARDT. When he goes through the procedures provided by section 6, he has, yes.

Mr. DINGELL. But he may not do it during the pendency, even though the peril is as great as it is in PCB's?

Mr. ECKHARDT. No. He is required to give due process to the person against whom the rule may be issued, and I think that is most desirable.

Mr. DINGELL. The answer to the question is he may not during the pendency of the rulemaking rule out substances like PCB's?

Mr. ECKHARDT. Wait just 1 minute. He can use the imminent hazard technique of stopping PCB's if he can in fact prove they are hazardous.

Mr. DINGELL. But in that, that action is subject to long and sustained court review which may drag out over a period of years.

Mr. ECKHARDT. Not unless a higher court actually stays the action of a lower court. One can easily get the same instant relief that one can get in other cases involving a court's peremptory authority to enjoin.

Mr. DINGELL. The gentleman is very carefully and I think very prudently, and in a very lawyer-like fashion, pointing out that the failure to rule this out would be dependent upon the prudence of a higher court upon appeal. That is, there is not immediate power in the administrator to move them out except subject to court review; am I correct in that statement?

Mr. ECKHARDT. Except subject to court action, I think that the only way that the agency can finally outlaw PCB's or limit them under section 6 is after a rather complete due process-oriented type of hearing.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. But if during the pendency of the rulemaking, the continued release of PCB's into the environment would constitute an imminent hazard, the agency may go into court and by proving that such is the case, may get an injunction which would immediately stop the complained of activity.

Mr. DINGELL. This is a matter, though, which is time consuming and which is subject to judicial review and which could take a substantial amount of time.

Mr. ECKHARDT. It is not time consuming from the time the action is brought in court until the time the court has the power to act; it may be time consuming in the long run, but that may work against either the manufacturer of the PCB's or against the public. The question has to be decided by the court as to whether or not a preliminary injunction will be granted, or whether action will be upheld pending the ultimate ruling.

Mr. DINGELL. The gentleman is a very able lawyer and valuable Member of the House. The hard fact of the matter is that the committee bill, as opposed to the amendment offered by my friend and colleague, the gentleman from Maryland (Mr. GUDE) and me, regarding PCB's which are a proven hazard—this would much more quickly and expeditiously remove them from the environment than would be the situation under the committee bill.

Mr. ECKHARDT. That is right. Of course, we can legislatively do anything to anybody as long as we comply with due process of law. I suppose that is done, but I think judicial process would be preferable in this case.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, I am not going to take time on the PCB's except to give the Members a related situation which I think many Members—most Members of this Congress—have heard something about.

If this type of legislation had been brought before this House 3 years ago, there would probably be a group of citizens who would have some hope of living out their lives in an orderly and normal fashion. Kepone was a chemical. It was known to be a dangerous chemical. It was known to be the kind of chemical that could not be restrained in any given course. It could not be held within any confined area. Yet with warning after warning and appeal after appeal to various State, local, and Federal Government inspection agencies, nothing was done. It took two committees of this House, the gentleman from New Jersey's, Mr. DANIELS, and my own, to spend a weekend after a great deal of research at the homesite of the Kepone manufacturer.

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To the best of our knowledge, this entire family of workers—and I mean family by going into not only the worker himself but the family and the children—was affected. We saw before us children whose eyes flickered constantly. The workers were told that they had some sort of Parkinson's disease.

However, they could not get any evidence in the town from any of the medical authorities or from the Federal or State or local inspection officials that it was the kind of toxic material which ought to be investigated thoroughly and on which work ought to be stopped immediately and that they should not be permitted to continue.

There is no hope for any of the workers who worked in that plant, as far as we know. The people have had to go to the extreme precaution of completely burning down the plant and cleaning that up. Now, there is a suit pending and a plea and an admission of guilt on the part of one of the officers of the company, which may result in hundreds of millions of dollars of damages—but these damages will do no good for the sick people.

This kind of action should have been taken whenever there was any reasonable cause to expect that by stopping and investigating we could avoid that kind of disaster. And it is a disaster. The folks today are nothing but living dead.

Mr. LEGGETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. LEGGETT asked and was given permission to revise and extend his remarks.)

Mr. LEGGETT. Mr. Chairman, I rise in support of the amendment. As chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, this issue has been of particular concern to our Members. The subcommittee held 3 days of oversight hearings in January 1976, to examine the impact of polychlorinated biphenyls—PCB's—and similar toxic substances on fisheries and wildlife resources. Witnesses from the administration and from the industry presented us with startling evidence of the critical levels of PCB residues found in samples of birds and fresh water fish all over the United States. Consequently, the survival of some threatened and endangered species is involved. PCB contamination appears to severly reduce the reproductive success of the bald eagle, along with other waterfowl and mammals, according to the U.S. Fish and Wildlife Service.

The adverse and far-reaching effects of PCB's are most vividly demonstrated in the Great Lakes region. In the past decade, Canada and the United States have invested solidly in restoring the fishery resources of the Great Lakes, and their programs—such as trout restoration—are threatened by PCB levels in Great Lakes fish wihch now exceed the permissible amount established by the FDA. Many species are close to being considered unmarketable, raising the potential spectre of the closing of the $95 million commercial fishing industry and the $300 million sport fishing industry of the Great Lakes. This is no exaggerated speculation, as Lake Michigan and the Hudson River have already been closed for given periods to commercial fishing because of high levels of PCB's.

PCB's are difficult to regulate as they are used in widely different industries for a variety of uses. They contaminate our rivers and waterways through the dumping of waste materials—such as plastic bottles, ink, papers—containing toxic substances. Although the only American manufacturer of PCB's Monsanto, has voluntarily restricted its production to enclosed uses—such as in electrical transformers—such industrial self-regulation and existing laws have failed to prevent the seepage of 10 million pounds of PCB's into the environment, and even greater quantities through sewage treatment systems and imported products. In view of the fact that PCB's cannot be removed from the environment and are not readily biodegradable, it will take years before our contaminated waterways will be ready again for commercial and recreational fishing if PCB's were eliminated now.

The flexibility of the Dingell-Gude amendment is shown by its exemption provisions, which recognize that some uses of PCB's outweigh safety considerations. Feasibility of PCB elimination has been shown by the example of Japan's almost complete PCB ban and its successful use of substitutes.

It is significant that the executive departments' involved voice strong support of this amendment. The U.S. Fish and Wildlife Service supports a complete ban of PCB's. Russell Train, Administrator of EPA, told us:

So far as I am concerned, there is absolutely no disagreement whatsoever that PCB's should be eliminated, all uses should be gotten rid of just as rapidly as we can."

I stress today just the sense of emergency that Russell Train did in January. If PCB's were abolished tomorrow, it would be 100 to 200 years before they would allow a decision on PCB's to undergo the review process of H.R. 14032, PCB's will continue to seep into the environment, endangering human health, our wildlife resources, and our freshwater fishing industries for several years. The Dingell-Gude amendment will give us a program immediately, setting the mandatory deadline for a phase-out of PCB's.

I trust that my colleagues will recognize the profound detrimental effects this one toxic substance has on our environment, and will realize the need to clarify the phase-out of PCB's as a priority under the Toxic Substances Act of 1976, as this amendment would do.

There is no partisan division in the subcommittee with respect to the urgency and importance of solving this PCB problem. Therefore, I would urge that the House support this amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I have been told, and I would like to have the gentleman confirm it, that in many places in the United States, mothers' milk is now so contaminated with PCB's that it would not be allowed to be shipped in interstate commerce if it were in any other container. Is that correct?

Mr. LEGGETT. I have not heard that, but if the gentleman makes that assertion I am sure it is worthy of review.

The CHAIRMAN. The time of the gentleman from California (Mr. LEGGETT) has expired.

(By unanimous consent, Mr. LEGGETT was allowed to proceed for 1 additional minute.)

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I want to commend the gentleman for his remarks, particularly in drawing attention to the widespread dispersal of this contaminate in our environment.

To further illustrate, Mr. Chairman, I would like to just quote from a telegram from the Georgia Game and Fish Division:

Serious polychlorinated biphenyls (PCB) contamination problem just encountered at Lake Hartwell with harsh impact affecting sport fishermen and businesses dependent thereon. PCB ubiquitous in the environment and posing serious threat to human health and all living natural resources.

Mr. Chairman, I think we have ample testimony that we have a mad dog, in the form of PCB, on our hands. We must pen him up and I urge support of this amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague and would like to associate myself with the gentleman's remarks.

Mr. Chairman, I also would like to point out, I think the distinguished gentleman from Pennsylvania (Mr. DENT) made a very telling and important statement, that is, where there is reasonable documentation as to the danger of a substance to life in general and to human life specifically, there is no obligation more important than the human responsibility to protect that life.

It would seem to me almost incredible as I have sat here quietly and patiently listening to the debate for any person to raise the legal argument or the political argument or the economic argument that in any way transcends the important responsibility we have to protect human life under conditions which are injurious or a danger to human life and we have a responsibility, clinical and moral, to protect the citizens.

Mr. LEGGETT. Mr. Chairman, the gentleman is exactly correct.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the debate in the committee, I supported this amendment. I supported it because polychlorinated biphenyls have been proven today to be a highly toxic and persistent chemical. It causes skin ailments, liver ail-

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ments, and undersized infants. In laboratory animals they have produced skin cancer and genetic effects.

True, the substances are necessary at the present time for use in capacitors and transformers. We have heard the debate on what the Japanese have done and what they have been forced to do because of the effects on their environment.

This amendment seems reasonable. It gives at least 2 years to the industry to come up with substances other than PCB's. I think 2½ years is certainly a reasonable compromise and warning to the industry. The EPA Administrator is given the flexibility to extend, if necessary, that period of time. PCB's are a highly persistent and toxic chemical. They have caused great damage to the Great Lakes, and irreparable damage in the Hudson River. The State of New York estimates it will take over $20 million to correct the damage at the present time to bring back the fisheries areas that have been so harmfully affected.

Mr. Chairman, I hope we adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 6?

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Very briefly, I ask the chairman of the committee, since my amendment was not adopted which would require preference be given to nonanimal tests, it does appear that that is the intent of the committee in the report on page 19 which reads as follows:

> However, the Committee does not intend that the Administrator needlessly require whole animal tests. The Administrator should consider alternative test methods. With the development of reliable non-animal tests for predicting the long-term effects of chemicals on health, the need for animal test data to determine if a substance or mixture causes or significantly contributes to an unreasonable risk will diminish.

The report also says that the committee opposes the amendment only so as not to put a legal restriction on the Administrator, though it agrees with the thrust of the amendment that nonanimal tests should be preferred where adequate. I take it that the gentleman would stand behind the language of the report?

Mr. MURPHY of New York. The committee did intend that the Administrator not needlessly require animal testing.

Mr. OTTINGER. I thank the gentleman.

The CHAIRMAN. Are there further amendments to section 6? If not, the Clerk will read.

The Clerk read as follows:

IMMINENT HAZARDS

SEC. 7. (a) ACTIONS AUTHORIZED AND REQUIRED.—(1) The Administrator may file an action in a district court of the United States—

(A) for seizure of an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture,

(B) for relief (as authorized by subsection (b)) against any person who manufactures, processes, or distributes in commerce an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture, or

(C) for both such seizure and relief.

An action may be filed under this paragraph notwithstanding the existence of a rule under section 4, 5, or 6, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act.

(2) If the Administrator has not made a rule under section 6(a) immediately effective (as authorized by subsection 6(d)(2)(A)(i)) with respect to an imminently hazardous chemical substance or mixture, the Administrator shall file in a district court of the United States with respect to such substance or mixture or article containing such substance or mixture an action described in subparagraph (A), (B), or (C) or paragraph (1).

(b) JURISDICTION OF COURT.—(1) The district court of the United States in which an action under subsection (a) is brought shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance, mixture, or article involved in such action.

(2) In the case of an action under subsection (a) brought against a person who manufactures, processes, or distributes in commerce a chemical substance or mixture or an article containing a chemical substance or mixture, the relief authorized by paragraph (1), may include the issuance of a mandatory order requiring (A) in the case of purchasers of such substance, mixture, or article known to the defendant, notification to such purchasers of the risk associated with it; (B) public notice of such risk; (C) recall; (D) the replacement or repurchase of such substance, mixture, or article; or (E) any combination of the actions described in the preceding clauses.

(3) In the case of an action under subsection (a) against a chemical substance, mixture, or article, such substance, mixture, or article may be proceeded against by process of libel for its seizure and condemnation. Proceedings in such an action shall conform as nearly as possible to proceedings in rem in admiralty.

(c) VENUE AND CONSOLIDATION.—(1)(A) An action under subsection (a) against a person who manufactures, processes, or distributes a chemical substance or mixture or an article containing a chemical substance or mixture may be brought in the United States District Court for the District of Columbia or for any judicial district in which any of the defendants is found, resides, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. An action under subsection (a) against a chemical substance, mixture, or article may be brought in any United States district court within the jurisdiction of which the substance, mixture, or article is found.

(B) In determining the judicial district in which an action may be brought under subsection (a) in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(C) Subpenas requiring attendance of witnesses in an action brought under subsection (a) may run into any judicial district.

(2) Whenever proceedings under subsection (a) involving identical chemical substances, mixtures, or articles are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

(d) ACTION UNDER SECTION 6.—Where appropriate, concurrently with the filing of an action under subsection (a) or as soon thereafter as may be practicable, the Administrator shall initiate a proceeding for the promulgation of a rule under section 6(a).

(e) REPRESENTATION.—Notwithstanding any other provision of law, in any action under subsection (a), the Administrator may direct attorneys of the Environmental Protection Agency to appear and represent the Administrator in such an action.

(f) DEFINITION.—For purposes of subsection (a), the term "imminently hazardous chemical substance or mixture" means a chemical substance or mixture which causes or significantly contributes to an imminent and unreasonable risk of serious or widespread harm to health or the environment. Such a risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture or any combination of such actions is likely to result in such harm to health or the environment before a final rule under section 6 can protect against such risk.

REPORTING AND RETENTION OF INFORMATION

SEC. 8. (a) REPORTS.—(1) The Administrator shall promulgate rules under which—

(A) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance (other than a chemical substance described in subparagraph (B)(ii)) shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require, and

(B) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process—

(i) a mixture, or

(ii) a chemical substance in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis on such substance or another substance, including such research or analysis for the development of a product,

shall maintain records and submit to the Administrator reports but only to the extent the Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of this Act.

The Administrator may not require in a rule promulgated under this paragraph the maintenance of records or the submission of reports with respect to changes in the proportions of the components of a mixture unless the Administrator finds that the maintenance of such records or the submission of such reports, or both, is necessary for the effective enforcement of this Act. For purposes of the compilation of the list of chemical substances required under subsection (b), the Administrator shall promulgate rules pursuant to this subsection not later than one hundred and eighty days after the effective date of this Act.

(2) The Administrator may require under paragraph (1) reporting with respect to the following:

(A) The common or trade name, the chemical identity, and the molecular structure of each chemical substance or mixture for which such a report is required, insofar as known to the person making the report or insofar as reasonably ascertainable.

(B) The categories or proposed categories of use of each such substance or mixture, insofar as known to the person making the report or insofar as reasonably ascertainable.

(C) Reasonable estimates of the amount of each substance and mixture to be manufactured or processed and, insofar as known to the person making the report or insofar as reasonably ascertainable, a reasonable es-

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timate of the amount of each such substance and mixture to be manufactured or processed for each of its categories or proposed categories of use.

(D) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture, insofar as known to the person making the report or insofar as reasonably ascertainable.

(E) All existing data concerning the adverse environmental and health effects of such substance or mixture, insofar as known to the person making the report.

(F) Estimates of the number of persons who will be exposed to such substance or mixture in their places of employment and the duration of such exposure, insofar as known to the person making the report.

To the extent feasible the Administration shall not require under paragraph (1) unnecessary or duplicate reporting.

(3)(A)(i) The Administrator may by rule require a small manfacturer or processor of a chemical substance to submit to the Administrator such information respecting the chemncal substance as the Administrator may require for publication of the first list of chemical substances required by subsection (b).

(ii) The Administrator may by rule require a small manufacturer or processor of a chemical substance or mixture—

(I) subject to a rule proposed or promulgated under section 4, 5(c), 5(g), or 6, or

(II) with respect to which relief has been granted pursuant to a civil action brought under section 7, to maintain such records on such substance or mixture, and to submit to the Administrator such reports on such substance or mixture, as the Administrator may reasonably require. A rule under this clause requiring reporting may require reporting with respect to the matters referred to in paragraph (2).

(B) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the manufacturers and processors which qualifying as small manufacturers and processors for purposes of this paragraph and paragraph (1).

(b) INVENTORY.—(1) The Administrator shall compile, keep current, and publish a list of each chemical substance which is manufactured or processed in the United States. Such list shall at least include each chemical substance which any person reports, under section 5 or subsection (a) of this section, is manufactured or processed in the United States or was manufactured or processed in the United States within three years before the effective date of the rules promulgated pursuant to the last sentence of subsection (a)(1). In the case of a chemical substance for which a notice is submitted in accordance with section 5, such chemical substance shall be included in such list as of the earliest date (as determined by the Administrator) on which such substance was manufactured or processed in the United States. The Administrator shall first publish such a list not later than one year after the effective date of this Act. The Administrator shall not include in such list any chemical substance which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis on such substance or another substance, including such research or analysis for the development of a product.

(2) To the extent consistent with the purposes of this Act, the Administrator may, in lieu of listing, pursuant to paragraph (1), a chemical substance individually, list a category of chemical substanecs in which such substance is included.

(c) RECORDS.—Any person who manufactures, processes, or distributes in commerce or proposes to manufacture, process, or distribute in commerce any chemical substance or mixture shall, as required by the Administrator by rule, maintain records of adverse reactions to health or the environment alleged to have been caused by the substance or mixture. In such a rule the Administrator may require that—

(1) records of adverse reactions to the health of employees be retained for a period of not more than fifty years from the date such reactions were first reported to or known by the person maintaining such records, and

(2) any other record be retained for a period of not more than five years from the date the information contained in the record was first reported to or known by the person maintaining the record.

Records required to be maintained under this subsection may include records of consumer allegations of personal injury or harm to health, reports of occupational disease or injury, and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor in commerce by individuals or governmental agencies. Upon request of an officer or employee duly designated by the Administrator, each person who is required to maintain records under this subsection shall permit the inspection of such records and shall submit copies of such records.

(d) HEALTH AND SAFETY STUDIES.—The Administrator shall promulgate rules under which the Administrator may require any person who manufacturers, processes, or distributes in commerce or who proposes to manufacture, process, or distribute in commerce any chemical substance or mixture (or with respect to paragraph (2), any person who has possession of a study) to submit to the Administrator—

(1) lists of health and safety studies conducted or initiated by or for such person at any time or known to such person; and

(2) copies of any such studies appearing on a list submitted pursuant to paragraph (1) or (2), or otherwise known by such person.

(e) NOTICE TO ADMINISTRATOR OF UNREASONABLE RISKS.—Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture causes or significantly contributes to a substantial risk to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information.

(f) DEFINITIONS.—For purposes of this section, the terms "manufacture" and "process" mean manufacture or process for commercial purposes.

RELATIONSHIP TO OTHER FEDERAL LAWS

SEC. 9. (a) LAWS NOT ADMINISTERED BY THE ADMINISTRATOR.—(1) If the Administrator has reason to believe that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture or any combination of such actions causes or significantly contributes to or is likely to cause or significantly contribute to an unreasonable risk to health or the environment and determines that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which the Administrator has reason to believe so causes or contributes to such risk. Such report shall also request such agency—

(A)(i) to determine if the risk described in such report may be prevented or reduced to a sufficient extent by action taken under such law, and

(ii) if the agency determines that such risk may be so prevented or reduced, to issue an order declaring whether or not the activity or combination of activities specified in the description of such risk causes or significantly contributes to such risk; and

(B) to report such determination and order to the Administrator.

Any report of the Administrator shall include a detailed statement of the information on which it is based and shall be published in the Federal Register. The agency receiving a request under such a report shall make the requested determination, issue the requested order, and make the requested report within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report of an agency in response to a request of the Administrator shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the order and determination requested to be made and shall be published in the Federal Register.

(2) If the Administrator makes a report under paragraph (1) with respect to a chemical substance or mixture and the agency to which such report was made either—

(A) issues an order declaring that the activity or combination of activities specified in the description of the risk described in the report does not cause or significantly contribute to the risk described in the report, or

(B) initiates, within ninety days of the publication in the Federal Register of the report of the agency under pararaph (1) in response to the Administrator's report, action under the law (or laws) administered by such agency to protect against such risk,

the Administrator may not take any action under section 6 or 7 with respect to such risk.

(3) If the Administrator has initiated action under section 6 or 7 with respect to a risk associated with a chemical substance or mixture which was the subject of a report made to an agency under paragraph (1), such agency shall before taking action under the law (or laws) administered by it to protect against such risk consult with the Administrator for the purpose of avoiding duplication of Federal action against such risk.

(b) LAWS ADMINISTERED BY THE ADMINISTRATOR.—The Administrator shall coordinate actions taken under this Act with actions taken under other Federal laws administered in whole or in part by the Administrator. If a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines that it is in the public interest to protect against such risk by actions taken under this Act. This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by such other Federal laws.

(c) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(d) COORDINATION.—In administering this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any

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other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any other appropriate instrumentality of the Federal Government for the purpose of achieving the maximum enforcement of this Act while imposing the least burdens of duplicative requirements on those subject to the Act and for other purposes. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal departments, agencies, or instrumentalities, and on actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b).

RESEARCH, COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA

SEC. 10. (a) AUTHORITY.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and with other heads of appropriate departments and agencies, conduct such research and monitoring as is necessary to carry out the purposes of this Act. The Administrator may enter into contracts and may make grants for such research and monitoring. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

(b) DATA SYSTEMS.—(1) The Administrator shall establish, administer, and be responsible for the continuing activities of an interagency committee which will design, establish, and coordinate an efficient and effective system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies, and use of data submitted to the Administrator under this Act.

(2) (A) The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out the purposes of this Act. Systematized retrieval shall be developed for use by all Federal and other departments and agencies with responsibilities in the area of regulation or study of chemical substances and mixtures and their effect on health or the environment.

(B) The Administrator, in consultation with the Secretary of Health, Education, and Welfare, is authorized to make grants and enter into contracts for the development of a data retrieval system described in subparagarph (A). Contracts may be entered into under this subparagraph without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

INSPECTIONS

SEC. 11. (a) IN GENERAL.—For purposes of enforcement of this Act the Administrator, or any representative of the Administrator, duly designated by the Administrator, may inspect any establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce and any conveyance being used to transport chemical substances or mixtures in connection with distribution in commerce. Such an inspection may only be made upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(b) SCOPE.—(1) Except as provided in paragraph (2), an inspection under subsection (a) shall extend to all things within the premises or conveyance inspected (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of this Act applicable to the chemical substances or mixtures within such premises or conveyance have been complied with.

(2) No inspection under subsection (a) shall extend to—

(A) financial data,

(B) sales data other than shipment data,

(C) pricing data,

(D) personnel data, or

(E) research data (other than research data required by this Act),

unless the nature and extent of such data are described with reasonable specificity in the written notice required by subsection (a) for such inspection.

EXPORTS

SEC. 12. (a) GENERAL.—(1) Except as provided in paragraph (2) and subsection (b), this Act (other than section 8) shall not apply to any chemical substance, mixture, or an article containing a chemical substance or mixture if—

(A) it can be shown that such substance, mixture, or article is being manufactured, processed, sold, or held for sale, for export from the United States, unless such substance, mixture, or article was, in fact, manufactured, processed, or distributed in commerce, for use in the United States, and

(B) such substance, mixture, or article when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such substance, mixture, or article is intended for export.

(2) Paragraph (1) shall not apply to any chemical substance, mixture, or article if the Administrator finds that the substance, mixture, or article will cause or significantly contribute to an unreasonable risk to health within the United States or to the environment of the United States. The Administrator may require, under section 4, testing of a chemical substance or mixture exempted from this Act by paragraph (1) to determine whether or not such substance or mixture causes or significantly contributes to an unreasonable risk to health within the United States or to the environment of the United States.

(b) NOTICE.—(1) If any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 or 5(d), such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of the availability of the data submitted to the Administrator under such section for such substance or mixture.

(2) If any person exports or intends to export to a foreign country a chemical substance or mixture for which a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted under section 7, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule, action, or relief.

ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES

SEC. 13. (a) IN GENERAL.—(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance, mixture, or article containing a chemical substance or mixture offered for entry if—

(A) it fails to comply with any rule in effect under this Act, or

(B) it is offered for entry in violation of section 5, a rule or order under section 5 or 6, or an order issued in an action brought under section 5 or 7.

(2) If a chemical substance, mixture, or article is refused entry under paragraph (1), the Secretary of the Treasury shall notify the consignee of such entry refusal, shall not release it to the consignee, and shall cause its disposal or storage (under such rules as the Secretary of the Treasury may prescribe) if it has not been exported by the consignee within ninety days from the date of receipt of notice of such refusal, except that the Secretary of the Treasury may, pending a review by the Administrator of the entry refusal, release to the consignee such substance, mixture, or article on execution of bond for the amount of the full invoice of such substance, mixture, or article(as such value is set forth in the customs entry), together with the duty thereon. On failure to return such substance, mixture, or article for any cause to the custody of the Secretary of the Treasury when demanded, such consignee shall be liable to the United States for liquidated damages equal to the full amount of such bond. All charges for storage, cartage, and labor on substances, mixtures, or articles which are refused entry or release under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future entry made by such owner or consignee.

(b) RULES.—The Secretary of the Treasury, after consultation with the Administrator, shall issue rules for the enforcement of subsection (a) of this section.

DISCLOSURE OF DATA

SEC. 14. (a) IN GENERAL.—Except as provided by subsection (b), any information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b) (4) of such section, shall not be disclosed by the Administrator or by any officer or employee of the United States, except that such information may be disclosed—

(1) to officers and employees of the United States—

(A) in connection with their official duties under laws for the protection of health or the environment, or

(B) for specific law enforcement purposes;

(2) to contractors with the United States and employees of such contractors if in the opinion of the Administrator such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States entered into on or after the effective date of this Act for the performance of work in connection with this Act; or

(3) when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(b) DATA FROM HEALTH AND SAFETY STUDIES.—(1) Subsection (a) does not prohibit the disclosure of—

(A) any health and safety study submitted under this Act with respect to—

(i) any chemical substance or mixture which on the date the study is to be disclosed has been offered for commercial distribution, or

(ii) any chemical substance or mixture for which testing is required under section 4 or for which notification is required under section 5, and

(B) any data reported to, or otherwise obtained by the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i) or (ii) of subparagraph (A).

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This paragraph does not authorize the release of data which discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the release of data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture.

(2) If a request is made to the Administrator under subsection (a) of section 552 of title 5, United States Code, for information which is described in the first sentence of paragraph (1) and which is not information described in the second sentence of such paragraph, the Administrator may not deny such request on the basis of subsection (b) (3) or (b) (4) of such section.

(c) DESIGNATION OF CONFIDENTIAL DATA; DISPUTES.—(1) In submitting data under this Act, a person may (A) designate the data which the person believes is entitled to confidential treatment under subsection (a), and (B) submit such designated data separately from other data submitted under this Act.

(2) If the Administrator proposes to release for inspection data which has been designated under paragraph (1)(A), the Administrator shall notify, in writing and by certified mail, the person who submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, United States Code, such notice shall be given immediately upon approval of such request by the Administrator. The Administrator may not release such data until the expiration of thirty days after the person submitting such data has received the notice required by this paragraph.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—(1) Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a), and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

(2) For the purposes of paragraph (1), any contractor with the United States who is furnished information as authorized by subsection (a)(2), and any employee of any such contractor, shall be considered to be an employee of the United States.

(e) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

PROHIBITED ACTS

SEC. 15. It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule or order promulgated or issued under section 4, (B) any requirement prescribed by section 5, or (C) any rule or order promulgated under section 5 or 6;

(2) use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5, a rule or order under section 5 or 6, or an order issued in an action brought under section 5 or 7;

(3) fail or refuse to (A) establish or maintain records, (B) submit reports, notices, or other information, or (C) permit access to or copying of records, as required by this Act or a rule thereunder; or

(4) fail or refuse to permit entry or inspection as required by section 11.

PENALTIES

SEC. 16. (a) CIVIL.—(1) Any person who violates a provision of section 15 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such violation continues shall for purposes of this subsection constitute a separate violation of section 15.

(2)(A) A civil penalty for a violation of section 15 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within fifteen days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Administrator may, in the Administrator's discretion, compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the thirty-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final order and does not file a petition for judicial review of the order in accordance with paragraph (3) or after a court in an action brought under paragraph (3) has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from such date) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly or willfully violates any provision of section 15 shall, in addition to or in lieu of a civil penalty which may be imposed under subsection (a) of this section for such violation, be subject, upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than one year, or both.

(c) NOTICE, REPURCHASE, OR REPLACEMENT.—If in a proceeding for the issuance of an order under paragraph (1) to assess a civil penalty against a person the Administrator determines that such person manufactured, processed, or distributed in commerce a chemical substance or mixture in violation of a requirement applicable to such substance or mixture under paragraph (1) or (2) of section 5(a) or otherwise determines by order made on the record after opportunity for agency hearing that a person has so violated such a requirement, the Administrator may, in such order, require such person (1) to give notice of the risk associated with the chemical substances or mixture subject to such requirement to processors or distributors in commerce of such substance or mixture, or to both, and, to the extent reasonably ascertainable, to any other person in possession of or exposed to such substance or mixture; (2) to give public notice of such risk; (3) to either replace or repurchase such substance or mixture, as determined by the person (or persons) to whom the requirement is directed, in the manner prescribed by the Administrator; or (4) to take any combination of the actions described in the preceding clauses.

SPECIFIC ENFORCEMENT AND SEIZURE

SEC. 17. (a) SPECIFIC ENFORCEMENT.—(1) The district courts of the United States shall have jurisdiction over civil actions to—

(A) restrain any violation of section 15,

(B) restrain any person from manufacturing or processing a chemical substance before the expiration of the period before which such manufacturing or processing is prohibited under section 5,

(C) restrain any person from taking any action prohibited by section 5 or by a rule or order under section 5 or 6, or

(D) compel the taking of any action required by or under this Act.

(2) A civil action described in paragraph (1) may be brought—

(A) in the case of a civil action described in subparagraph (A) of such paragraph, in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 15 occurred or wherein the defendant is found or transacts business, or

(B) in the case of any civil action described in such paragraph, in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant in any judicial district in which a defendant resides or may be found. Subpenas requiring attendance of witnesses in any such action may run into any judicial district.

(b) SEIZURE.—Any chemical substance, or mixture which was manufactured, processed, or distributed in commerce in violation of this Act or any rule or order promulgated under this Act or any article containing such a substance or mixture shall be liable to be proceeded against by process of libel for the seizure and condemnation of such substance, mixture, or article, in any district court of the United States within the jurisdiction of which such substance, mixture, or article is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

PREEMPTION

SEC. 18. (a) EFFECT ON STATE LAW.—(1) Exempt as provided in paragraph (2), nothing in this Act shall affect the authority of any State or political subdivision of a State to establish or continue in effect regulation of any chemical substance, mixture, or article containing a chemical substance or mixture.

(2) Except as provided in subsection (b)—

(A) if the Administrator requires by a rule promulgated under section 4 the testing of a chemical substance or mixture, no State or political subdivision may, after the effective date of such rule, establish or continue in effect a requirement for the testing of such substance or mixture for purposes

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similar to those for which testing is required under such rule; and

(B) if the Administrator prescribes a rule or order under section 5 or 6 of this Act (other than a rule imposing a requirement described in subsection (a)(5) of section 6) which is applicable to a chemical substance or mixture, and which is designed to protect against a risk to health or the environment associated with such substance or mixture, no State or political subdivision of a State may, after the effective date of such requirement, establish or continue in effect a requirement applicable to such substance or mixture, or an article containing such substancce or mixture, and designed to protect against such risk unless such requirement is identical to the requirement prescribed by stance or mixture, and designed to protect the Adminisrator or unless such requirement is adopted under the authority of the Clean Air Act or any other Federal law.

(b) EXEMPTION.—Upon application of a State or political subdivision of a State the Administrator may by rule exempt from subsection (a)(2), under such conditions as may be prescribed in such rule, a requirement of such State or political subdivision designed to protect against a risk to health or the environment associated with a chemical substance, mixture, or article containing a chemical substance or mixture if—

(1) compliance with the requirement would not cause the manufacturing, processing, distribution in commerce, or use of the substance, mixture, or article to be in violation of the applicable requirement under this Act described in subsection (a)(2), and

(2) the State or political subdivision requirement (A) provides a significantly higher degree of protection from such risk than the requirment under this Act described in subsection (a)(2) and (B) does not, through difficulties in marketing, distribution, or other factors, unduly burden interstate commerce.

JUDICIAL REVIEW

SEC. 19. (a) IN GENERAL.—Not later than sixty days following the promulgation of a rule under section 4, 5, or 6(a) of this Act, any person may file a petition for judicial review of such rule with the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which such person resides or in which such person's principal place of business is located. Copies of the petition shall be forthwith transmitted by the clerk of such court to the Administrator and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based such rule as provided in section 2112 of title 28, United States Code. For purposes of this section, the term "record" means such rule; any transcript required of any oral presentation; any written submission of interested parties; and any other information which the Administrator considers to be relevant to such rule and with respect to which the Administrator, on or before the date of the promulgation of such rule, publish a notice in the Federal Register identifying such information.

(b) ADDITIONAL DATA.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments, and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify findings or determinations upon which the rule subject to review by such court was based, or make new findings or determinations by reason of the additional data, views, or arguments so taken and shall file such modified or new findings or determinations, and the Administrator's recommendation, if any, for the modification or setting aside of such rule, with the return of such additional data, views, or arguments.

(c) AUTHORITY AND REVIEW STANDARD.—(1) Upon the filing of a petition under subsection (a), the court shall have jurisdiction (A) to review the rule involved, in accordance with chapter 7 of title 5, United States Code, and (B) to grant appropriate relief, including interim relief, as provided in such chapter. Any rule promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall be affirmed, unless the determination or findings required to be made by the Administrator under the applicable section are not supported by substantial evidence on the record taken as a whole.

(2) The judgment of the court affirming or setting aside, in whole or in part, any rule reviewed in accordance with this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(3) The judgment of the court in an action (a) may include an award of costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. The Supreme Court of the United States in its decision on a review of judgment in such an action may provide for the award of costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(d) OTHER REMEDIES.—The remedies provided in this section shall be in addition to and not in lieu of any other remedies provided by law.

CITIZENS' CIVIL ACTIONS

SEC. 20. (a) IN GENERAL.—Except as provided in subsection (b), any person may commence a civil action—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of this Act or any rule prescribed under section 4, 5, or 6(a) to restrain such violation, or

(2) against the Administrator to compel the Administrator to perform any act or duty under this Act which is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpenas for witnesses may run into any judicial district.

(b) LIMITATION.—No civil action may be commenced—

(1) under subsection (a)(1) to restrain a violation of this Act or rule under this Act—

(A) before the expiration of sixty days after the plaintiff has given notice of such violation (i) to the Administrator, and (ii) to the person who is alleged to have committed such violation, or

(B) if the Administrator (or the Attorney General on behalf of the Administrator) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or such rule, but if such action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) before the expiration of sixty days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action or, in the case of an action under such subsection for the failure of the Administrator to file an action under section 7, before the expiration of ten days after such notification.

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

(c) GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

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

(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions which is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

(1) any district which is selected by such defendant and in which one of such actions is pending,

(2) a district which is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending, or

(3) a district which is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.

CITIZENS' PETITIONS

SEC. 21. (a) IN GENERAL.—Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 5(c), or 6(a).

(b) PROCEDURES.—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under section 4, 5(c), or 6(a).

(2) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

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(3) Within ninety days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding in accordance with section 4, 5(c), or 6(a). If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial.

(4)(A) If the Administrator denies a petition filed under this section (or if the Administrator fails to grant or deny such petition within the ninety-day period) the petitioner may commence a civil action in a United States district court to compel the Administrator to initiate a rulemaking proceeding to take the action requested. Any such action shall be filed within sixty days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within ninety days after filing the petition, within sixty days after the expiration of the ninety-day period.

(B) If in an action under subparagraph (A) respecting a petition to initiate a proceeding to issue a rule under section 4, 5(c), or 6(a) the petitioner demonstrates to the satisfaction of the court, by a preponderance of the evidence in a de novo proceeding before the court, that—

(i) in the case of a petition to initiate a proceeding for the issuance of a rule under section 4, that the manufacture, distribution in commerce, processing, use, or disposal of the chemical substance or mixture to be subject to such rule may cause or significantly contribute to an unreasonable risk to health or the environment,

(ii) in the case of a petition to initiate a proceeding for the issuance of a rule under section 5(c), that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance petitioned to be included in a list compiled under such rule causes or significantly contributes to or may cause or significantly contribute to an unreasonable risk to health or the environment, or

(iii) in the case of a petition for the issuance of a rule under section 6(a), that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture to be subject to such rule causes or significantly contributes to or will cause or significantly contribute to an unreasonable risk to health or the environment,

the court shall order the Administrator to initiate the action requested by the petitioner unless the court finds, after considering the extent of the risk to health or the environment alleged by the petitioner in relation to the extent of risks to health or the environment with respect to which the Administrator is taking action under this Act, the resources available to the Administrator to take the action requested by the petitioner, and other relevant factors, the failure of the Administrator to initiate such action was not unreasonable.

(C) The court in issuing any final order in any action brought pursuant to subparagraph (A) may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

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

NATIONAL DEFENSE WAIVER

SEC. 22. The Administrator shall waive compliance with any provision of this Act upon a request and determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the President, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

EMPLOYEE PROTECTION

SEC. 23. (a) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

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

(2) testified or is about to testify in any such proceeding; or

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

(b) REMEDY.—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) REVIEW.—(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

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

(d) ENFORCEMENT.—(1) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary dammages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(2) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28, United States Code.

(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.

EMPLOYMENT EFFECTS

SEC. 24. (a) IN GENERAL.—The Administrator shall evaluate on a continuing basis the potential effects on employment (including reductions in employment or loss of employment from threatened plant closures) of—

(1) the issuance of a rule or order under section 4, 5, or 6, or

(2) a requirement of section 5.

(b)(1) INVESTIGATIONS.—Any employee (or any representative of an employee) may request the Administrator to make an investigation of—

(A) a discharge or layoff or threatened discharge or layoff of the employee, or

(B) adverse or threatened adverse effects on the employee's employment,

allegedly resulting from a rule or order under section 4, 5, or 6 or a requirement of section 5. Any such request shall be made in writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request.

(2)(A) Upon receipt of a request made in accordance with paragraph (1) the Administrator shall (i) conduct the investigation requested, and (ii) if requested by any interested person, hold public hearings on any matter involved in the investigation unless the Administrator determines that there are no reasonable grounds for holding such hearings. If the Administrator makes such a determination respecting a request for a hearing, the Administrator shall notify in writing the person requesting the hearing of the determination and the reasons therefor.

(B) If public hearings are to be held on any matter involved in an investigation conducted under this subsection—

(i) at least five days' notice shall be provided the person making the request for the

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investigation and any person identified in such request.

(ii) a transcript shall be made of the hearings, and

(iii) each employee who made or for whom was made a request for such hearings and the employer of such employee shall be required to present information respecting the applicable matter referred to in paragraph (1)(A) or (1)(B) together with the basis for such information.

(3) Upon completion of an investigation under paragraph (2), the Administrator shall make findings of fact, shall make such recommendations as the Administrator deems appropriate, and shall make available to the public such findings and recommendations.

(4) In connection with any investigation or public hearing conducted under this subsection, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and the Administrator may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this paragraph, the United States district court for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

STUDIES

SEC. 25. (a) INDEMNIFICATION STUDY.—The Administrator shall conduct a study of all Federal laws administered by the Administrator for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any such law. The study shall—

(1) include an estimate of the probable cost of any indemnification programs which may be recommended;

(2) include an examination of all viable means of financing the cost of any recommended indemnification; and

(3) be completed and submitted to Congress not less than two years from the effective date of this Act.

The General Accounting Office shall review the adequacy of the study submitted to Congress pursuant to paragraph (3) and shall report the results of its review to the Congress within six months of the date such study is submitted to Congress.

(b) CLASSIFICATION, STORAGE, AND RETRIEVAL STUDY.—The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal departments or agencies, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical substances and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such substances. A report on such study shall be completed and submitted to Congress not later than eighteen months after the effective date of this Act.

ADMINISTRATION OF ACT

SEC. 26. (a) COOPERATION OF FEDERAL AGENCIES.—Upon request by the Administrator, each Federal department and agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist the Administrator in the administration of this Act; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the administration of this Act.

(b) FEES.—The Administrator may, by rule, require the payment of a reasonable fee from any person required to submit data under section 4 or 5 of this Act to defray the cost of administering this Act. Such rules shall not provide for any fee in excess of $2,500. In setting such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost to the Administrator of reviewing such data. Such rules may provide for sharing such a fee in any case in which the expenses of testing are shared under section 4 or 5 of this Act.

(c) ACTION WITH RESPECT TO CATEGORIES.—(1) Any action authorized or required to be taken by the Administrator under any provision of this Act with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures. Whenever the Administrator takes action under a provision of this Act with respect to a category of chemical substances or mixtures, any reference in this Act to a chemical substance or mixture (insofar as it relates to such action) shall be deemed to be a reference to each chemical substance or mixture in such category.

(2) For purposes of paragraph (1):

(A) The term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, 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 such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

(B) The term "category of mixtures" means a group of mixtures the members of which are similar in molecular structure, in physical, chemical, or biological properties, 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.

(d) ASSISTANCE OFFICE.—The Administrator shall establish in the Environmental Protection Agency an identifiable office to provide technical and other nonfinancial assistance to manufacturers and processors of chemical substances and mixtures respecting the requirements of this Act applicable to such manufacturers and processors, the policy of the Agency respecting the application of such requirements to such manufacturers and processors, and the means and methods by which such manufacturers and processors may comply with such requirements.

DEVELOPMENT AND EVALUATION OF TEST METHODS

SEC. 27. (a) The Secretary of Health, Education, and Welfare, in consultation with the Administrator and acting through the Assistant Secretary for Health, may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities for, projects for the development and evaluation of inexpensive and efficient methods (1) for determining and evaluating the health and environmental effects of chemical substances and mixtures, and their toxicity, persistence, and other characteristics which affect health and the environment, and (2) which may be used for the development of test data to meet the requirements of rules promulgated under section 4. The Administrator shall consider such methods in prescribing under section 4 standards for the development of test data.

(b) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require. The Secretary may apply such conditions to grants and contracts under subsection (a) as the Secretary determines are necessary to carry out the purposes of such subsection. Contracts may be entered into under such subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c)(1) The Secretary shall prepare and submit to the President and the Congress on or before January 1 of each year a report of the number of grants made and contracts entered into under this section and the results of such grants and contracts.

(2) The Secretary shall periodically publish in the Federal Register reports describing the progress and results of any contract entered into or grant made under this section.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 28. There are authorized to be appropriated to the Administrator for purposes of carrying out this Act (other than section 27 thereof) $11,100,000 for the fiscal year ending September 30, 1978, $10,100,000 for the fiscal year ending September 30, 1979, and $11,100,000 for the fiscal year ending September 30, 1980. No part of the funds appropriated under this section may be used to construct any research laboratories.

ANNUAL REPORT

SEC. 29. The Administrator shall prepare and submit to the President and the Congress on or before January 1, 1979, and on or before January 1 of each succeeding year a comprehensive report on the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of the testing required under section 4 during the year for which the report is made and an estimate of the costs incurred during such year by the persons required to perform such tests;

(2) the number of notices received during such year under section 5, the number of such notices received during such year under such section for chemical substances subject to a section 4 rule, and a summary of any action taken during such year under section 5(g);

(3) a list of rules issued during such year under section 6;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act during such year;

(5) a summary of major problems encountered in the administration of this Act; and

(6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of this Act.

EFFECTIVE DATE

SEC. 30. This Act shall take effect October 1, 1977.

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection

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to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to the remainder of the bill?

AMENDMENTS OFFERED BY MR. MOORE

Mr. MOORE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. MOORE: Page 210, after line 3, add the following new section:

RULE REVIEW

SEC. 30. (a) Any rule prescribed pursuant to this Act by the Administrator may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule is finally adopted by the Administrator, Secretary of the Treasury, or Secretary of Health, Education, and Welfare, as the case may be. The authority which prescribes a rule pursuant to this Act shall transmit such rule to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule promulgation under this Act shall not be deemed an expression of approval of such rule.

Redesignate the succeeding section accordingly.

Page 103, insert after the item in the table of contents relating to section 29 the following new item:

SEC. 30. RULE REVIEW.

Redesignate the succeeding item accordingly.

Mr. MOORE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

(Mr. MOORE asked and was given permission to revise and extend his remarks.)

Mr. MOORE. Mr. Chairman, one of the biggest problems today in the Federal Government operations is the massive regulatory power of the bureaucracy. Let us not forget that regulations have the full force and effect of law, and often go far beyond what we intend here in Congress, in the act we passed under which the regulations may be issued.

They are made by bureaucrats who are not elected and cannot even be readily removed, as many of them are employees of independent agencies and actually may well answer to no one, especially the people.

Our Government is an ingenuous one of checks and balances. We do have checks and balances for the three branches of Government, and we have had it for 200 years. But there has come upon us a fourth branch of Government, one for which we do not have any checks and balances. That fourth branch is the bureaucracy. We have no effective way today to undo an undesirable regulation, as the court will not touch a regulation if it is in fact legal. Congress itself is not going to pass a law to reverse a regulation as it is far too cumbersome to overturn every undesirable or oppressive regulation.

The fourth branch we have today of the bureaucracy was not contemplated by our Founding Fathers. Indeed, the first regulatory agency that appeared in this country did so after this country was well over 100 years old, in 1887, when the ICC was created. Today we have over 105,000 Federal bureaucrats, according to the Office of Management and Budget, cranking out regulations on every aspect of our lives, at a cost, according to the OMB, of $130 billion a year. But far more important is the cost of our personal freedom infringed upon by the issuance of every regulation. I point out to my colleagues that this is being done without any effective checks or balances of this great power of the rulemaking agencies. I point out to my colleagues that this problem is not just going to go away. It is not one that we can sit here and make speeches about and go home and say, "Yes, bureaucracy is a terrible thing but there is nothing I can do about it." We can *do something* here and now with the passage of this amendment.

In the last 15 years this Congress created 236 different rulemaking agencies, while disbanding only 21. Today the number of agencies, bureaucrats, rules and regulations are growing at an alarming rate. This problem is becoming more acute. It is not going away. The people, rightfully, want us to do something now to correct this imbalance of power. It is a very real, a very legitimate campaign issue, which we must address.

Some 10,000 people responded so far to my latest questionnaire sent out last month, and 80 percent of the people responding heartily support this proposal. They fear today the very real excessive and unchecked power of regulatory agencies, they feel a loss of personal freedom and they feel a frustration, as they know that nothing is currently being done to check this power. As one of my constituents put it, when he answered the questionnaire, "We often could live better with the problem than we can with the Federal Government's solution to it."

This amendment is not a cure-all solution, but it is a tool with which we can begin to solve this problem. It will help check the imbalance of power by giving either House of Congress at long last, as one of the three legitimate branches of Government, a veto over any rule or regulation issued under this bill by the bureaucracy. It will begin to bring into balance this out-of-balance power of the bureaucracy.

This House during the 94th Congress has already eight times accepted this same amendment to eight other bills. This House has not rejected it once. I will also point out that this is very similar to the Administrative Rulemaking Reform Act (H.R. 12048) which has been reported from the Committee on the Judiciary, and is now pending before the Committee on Rules, which we all hope will soon grant a rule.

According to the Library of Congress, there are 19 other provisions such as this that are currently existing in law, some going back as far as 1946.

I feel very strongly that this amendment should be adopted, to give protection the awesome powers of this bill and more importantly protection from the rulemaking powers of the bureaucracy. We must protect our people from any further loss of personal freedom and to bring into check this out-of-balance power.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we are considering one of the most important issues that has been raised here. I would like to say that if we should vote favorably for this amendment, we would put into this bill precisely the same provision that was the expressed reason and the only reason for the veto of the Pesticide and Rodenticide Act by the President the other day.

There may be many Members who disagree with me with respect to the desirability of attaching a yo-yo string to legislative authority. I have always been against that, and in this respect I agree with the President's objection in his veto message. Indeed the attachment of a yo-yo string which may pull back authority by legislative veto has exactly the opposite effect that many of my colleagues think it has. It tends to make Congress grant more irresponsible authority because we feel we can pull it back when in fact we cannot.

But if Members believe in principle in this type of review, in this type of mixing of legislative with executive authority, if Members believe in this retention of a qualified power to change a law after it is enacted, I believe they should nevertheless vote against this amendment in this particular case, because this amendment requires legislative review of every type of rule that is finally adopted by the Administrator, by the Secretary of the Treasury, or by the Secretary of the Department of Health, Education, and Welfare. This includes a testing rule under which the only thing the Administrator has done is to say that "This chemical poses a threat to humans or to the environment, and we think it ought to be tested."

A chemical company that does not want to have it tested, a company that does not want to submit it to testing, then could come up to Congress and lobby before Congress to reject the testing rule. Now, are we not in a fine position to review the question of whether or not testing should be had? And, of course, the EPA has authority in some instances to say that "We want this kind of testing." Should we come in and second-guess the agency and say that we want another kind of testing?

The second review is with respect to a ban under section 6 if ultimately a chemical is found to be dangerous such as PCB. We had this argument, and nearly all the Members voted to ban PCB's legislatively after a given period of time. But would we permit some person or some industry that thinks something similar to PCB's, like PBB's are not dan-

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gerous to come in and lobby before Congress to reverse a rule?

It seems to me that if we provide for a congressional veto in this instance we are inviting every large chemical manufacturer in the country to come in and ask us to veto an administrative act. Why should we encumber ourselves with this kind of provision?

We have been talking here about little business. Who is going to have the money to come up here and lobby for a change, for an amelioration, or for a removal of the limitation with respect to a chemical? Is a little business going to have the money to do that?

When we delegate authority, we ought to delegate it in restricted fields, as we have done in this bill. When we are dealing with a ban, we ought to give full due process, as we have done in this bill. When we are considering prohibiting a person from putting a product that he manufactures on the market, we should permit him to have the opportunity of cross-examination; he should be allowed to cross-examine with respect to the rule, and we have done that here.

But let us not make this a political matter that can be later raised by anyone who has the clout to change the legislative process.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

(Mr. BROYHILL asked and was given permission to revise and extend his remarks.)

Mr. BROYHILL. Mr. Chairman, I ordinarily agree with amendments that are similar to that offered by the gentleman from Louisiana (Mr. MOORE). In fact, I have cosponsored legislation which would require the agencies to submit the rules which subject individuals to criminal penalties and to submit those rules and regulations to Congress for a period of time for review.

However, Mr. Chairman, this amendment actually goes far beyond the terms of that bill. Under this amendment, even nonsubstantial rules, rules of just ordinary procedure of the agency to guide people in their access to the agency, would be subject to this amendment.

I also would point out that there are some very technical rules that are going to come about as a result of section 4. Particularly, these are the rules of the agency which spell out what kind of tests are going to be required on these various chemicals.

Mr. Chairman, I just do not think that the Congress has the expertise to be making these judgments on technical subjects like this.

Furthermore, Mr. Chairman, under this amendment there is no guarantee that the Congress would act. There is no procedure spelled out in this amendment that would require the consideration of these rules by Congress. What I am saying, Mr. Chairman, is that, in considering the way in which this amendment is written, it is reasonable to assume that all of the rules that would be submitted pursuant to this amendment would lie in the committee; and no action will be taken by the Congress. There is no procedure spelled out in this amendment which gives the right to a Member to discharge a committee, for example, from further consideration of that rule or regulation.

For these reasons, Mr. Chairman, I ask that this amendment be rejected. Let us consider this subject in the bill which has been cosponsored by close to 200 Members, which I understand is now pending before the Committee on Rules; and let us consider this idea of congressional review of rules and regulations in one bill under which we can debate the merits of the legislation and not do it piecemeal in this way.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from North Carolina (Mr. BROYHILL), as well as with the remarks of the gentleman from Texas (Mr. ECKHARDT).

It seems to me that this is an abdication of the legislative process when we, on a blanket basis like this and without consideration of distinctions between different types of rules and rulemaking situations, would have every one come back to the Congress. We would soon find that we were utterly incapable of coping with the flood and would have to triple the size of our committee staffs if we were to handle it in a proper manner.

Mr. BROYHILL. Mr. Chairman, let me comment. I do not personally go all the way along with the argument of the gentleman from Ohio (Mr. SEIBERLING). I am just speaking in opposition to this particular amendment.

As I pointed out, Mr. Chairman, I have cosponsored legislation which would apply to those rules which would subject the individual to a criminal penalty. This amendment goes far beyond that. This would apply to any rule.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, I thought that was a particularly good distinction which the gentleman from North Carolina (Mr. BROYHILL) made, and I simply wanted to commend him and associate myself with his remarks.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think one thing ought to be pointed out: It was said that we never rejected these matters.

I think, as the gentleman has indicated, we need to consider them individually. We have rejected such an amendment on the Coal Leasing Act.

Each bill raises a different question and makes out a different case. I think the gentleman has very clearly distinguished this case from any of the others in which we have adopted such an amendment.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MARTIN asked and was given permission to revise and extend his remarks.)

Mr. MARTIN. Mr. Chairman, I want to commend the gentleman from Louisiana (Mr. MOORE) for his timely amendment, the arguments of the gentleman from North Carolina (Mr. BROYHILL) and the gentleman from Texas (Mr. ECKHARDT) to the contrary notwithstanding.

Mr. Chairman, in 1771, over 200 years ago, a group of North Carolina farmers, ironically calling themselves regulators, set out to oppose excessive control by the King's agents. Today our people resent those people who are contemporary regulators. It is time, regardless of the opinion of the executive branch, to limit our regulatory agencies, to hold them accountable—in other words, to regulate the regulators.

Congress will respond under this amendment offered by the gentleman from Louisiana (Mr. MOORE) only where the cost of the regulators clearly exceeds the benefits.

It seems to me we would reserve the authority to make that judgment. The executive branch should not be allowed to enlarge its power without being subject to elective authority. If we in the Congress are indeed wise enough to judge the necessity to create such an agency as is being proposed here today to regulate the chemical industry, it again seems to me we should need the right to review those regulations and reject them where they exceed our intent.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding to me. From some of the comments by my colleagues who oppose this amendment they would leave the impression that Congress is mandated to review every single rule issued, and that is not the case. We merely can take up the ones that our appropriate committees think should be taken up, or that we feel are excessive. Is that correct?

Mr. MARTIN. That would be the way it would work out, I can assure the gentleman from California.

Mr. ROUSSELOT. So that there is no demand that we absolutely take up every new rule * * * it merely gives us a reviewing procedure. As the gentleman from Louisiana (Mr. MOORE) has wisely tried to provide in his amendment, it gives a veto capability to the Congress that we have needed for some time. Because, unfortunately, so many of our regulatory agencies assume powers by implementing rules which we never intended in original legislation.

I think this would be an excellent practice. I think that 60 days is more than adequate time for our committees to take a hardnosed look at many of these rules and regulations.

Again I compliment the gentleman from North Carolina (Mr. MARTIN) and my colleague, the gentleman from Louisiana (Mr. MOORE). We have voted on this amendment many times although I have noticed that my colleague, the gentleman from Louisiana (Mr. MOORE) has very carefully worded this amendment to make sure that it does not create any legal problems. I compliment

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both of my colleagues for offering this important amendment.

Mr. MARTIN. Mr. Chairman, I thank the gentleman for his observations. Over the past 15 years it has become the practice of Congress to create agency after agency and charging it to "Go ye forth into ye streets and do ye thing." These agencies have proceeded to do just that, without restraint from any elected officials, and they themselves are not elected and are not accountable for their actions. It is high time for such an amendment as this and other amendments that I have seen to enable the Congress to reserve that authority to review the regulators and give them timely guidance.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. I think the amendment is even more important because this bill affects so many small chemical businesses. The rulemaking power provided in this legislation is very substantial. It is important that the Congress give itself the chance to review this rulemaking power.

Again I congratulate my two colleagues for bringing this amendment before the House.

Mr. MURPHY of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise hopefully so as to close the debate.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Chairman, the President vetoed earlier this month the Pesticide Control Act amendments because of an amendment similar to that of the gentleman from Louisiana.

My colleague, the gentleman from Louisiana (Mr. MOORE) has offered his amendment in good faith and I can know and understand the reason surrounding it. But I think the way to approach legislating properly is the way we have done in this bill, and that is to get guidelines for the agency regarding the hearing process.

As a consequence, Mr. Chairman, I would ask that the committee reject this amendment.

Mr. ROUSSELOT. Mr. Chairman, would the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. I would ask the gentleman from New York, is there any great harm in the Congress taking the prerogative of review? Does the gentleman see any great damage that would be done to the congressional process for us to assume our responsibilities of reviewing what agencies have done under the rulemaking process? Is that harmful?

Mr. MURPHY of New York. I think we have the resolution and the joint resolution route if we want to veto the Administrator's actions. And we have oversight responsibilities. As the Members know, at the beginning of this Congress the majority caucus adopted a resolution to broaden the oversight function of Congress for just the reason the gentleman has stated.

Mr. ROUSSELOT. Will the gentleman yield further?

Mr. MURPHY of New York. I am happy to yield to the gentleman.

Mr. ROUSSELOT. I thank the gentleman for yielding.

I am not suggesting that we should stop the congressional oversight process. I think that is terribly important. But related to that oversight process, we ought to make sure that agencies do not engage in rulemaking that goes either beyond the legislative intent or maybe has not been properly thought out. Four hundred thirty-five Members of this body hear from their constitutents very regularly on this problem of arbitrary rulemaking. They also hear from those affected by legislation we pass. So is the gentleman really agreeing with me that there is no great harm in this amendment?

Mr. MURPHY of New York. I would say the harm is this: This Congress has worked 2 years, the previous Congress 2 years, and the Congress before that 2 years, to try to bring out a Toxic Substances Control Act to protect the health and the environment of Americans. We can see that we can be vetoed after we have worked these 6 years because of amendments such as this. I think to obviate that possibility we have written the regulatory rules so that the Environmental Protection Administrator can bring forth proper rules. Accordingly I would ask that the committee defeat the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana (Mr. MOORE).

The question was taken; and on a division (demanded by Mr. MOORE) there were—ayes 19, noes 41.

Mr. MOORE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 642]

Abdnor	du Pont	Passman
Abzug	Esch	Peyser
Adams	Eshleman	Pike
Addabbo	Evins, Tenn.	Pressler
Anderson, Calif.	Fish	Randall
	Flynt	Rangel
Anderson, Ill.	Green	Rees
Andrews, N.C.	Hanley	Riegle
Archer	Hansen	Risenhoover
Aspin	Harsha	Roncalio
AuCoin	Hays, Ohio	Russo
Badillo	Hébert	Santini
Baldus	Heinz	Scheuer
Beard, Tenn.	Henderson	Schneebeli
Bolling	Hinshaw	Sikes
Brown, Calif.	Holland	Sisk
Brown, Mich.	Holt	Stanton, James V.
Burke, Calif.	Howe	
Burton, John	Jacobs	Steelman
Burton, Phillip	Jarman	Steiger, Ariz.
Cederberg	Jones, Ala.	Stephens
Chappell	Jones, Okla.	Stuckey
Chisholm	Jones, Tenn.	Sullivan
Clay	Karth	Symington
Collins, Ill.	Landrum	Teague
Conlan	Lehman	Van Deerlin
Conyers	McKinney	Waxman
Corman	Mathis	Wilson, C. H.
de la Garza	Meeds	Winn
Derrick	Mikva	Young, Alaska
Diggs	Mink	Young, Ga.
Dingell	Moorhead, Pa.	
Drinan	Moss	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MANN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 14032, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 336 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to the spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER resumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On August 6, 1976:

H.R. 1558. An act for the relief of Doctor Gernot M. R. Winkler.

On August 9, 1976:

H.R. 1762. An act for the relief of Mrs. Lessie Edwards; and

H.R. 14233. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

On August 10, 1976:

H.R. 14514. An act to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

On August 12, 1976:

H.R. 5630. An act to increase benefits provided to American civilian internees in Southeast Asia.

On August 14, 1976:

H.J. Res. 738. Joint resolution providing for Federal participation in preserving the Tule elk population in California;

H.R. 1394. An act for the relief of Suk Chin and Hae Suk Chin;

H.R. 1395. An act for the relief of Mee Kyung Cho and Hee Kyung Cho;

H.R. 1396. An act for the relief of Sang Kook Chung and Hwa Soon Chung;

H.R. 1397. An act for the relief of Ae Sook Song and Mi Yun Lee;

H.R. 1425. An act for the relief of Juliet Elizabeth Tozzi;

H.R. 1507. An act for the relief of Marisa Marzano;

H.R. 1645. An act for the relief of Kevin Patrick Saunders;

H.R. 2118. An act for the relief of Cheryl Lynn V. Camacho;

H.R. 2278. An act for the relief of Mrs. Mary Saxton (Mary Nuku);

H.R. 2399. An act for the relief of Leonard Alfred Brownrigg;

H.R. 2411. An act for the relief of Alinor Anvari Adams;

H.R. 2495. An act for the relief of Miss Malgorzata Kuzniaek Czapowski;

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H.R. 2502. An act for the relief of Peter Olav Mesikepp;

H.R. 2565. An act for the relief of Luisa Marillac Hughes, Marco Antonio Hughes, Maria del Cisne Hughes, Maria Augusta Hughes, Miguel Vicente Hughes, Veronica del Rocio Hughes, and Ivan Hughes;

H.R. 2940. An act for the relief of Maria Sylvia Macias Elliott;

H.R. 2941. An act for the relief of Susan Rosemary Harwood;

H.R. 3372. An act for the relief of Tze Tsun Li;

H.R. 4053. An act for the relief of Roderic Patrick Stafford;

H.R. 5052. An act for the relief of Yolanda E. Vez;

H.R. 5500. An act for the relief of Rafael Strochlitz Wurzel;

H.R. 5648. An act for the relief of Violetta Cebreros;

H.R. 6093. An act for the relief of Maria D'Arpino;

H.R. 6392. An act for relief of Kovilika C. Clendeden;

H.R. 6687. An act for the relief of Doo Hoon Park;

H.R. 7404. An act for the relief of Christine Donnelly;

H.R. 7494. An act for the relief of Luigi Santaniello;

H.R. 7882. An act for the relief of Miss Leonor Young;

H.R. 7908. An act for the relief of Edward Drag;

H.R. 8557. An act for the relief of Carmen Thomas;

H.R. 8695. An act for the relief of Eugene Homsy Phillips;

H.R. 10076. An act for the relief of Mrs. Kazuko Scillion;

H.R. 11076. An act for the relief of Ok Ja Choi;

H.R. 12169. An act to amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes;

H.R. 13121. An act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter; and

H.R. 14234. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

On August 19, 1976:

H.R. 1402. An act for the relief of John W. Hollis;

H.R. 5752. An act for the relief of Lucie Stein;

H.R. 6156. An act for the relief of Walma T. Thompson;

H.R. 7896. An act to amend sections 2734a (a) and 2734b(a) of title 10, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombat activities of the armed forces, and for other purposes.

H.R. 9414. An act for the relief of TV Facts, Rochester, N.Y.;

H.R. 9965. An act for the relief of Boulder Daily Camera, Boulder, Colo.;

H.R. 10374. An act to amend section 2301 of title 44, United States Code, to change the membership of the National Archives Trust Fund Board; and

H.R. 13359. An act to authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes.

The SPEAKER. The committee will resume its sitting.

TOXIC SUBSTANCES CONTROL ACT

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Louisiana (Mr. MOORE) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 157, not voting 64, as follows:

[Roll No. 643]

AYES—210

Alexander	Gaydos	Moffett
Allen	Gilman	Mollohan
Ambro	Ginn	Montgomery
Andrews, N.C.	Goldwater	Moore
Andrews, N. Dak.	Goodling	Moorhead, Calif.
Archer	Gradison	Mottl
Armstrong	Grassley	Myers, Ind.
Ashbrook	Guyer	Natcher
Bafalis	Hagedorn	Neal
Baucus	Haley	Nedzi
Bauman	Hall, Ill.	Nichols
Beard, R.I.	Hall, Tex.	O'Brien
Beard, Tenn.	Hamilton	O'Hara
Bell	Hammer-schmidt	Paul
Bennett	Hannaford	Pettis
Bevill	Hansen	Pickle
Biaggi	Harkin	Pike
Blanchard	Harsha	Poage
Blouin	Hechler, W. Va.	Pressler
Boggs	Hefner	Pritchard
Bowen	Hightower	Quie
Breaux	Hillis	Railsback
Breckinridge	Hubbard	Regula
Brinkley	Hughes	Roberts
Broomfield	Hungate	Robinson
Brown, Ohio	Hutchinson	Roe
Buchanan	Hyde	Roush
Burgener	Ichord	Rousselot
Burke, Fla.	Jacobs	Runnels
Burke, Mass.	Jarman	Ruppe
Burleson, Tex.	Jeffords	St Germain
Butler	Jenrette	Sarasin
Carr	Johnson, Calif.	Satterfield
Cederberg	Johnson, Colo.	Schroeder
Clancy	Johnson, Pa.	Schulze
Clausen, Don H.	Jones, N.C.	Sharp
Clawson, Del	Kasten	Shipley
Cleveland	Kazen	Shuster
Cochran	Kelly	Sikes
Cohen	Kemp	Smith, Iowa
Collins, Tex.	Ketchum	Snyder
Cotter	Keys	Spence
Coughlin	Kindness	Steed
Crane	Krebs	Stephens
D'Amours	Krueger	Stratton
Daniel, Dan	LaFalce	Stuckey
Daniel, R. W.	Lagomarsino	Symms
Daniels, N.J.	Landrum	Talcott
Davis	Latta	Taylor, Mo.
Devine	Lent	Teague
Dickinson	Levitas	Thornton
Dodd	Lloyd, Calif.	Traxler
Downey, N.Y.	Lloyd, Tenn.	Treen
Downing, Va.	Long, La.	Vander Jagt
Duncan, Tenn.	Lott	Waggonner
Edgar	Lujan	Walsh
Emery	McDonald	Wampler
English	McEwen	White
Erlenborn	Madigan	Whitehurst
Evans, Ind.	Mahon	Whitten
Findley	Mann	Wirth
Fish	Martin	Wolff
Fithian	Mathis	Wright
Flowers	Matsunaga	Wydler
Flynt	Mazzoli	Wylie
Ford, Mich.	Melcher	Young, Fla.
Fountain	Milford	Young, Tex.
Frenzel	Miller, Ohio	Zablocki
Frey	Mills	Zeferetti
Fuqua	Mineta	
	Mitchell, N.Y.	

NOES—157

Addabbo	Harris	Quillen
Annunzio	Hawkins	Rangel
Ashley	Hayes, Ind.	Reuss
Bedell	Heckler, Mass.	Rhodes
Bergland	Helstoski	Richmond
Biester	Hicks	Rinaldo
Bingham	Holtzman	Rodino
Boland	Horton	Rogers
Bonker	Howard	Rooney
Brademas	Jordan	Rose
Brodhead	Kastenmeier	Rosenthal
Brooks	Koch	Rostenkowski
Broyhill	Leggett	Roybal
Burlison, Mo.	Long, Md.	Ryan
Burton, John	McClory	Sarbanes
Burton, Phillip	McCloskey	Scheuer
Byron	McCollister	Schneebeli
Carney	McCormack	Sebelius
Carter	McDade	Selberling
Clay	McFall	Shriver
Collins, Ill.	McHugh	Simon
Conable	McKay	Skubitz
Conte	Madden	Slack
Cornell	Maguire	Smith, Nebr.
Danielson	Metcalfe	Solarz
Delaney	Meyner	Spellman
Dellums	Mezvinsky	Staggers
Dent	Michel	Stanton, J. William
Derwinski	Mikva	Stanton, James V.
Diggs	Miller, Calif.	Stark
Dingell	Minish	Steiger, Wis.
Drinan	Mitchell, Md.	Stokes
Duncan, Oreg.	Moakley	Studds
Early	Morgan	Taylor, N.C.
Eckhardt	Mosher	Thompson
Edwards, Ala.	Murphy, Ill.	Thone
Edwards, Calif.	Murphy, N.Y.	Tsongas
Eilberg	Murtha	Udall
Evans, Colo.	Myers, Pa.	Ullman
Fary	Nix	Vander Veen
Fascell	Nolan	Vanik
Fenwick	Nowak	Vigorito
Fisher	Oberstar	Weaver
Flood	Obey	Whalen
Florio	O'Neill	Wiggins
Foley	Ottinger	Wilson, Bob
Ford, Tenn.	Patten, N.J.	Wilson, Tex.
Forsythe	Patterson, Calif.	Winn
Fraser	Pattison, N.Y.	Yates
Giaimo	Pepper	Yatron
Gibbons	Perkins	
Gonzalez	Preyer	
Gude	Price	
Harrington		

NOT VOTING—64

Abdnor	Esch	Moorhead, Pa.
Abzug	Eshleman	Moss
Adams	Evins, Tenn.	Passman
Anderson, Calif.	Green	Peyser
Anderson, Ill.	Hanley	Randall
Aspin	Hays, Ohio	Rees
AuCoin	Hébert	Riegle
Badillo	Heinz	Risenhoover
Baldus	Henderson	Roncalio
Bolling	Hinshaw	Russo
Brown, Calif.	Holland	Santini
Brown, Mich.	Holt	Sisk
Burke, Calif.	Howe	Steelman
Chappell	Jones, Ala.	Steiger, Ariz.
Chisholm	Jones, Okla.	Sullivan
Conlan	Jones, Tenn.	Symington
Conyers	Karth	Van Deerlin
Corman	Lehman	Waxman
de la Garza	Lundine	Wilson, C. H.
Derrick	McKinney	Young, Alaska
du Pont	Meeds	Young, Ga.
	Mink	

Mr. HEFNER changed his vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: Page 208, insert after line 19 the following:

STATE PROGRAMS

SEC. 28. (a) For the purpose of complementing (but not reducing) the authority of, or actions taken by, the Administrator

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under this Act, the Administrator may make grants to States for the establishment and operation of programs to prevent or eliminate unreasonable risks within the States to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable to take action under this Act for their prevention or elimination. The amount of a grant under this subsection shall be determined by the Administrator, except that no grant for any State program may exceed 75 per centum of the establishment and operation costs (as determined by the Administrator) of such program during the period for which the grant is made.

(b) (1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Administrator. Such an application shall be submitted in such form and manner as the Administrator may require and shall—

(A) set forth the need of the applicant for a grant under subsection (a),

(B) identify the agency or agencies of the State which shall establish or operate, or both, the program for which the application is submitted,

(C) describe the actions proposed to be taken under such program,

(D) contain or be supported by assurances satisfactory to the Administrator that such program shall, to the extent feasible, be integrated with other programs of the applicant for environmental and public health protection,

(E) provide for the making of such reports and evaluations as the Administrator may require, and

(F) contain such other information as the Administrator may prescribe.

(2) The Administrator may approve an application submitted in accordance with paragraph (1) only if the applicant has established to the satisfaction of the Administrator a priority need, as determined under rules of the Administrator, for the grant for which the application has been submitted. Such rules shall take into consideration the seriousness of the health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations, the extent of the exposure in a State of human beings and the environment to chemical substances and mixtures, and the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State.

(c) Not later than six months after the end of each of the fiscal years 1979, 1980, and 1981, the Administrator shall submit to the Congress a report respecting the programs assisted by grants under subsection (a) in the preceding fiscal year and the extent to which the Administrator has disseminated information respecting such programs.

(d) For the purpose of making grants under subsection (a) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1978, $1,000,000 for the fiscal year ending September 30, 1979, and $1,000,000 for the fiscal year ending September 30, 1980. Sums appropriated under this subsection shall remain available until expended.

Page 208, line 23, strike out "section 27" and insert in lieu thereof "sections 27 and 28".

Redesignate the succeeding sections accordingly.

Page 103, insert in the table of contents after the item relating to section 27 the following new item:

Sec. 28. State programs.

Redesignate the succeeding items in the table of contents accordingly.

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

(Mr. MAGUIRE asked and was given permission to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Chairman, I support this landmark legislation and rise to offer an amendment which would provide financial assistance to selected State to complement and augment the EPA efforts authorized under this bill.

My amendment will give the Administrator of EPA the authority to make grants to selected States, with severe problems related to toxic chemicals, like New Jersey, to cover up to 75 percent of the costs of establishing and operating programs to prevent or eliminate unreasonable risks in the States to health or the environment associated with chemical substances or mixtures. The grant money is earmarked for use in ways which will complement the activities already underway or being planned by EPA for the implementation of this Act and for activities which the Administrator is unable to undertake, because of inadequate resources or other higher priorities. It is not intended to, and will not replace, EPA's authority to require reporting, testing, or any other of the authorities given in this act.

We have before us a formidable challenge—to take stock of the chemical substances and mixtures now present in the environment and to undertake, in an equitable manner, the task of determining which substances may pose an unreasonable risk. It is a job so great that the Federal Government cannot be expected to handle it alone. The leadership in this effort properly belongs with the Federal Government but the States too will play an important role in the process.

Under this amendment assistance for programs, in selected States most heavily impacted by chemical pollution problems, will support further innovation and expansion on the existing body of knowledge in this field. The implications are significant for the chemical industry and the Nation. Teamwork of State and Federal Governments in tackling the problem of chemical pollution should ultimately prove more efficient for meeting the purposes of this act and could help to minimize the burden on industry in submitting information and data which will be required of them by this act.

This amendment gives the Administrator the authority to establish rules for evaluating applications for grant assistance. These rules shall take into consideration three basic criteria for determining priority need; first, the seriousness of health effects associated with chemical substances and mixtures including cancer, birth defects and gene mutations; second, the extent of exposure of human beings and the environment in a State to chemical substances and mixtures; and third, the extent to which chemical substances and mixtures are manufactured, processed, used and disposed of within a State. By these criteria we can be assured that a State receiving this assistance has an immediate need and that their experience in developing management procedures and multimedia monitoring and inventorying procedures will bolster EPA's efforts in building a nationwide approach for assessing the impact of chemical pollution on the public health and the environment.

Concern has been expressed that this provision might represent a "foot in the door" whereby the Environmental Protection Agency might take advantage of the grant program to pass some of its testing, monitoring, and enforcement responsibilities on to State agencies. This amendment has been carefully drafted to explicitly eliminate such a possibility.

I have discussed my amendment with the floor manager Chairman MURPHY, and with the majority and minority sponsors and I understand that it is acceptable to them. I would like to add that a similar amendment, sponsored by Senators WILLIAMS and CASE was accepted in the Senate version of the toxic substances bill.

My colleagues from New Jersey (Mr. FLORIO and Mr. RINALDO) join me in urging that this amendment be unanimously adopted.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding.

I want to compliment my colleague, the gentleman from New Jersey, on a well-thought-out amendment. It does perfect the bill. Some States do have a concentration of chemical industry within the confines of those States. This amendment would permit grants to be given to those States to protect themselves. I think the amendment supplements the legislation, and I will agree to the amendment.

Mr. MAGUIRE. I thank the gentleman.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

I understand this is only a 3-year program as envisioned in the bill?

Mr. MAGUIRE. That is correct. The amendment is for 3 years.

Mr. BROYHILL. For 3 years?

Mr. MAGUIRE. For 3 years; that is correct.

Mr. BROYHILL. There are only 3 years of authorization; it is not an unlimited authorization?

Mr. MAGUIRE. The gentleman is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. FENWICK: Page 205, line 10, after "(b) FEES.—" and insert "(1)".

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Page 205, line 14, after "$2,500" insert "or, in the case of a small business concern, any fee in excess of $100.00".

Page 205, after line 19, insert the following:

(2) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the persons which qualify as small business concerns for purposes of this subsection.

Mrs. FENWICK. Mr. Chairman, I ask unanimous consent that these amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

(Mrs. FENWICK asked and was given permission to revise and extend her remarks.)

Mrs. FENWICK. Mr. Chairman, I will not take the time of the House. These are small, simple amendments merely to make it possile for small businesses for which the $2,500 fee is a very grave difficulty. They are applied to persons required to submit data under sections 4 and 5 on request of the Administrator, and the $2,500 fee maximum is impossible particularly if there is more than one substance to be tested.

Mr. McCOLLISTER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. I thank the gentlewoman for yielding.

I commend the gentlewoman on her amendments and support them.

Mrs. FENWICK. I thank the gentleman.

Mr. MURPHY of New York. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentlewoman for yielding.

The gentlewoman states the case previously debated on protection for small business. It was inherent in the committee's intent in this legislation. We thank her for clarifying these amendments, and we will be happy to accept them.

Mrs. FENWICK. I thank the gentleman.

Mr. NOLAN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Minnesota.

Mr. NOLAN. I thank the gentlewoman for yielding.

I commend the gentlewoman for her amendments, and urge their adoption.

(Mr. NOLAN asked and was given permission to revise and extend his remarks.)

Mr. NOLAN. Mr. Chairman, I rise in support of the amendments. The $2,500 filing fee would work a severe hardship on small business enterprises who manufacture chemicals.

Many small manufacturers thrive on limited-volume specialty products. These chemicals are often produced in quantities as small as 2,000 pounds per year. This compares with the thousands of tons which some of the large manufacturers produce.

In addition, small companies often manufacture hundreds of these limited-volume chemicals. One Midwest company, for example, handles 1,000 different chemicals. Others produce an average of 200 or 300 chemical products. To impose repeated filing fees on these companies is destructive, unfair and unnecessary.

Proponents of the bill proudly point to its endorsement by 186 manufacturers who produce 90 percent of our chemicals. This amendment is designed to protect the 11,000 small businesses who produce the other 10 percent. Du Pont with $5 billion in yearly sales or Union Carbide with $3.5 can afford a $2.500 filing fee. But a small manufacturer with a few million dollars in sales will not long survive a series of hefty filing fees.

Mr. Chairman, I believe these amendments are worthy of support and I strongly urge my colleagues to adopt them.

Mrs. FENWICK. I thank the gentleman also for his endorsement and encouragement.

Mr. MAGUIRE. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. I thank the gentlewoman for yielding.

I commend the gentlewoman on her amendments. My colleague, the gentlewoman from New Jersey, has improved the bill in this respect, and I hope the amendments will be accepted.

Mrs. FENWICK. I thank my colleague for his comments.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: On page 208, between lines 19 and 20, insert the following new section:

"SUNSHINE IN GOVERNMENT

"SEC. 28. (a) Each officer or employee of the Administrator and the Secretary of Health, Education and Welfare who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest (A) in any person subject to this Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

"shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of Health, Education and Welfare, as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator and said Secretary shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator and said Secretary of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator and said Secretary may identify specific positions within the appropriate agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirementts of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Renumbered the succeeding sections.

Mr. HECHLER of West Virginia (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Chairman, I have a "Sunshine in Government" amendment to H.R. 14032, as reported, at the desk which is printed in the August 9, 1976 RECORD at page H8564. The amendment adds a new section 28 and renumbers the present sec-28 and succeeding sections.

Mr. Chairman, the purpose of this amendment is to bring more sunshine into Government. It is the same provision which the Congress adopted last December for the Federal Energy Administration and some of the employees of the Interior Department administering Public Law 94-163—the Energy Policy and Conservation Act. On May 20, 1976, the House adoptedthis provision for ERDA employees in H.R. 13350, which authorized appropriations for fiscal year 1977 for ERDA. Earlier this year, the House added it to H.R. 8560 for employees of Interior administering the Outer Continental Shelf leasing program and to H.R. 9560 for EPA employees administering the water pollution program. The House also added it to H.R. 1377, the public lands bill, for employees of Interior and to H.R. 13555, the mine health and safety bill, for Interior, HEW, and Labor employees. It was also added to H.R. 88401, the nuclear assurance bill, for ERDA employees. In addition, it is included in H.R. 12112, as reported by three committees, including the Interstate and Foreign Commerce Committee, for ERDA employees and in H.R. 14496 for EPA employees.

My amendment requires officers and employees of the agencies who perform any function under the Toxic Substances Act to file annually statements of any known financial interest in the persons subject to this bill or who receive financial assistance under the bill. Such statements would be available to the public and would have to be reviewed by EPA.

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Positions within EPA that are of a nonregulatory or nonpolicymaking nature could be exempted from this requirement by the Administrator.

The amendment does not prevent any employee from having such interests. It merely requires that they disclose such interests. It does not apply to consultants.

Currently, EPA and other Federal agencies require their employees who are at the GS–13 level or above and in a decisionmaking position to file financial interest statements which are not available to the public. This requirement is not based on any statutory provision but on a 1965 Executive Order No. 11222 and Civil Service Commission regulations. But the Executive order and regulations do not have any teeth. My amendment does.

Moreover, in a series of reports on the effectiveness of the financial disclosure system for agency employees, the GAO has found "deficiencies" in the system at Interior and several agencies, including in the collection and timely review of such statements, and the resolution of problems associated with the statements. In a March 3, 1975, report, the GAO said:

Many USGS employees have financial interests which appear to conflict with their Government duties. Many of these holdings violate the Organic Act of 1879. We believe that the ownership of these conflicting interests is due to deficiencies in the Department's financial disclosure system and that they will have to be corrected to prevent the situation that now exists from continuing.

To improve the effectiveness of the USGS financial disclosure system, we recommend that the Secretary of the Interior:

Review, and take remedial action on, the financial interests of USGS officials which raise conflict of interest possibilities or violate the Organic Act.

Prepare, keep current, and issue to USGS personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.

Require the Bureau Counselor to strictly adhere to the restrictions imposed on USGS employees by the Organic Act.

Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.

Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.

Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict of interest possibilities.

Require the USGS Counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.

Establish procedures for periodically reviewing financial disclosure statements to insure that Bureau Counselors adequately enforce conflict of interest regulations.

In a later report of December 1975, the GAO said that Interior was taking steps to improve the situation but the GAO said there were 1,435 additional employees who should file statements, of which 1,100 were below the GS–13 level.

The GAO made similar findings in eight other studies since late 1974.

My amendment makes it clear that the Administrator of EPA must periodically look at the positions to determine who should file and not base his decision on the grade level of the employee. It also mandates annual filing by the affected employee and review by the agency and provides criminal penalties for knowing violation. Adequate provision is made for the Administrator to define what a "known financial interest" is. Indeed, as example of such a definition, Interior published proposed regulations defining this term on March 22, 1976, for the purposes of Public Law 94–163. That definition, which is not yet finalized, of course, is as follows:

Any pecuniary interest of which an officer or employee is cognizant or of which he can reasonably be expected to have knowledge. This includes pecuniary interest in any person engaged in the business of exploring, developing, producing, refining, transporting by pipeline or distributing (other than at the retail level) coal, natural gas, or petroleum products, or in property from which coal, natural gas, or crude oil is commercially produced. This further includes the right to occupy or use the aforesaid business or property, or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest where the business arrangement from which the benefit is derived or expected to be derived has been entered into between the parties or their agents. With respect to officers or employees who are beneficiaries of "blind trusts," the disclosure is required only of interests that are initially committed to the blind trust, not of interests thereafter acquired of which the employee or officer has no actual knowledge.

Finally, the regulations would be expected to make it clear that public disclosure of financial statements shall be only for lawful purposes. A violation of this requirement is subject to criminal prosecution.

I urge adoption of my amendment.

Mr. MURPHY of New York. Mr. Chairman, if my colleague will yield, I think this is a worthy and constructive amendment. It would certainly prevent conflicts of interest or even allegations of conflicts of interest. The committee would be happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The amendment was agreed to.

Mr. DEVINE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to pending legislation. I would like to have the Members read and to pay attention to the minority views which appear on page 139 of the report. I will not enlarge on them due to the lateness of the hour.

Also I would like to point out that the administration opposes this legislation as it is now being considered. It objects to the requirement for the premarket notification on all new chemical substances, the reporting requirements on substances prior to manufacture, and the bill's unnecessarily broad definition for requiring testing of chemical substances.

I might add further that the adoption of the Moore amendment a few moments ago, which I voted for, makes the bill, in my opinion, even more objectionable to the administration and I cannot predict what the final outcome might be.

(Mr. DEVINE asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Chairman, I rise in vigorous opposition to the legislation H.R. 14032, Toxic Substances Control Act. In my estimation, this bill is nothing more than one more attempt to legislate Utopia by an unrealistic and a reckless Congress. The worthy intention of the legislation is good—to protect the health and welfare of the Nation's citizens. But when one considers that this goal is already being accomplished by at least 27 different laws now on the books, that the proposed new law could potentially run about 10,000 small companies out of business, and that the bill may be unconstitutional, one questions whether or not H.R. 14032 is really necessary. I think it is not.

There are at least three reasons why this bill should be soundly defeated. First, the bill has serious constitutional problems. Provisions of this legislation—section 11—provides for unconstitutional search or entry without a warrant. A person can be subjected to fine and imprisonment without trial by jury—section 16. This is a clear violation of the seventh amendment. Section 6 provides that the EPA Administrator may prohibit the manufacture of new chemicals by rulemaking procedures without due process, a violation of the 14th amendment. On constitutional grounds alone, then, this bill should be rejected.

Second, this bill would result in endless delay and would overload regulatory agencies. Similar regulations covering the safety and effectiveness of drugs currently are in effect in the Federal Drug Administration and have served to greatly burden the development and marketing of new drugs and medicines. With passage of this bill, the same type of testing could be required of all new chemicals. The EPA alone could be forced by environmental groups to process at least 300 and possibly over 1,000 new chemicals every year.

Third, it has been estimated that enactment of H.R. 14032 could force as many as 10,000 small chemical manufacturers out of business. It has pointed out today that the Toxic Substances Control Act is being supported by the chemical industry. While the Manufacturing Chemists Association, representing 186 of the largest chemical companies in the country, has come out in favor of this bill, the other 10,000 smaller companies involved in the chemical business, cannot possibly comply. The costs associated with compliance with many of the restrictive testing measures—testing costs per product have been estimated at between $50,000 and $800,000—would simply force them out of business.

For these reasons, Mr. Chairman, I urge my colleagues to vote down this unneces-

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sary, costly, and unconstitutional piece of legislation.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: Page 208, in line 23, strike out "$11,100,000" and insert in lieu thereof "$12,625,000"; in line 24 strike out "$10,100,000" adn insert in lieu thereof "$16,200,000"; and in line 25, strike out "$11,100,000" and insert in lieu thereof "$17,350,000".

Mr. MURPHY of New York. Mr. Chairman, my amendment increases the authorization levels contained in the legislation. The amendment would increase the authorizations for the 1978 fiscal year from $11.1 million to $12,625,000. It would increase the 1979 authorization from $10 million to $16.2 million, and it would increase the 1980 authorization from $11.1 million to $17.35 million.

The authorizations presently in the bill were based upon estimates made when it was assumed the bill would become effective during the 1975 fiscal year. Time delays and the budget deadlines have resulted in the effective date for the legislation being moved back to October 1977. As a result, anticipated inflation and increased costs of operation make it necessary to increase the levels of authorizations of appropriations for the first 3 years of operation under the bill.

The increased authorizations have been cleared by the Office of Management and Budget. The ranking minority members of our committee support the increase.

There should be absolutely no inflationary impact upon the economy as a result of this minor increase.

The need for the increased authorization is clearly demonstrated if one compares the authorization levels contained in this bill with the sums appropriated for administering other, similar programs. For example, the Congress has appropriated $39 million for administration of the Federal Insecticide, Fungicide, Rodenticide Act. Over $147 million have been appropriated for carrying out the Clean Air Act, and $422 million for operation of the Water Pollution Control Act. As you can see, the sums authorized here are far below those for any of these other similar programs. Even with the increased level of authorization, we will be authorizing the bare minimum necessary for effective implementation of this highly important legislation. I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: Page 169, insert "DEVELOPMENT," after "RESEARCH," in line 14.

Page 169, insert ", development," after "research" in lines 19 and 22.

Page 170, insert after line 26 the following:

(c) SCREENING TECHNIQUES.—The Administrator shall coordinate with the Assistant Secretary for Health research undertaken by the Administrator and directed toward the development of rapid, reliable, and economical screening techniques for carcinogenic, mutagenic, teratogenic, and ecological effects of chemical substances and mixtures.

(d) MONITORING.—The Administrator shall establish and be responsible for research aimed at the development, in cooperation with local, State, and Federal agencies, of monitoring techniques and instruments which may be used in the detection of toxic chemical substances and mixtures and which are reliable, economical, and capable of being implemented under a wide variety of conditions.

(e) BASIC RESEARCH.—The Administrator shall establish research programs to develop the fundamental scientific basis of the screening and monitoring techniques described in subsections (c) and (d), the bounds of their reliability of such techniques, and the opportunities for their improvement.

(f) MANPOWER TRAINING.—The Administrator shall establish and promote programs and workshops to train or facilitate the training of Federal laboratory and technical personnel in existing or newly developed screening and monitoring techniques.

(g) EXCHANGE OF RESEARCH AND DEVELOPMENT RESULTS.—The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate agencies, establish and coordinate a system for exchange among Federal, State, and local authorities of research and development results respecting toxic chemical substances and mixtures, including a system to facilitate and promote the development of standard data format and analysis and consistent testing procedures.

Page 208, insert after "other than section 27" in line 23 the following: "and subsections (a) and (c) through (g) of section 10".

Mr. MURPHY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

(Mr. MURPHY of New York asked and was given permission to revise and extend his remarks.)

Mr. MURPHY of New York. Mr. Chairman, this amendment is an amendment that would have been offered by the gentleman from California (Mr. BROWN), who is the chairman of the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology.

Mr. Chairman, this amendment provides additional guidance to the Administrator regarding research and development work conducted under the bill. It directs the Administrator to develop improved monitoring techniques and instruments for the detection of toxic chemical substances and mixtures. It also directs the Administrator to establish and promote programs to train Federal laboratory and technical personnel in existing or newly developed chemical screening and monitoring techniques. Because the authorization levels in this bill are extremely low, the moneys to carry on this expanded research and training program will come from authorization of appropriations provided in the legislation originating in the Committee on Science and Technology.

Mr. Chairman, this amendment provides constructive guidance and direction to the Environmental Protection Administration in carrying out research and related programs respecting toxic chemicals.

The subcommittee, chaired by the gentleman from California (Mr. BROWN), has invested considerable time and effort in reviewing current EPA research and development activities. This amendment would help overcome some of the shortcomings which exist in the present programs, and it should improve the research activities conducted under the auspices of the toxic substances legislation.

Mr. Chairman, I would urge acceptance of the amendment.

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield.

Mr. McCOLLISTER. Mr. Chairman, we have no objection to the amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the Committee on Science and Technology, I strongly support this amendment.

(Mr. HECHLER of West Virginia asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The amendment was agreed to.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my purpose in arising is to inquire of the gentleman from Nebraska (Mr. MCCOLLISTER) if the gentleman can explain the effect of the preemption provision on the ability of a State to meet local problems of great magnitude; as for example the Kepone problem, which is not a toxic substance, but one which illustrates a local problem that might arise. Will a State be foreclosed by this legislation from taking effective legislation on their own?

Mr. McCOLLISTER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Nebraska.

Mr. McCOLLISTER. Mr. Chairman, the State law is preempted only when the EPA has issued a rule under section 4, section 5 or section 6. If the EPA has not acted, the States are free to act. If the EPA has acted, then the States must apply for an exemption from the preemption.

Before the State can put a different requirement into effect, it has to ask for an exemption from the preemption.

This provision was designed to discourage differing State requirements which would put an undue burden on those companies that do business in a number of States.

Mr. BUTLER. Mr. Chairman, I thank the gentleman. I judge that in the absence of action by the EPA under section 4, 5, or 6, that the States are free to take

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whatever action they deem appropriate under the circumstances.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, there is nothing in this act that affects the right of States to act in their authority over disposal of hazardous properties or hazardous chemicals, for that matter.

Mr. BUTLER. Mr. Chairman, I recognize that and I appreciate the gentleman's contribution.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MANN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14032) to regulate commerce and protect health and the environment by requiring testing and necessary restrictions on certain chemical substances and mixtures, and for other purposes, pursuant to House Resolution 1458, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COLLINS of Texas. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COLLINS of Texas moves to recommit the bill H.R. 14032 to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. COLLINS of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 45, not voting 67, as follows:

[Roll No. 644]

YEAS—319

Addabbo	Fary	McCormack
Alexander	Fascell	McDade
Allen	Fenwick	McEwen
Ambro	Findley	McFall
Andrews, N.C.	Fish	McHugh
Andrews, N. Dak.	Fisher	McKay
Annunzio	Fithian	Madden
Ashley	Flood	Madigan
Asnley	Florio	Maguire
Bafalis	Flowers	Mahon
Baucus	Flynt	Mann
Bauman	Foley	Martin
Beard, R.I.	Ford, Mich.	Mathis
Bedell	Ford, Tenn.	Matsunaga
Bell	Forsythe	Mazzoli
Bennett	Fountain	Melcher
Bergland	Fraser	Metcalfe
Bevill	Frenzel	Meyner
Biaggi	Frey	Mezvinsky
Biester	Fuqua	Michel
Bingham	Gaydos	Mikva
Blanchard	Giaimo	Milford
Blouin	Gibbons	Miller, Calif.
Boggs	Gilman	Miller, Ohio
Boland	Ginn	Mills
Bonker	Gonzalez	Mineta
Bowen	Goodling	Minish
Brademas	Gradison	Mitchell, Md.
Breaux	Gude	Mitchell, N.Y.
Breckinridge	Guyer	Moakley
Brinkley	Hagedorn	Moffett
Brodhead	Haley	Mollohan
Brooks	Hall, Ill.	Moore
Broomfield	Hamilton	Morgan
Brown, Ohio	Hanley	Mosher
Broyhill	Hannaford	Motti
Buchanan	Harkin	Murphy, Ill.
Burgener	Harrington	Murphy, N.Y.
Burke, Fla.	Harris	Murtha
Burke, Mass.	Harsha	Myers, Pa.
Burlison, Mo.	Hawkins	Natcher
Burton, John	Hayes, Ind.	Neal
Burton, Phillip	Hechler, W. Va.	Nedzi
Butler	Heckler, Mass.	Nichols
Byron	Hefner	Nix
Carney	Helstoski	Nolan
Carr	Hicks	Nowak
Carter	Hightower	Oberstar
Clancy	Hillis	O'Brien
Clausen, Don H.	Holland	O'Hara
Clay	Holtzman	O'Neill
Cleveland	Horton	Patten, N.J.
Cochran	Howard	Patterson, Calif.
Cohen	Hubbard	Pattison, N.Y.
Collins, Ill.	Hughes	Pepper
Conable	Hungate	Perkins
Conte	Hyde	Pettis
Cornell	Jacobs	Pickle
Cotter	Jeffords	Pike
Coughlin	Johnson, Calif.	Poage
D'Amours	Jones, N.C.	Pressler
Daniel, Dan	Jordan	Preyer
Daniel, R. W.	Kasten	Price
Daniels, N.J.	Kastenmeier	Pritchard
Danielson	Kazen	Quie
Davis	Kemp	Quillen
Delaney	Ketchum	Railsback
Dellums	Keys	Rangel
Dent	Koch	Regula
Derwinski	Krebs	Reuss
Diggs	Krueger	Richmond
Dingell	LaFalce	Rinaldo
Dodd	Lagomarsino	Roberts
Downey, N.Y.	Landrum	Robinson
Downing, Va.	Latta	Rodino
Drinan	Leggett	Roe
Duncan, Oreg.	Lent	Rogers
Duncan, Tenn.	Levitas	Rooney
Early	Lloyd, Calif.	Rose
Eckhardt	Lloyd, Tenn.	Rosenthal
Edgar	Long, La.	Rostenkowski
Edwards, Calif.	Long, Md.	Roush
Eilberg	Lott	Roybal
Emery	Lujan	Ruppe
Erlenborn	McClory	Ryan
Evans, Colo.	McCloskey	St Germain
Sarasin	McCollister	Wampler
Sarbanes	Stark	Weaver
Satterfield	Steed	Whalen
Scheuer	Steiger, Wis.	White
Schroeder	Stephens	Whitehurst
Schulze	Stokes	Whitten
Seiberling	Stratton	Wilson, Bob
Sharp	Studds	Wilson, C. H.
Shriver	Talcott	Wilson, Tex.
Sikes	Taylor, N.C.	Winn
Simon	Teague	Wirth
Slack	Thompson	Wolff
Smith, Nebr.	Thone	Wright
Snyder	Thornton	Wydler
Solarz	Treen	Wylie
Spellman	Tsongas	Yates
Staggers	Udall	Yatron
Stanton, J. William	Ullman	Young, Fla.
Stanton, James V.	Vander Veen	Young, Tex.
	Vanik	Zablocki
	Vigorito	Zeferetti
	Walsh	

NAYS—45

Archer	Hammer-schmidt	Paul
Armstrong	Hansen	Rhodes
Ashbrook	Hutchinson	Rousselot
Beard, Tenn.	Ichord	Runnels
Cederberg	Jarman	Schneebeli
Clawson, Del	Jenrette	Sebelius
Collins, Tex.	Johnson, Colo.	Shipley
Crane	Johnson, Pa.	Shuster
Devine	Kelly	Smith, Iowa
Dickinson	Kindness	Stuckey
Edwards, Ala.	McDonald	Symms
English	Montgomery	Taylor, Mo.
Evans, Ind.	Moorhead, Calif.	Traxler
Goldwater	Myers, Ind.	Waggonner
Grassley		Wiggins
Hall, Tex.		

NOT VOTING—67

Abdnor	Esch	Ottinger
Abzug	Eshleman	Passman
Adams	Evins, Tenn.	Peyser
Anderson, Calif.	Green	Randall
Anderson, Ill.	Hays, Ohio	Rees
Aspin	Hébert	Riegle
AuCoin	Heinz	Risenhoover
Badillo	Henderson	Roncalio
Baldus	Hinshaw	Russo
Bolling	Holt	Santini
Brown, Calif.	Howe	Sisk
Brown, Mich.	Jones, Ala.	Skubitz
Burke, Calif.	Jones, Okla.	Spence
Burleson, Tex.	Jones, Tenn.	Steelman
Chappell	Karth	Steiger, Ariz.
Chisholm	Lehman	Sullivan
Conlan	Lundine	Symington
Conyers	McKinney	Van Deerlin
Corman	Meeds	Vander Jagt
de la Garza	Mink	Waxman
Derrick	Moorhead, Pa.	Young, Alaska
du Pont	Moss	Young, Ga.
	Obey	

The Clerk announced the following pairs:

Mr. Moorhead of Pennsylvania with Mr. Jones of Tennessee.

Ms. Abzug with Mr. Karth.

Mr. Badillo with Mr. Hébert.

Mr. Waxman with Mr. Evins of Tennessee.

Mr. Anderson of California with Mr. Symington.

Mr. Santini with Mr. Riegle.

Mr. Russo with Mr. Baldus.

Mr. Lehman with Mr. Conlan.

Mrs. Chisholm with Mr. Derrick.

Mr. Jones of Oklahoma with Mr. Abdnor.

Mr. Young of Georgia with Mr. du Pont.

Mr. Chappell with Mr. Esch.

Mrs. Burke of California with Mr. Passman.

Mrs. Mink with Mr. Eshleman.

Mr. AuCoin with Mr. Anderson of Illinois.

Mr. Brown of California with Mr. Hays of Ohio.

Mr. Conyers with Mr. Green.

Mr. Corman with Mr. Heinz.

Mr. de la Garza with Mr. Brown of Michigan.

Mr. Lundine with Mr. Henderson.

Mr. Meeds with Mr. Aspin.

Mr. Moss with Mrs. Holt.

Mr. Obey with Mr. Burleson of Texas.

Mr. Ottinger with Mr. Adams.

Mr. McKinney with Mr. Howe.

Mr. Rees with Mr. Jones of Alabama.

Mr. Risenhoover with Mr. Young of Alaska.

Mr. Roncalio with Mr. Randall.

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Mr. Sisk with Mr. Skubitz.
Mr. Spence with Mr. Steelman.
Mr. Van Deerlin with Mr. Steiger of Arizona.
Mr. Vander Jagt with Mrs. Sullivan.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, pursuant to the provisions of House Resolution 1458, I move that Committee on Interstate and Foreign Commerce be discharged from the further consideration of the Senate bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The motion was agreed to.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the Senate bill S. 3149 and to insert in lieu thereof the provisions of H.R. 14032, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Toxic Substances Control Act".

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Findings, policy, and intent.
Sec. 3. Definitions.
Sec. 4. Testing of chemical substances and mixtures.
Sec. 5. Manufacturing and processing notices.
Sec. 6. Regulation of hazardous chemical substances and mixtures.
Sec. 7. Imminent hazards.
Sec. 8. Reporting and retention of information.
Sec. 9. Relationship to other Federal laws.
Sec. 10. Research, collection, dissemination, and utilization of data.
Sec. 11. Inspections.
Sec. 12. Exports.
Sec. 13. Entry into customs territory of the United States.
Sec. 14. Disclosure of data.
Sec. 15. Prohibited acts.
Sec. 16. Penalties.
Sec. 17. Specific enforcement and seizure.
Sec. 18. Preemption.
Sec. 19. Judicial review.
Sec. 20. Citizens' civil actions.
Sec. 21. Citizens' petitions.
Sec. 22. National defense waiver.
Sec. 23. Employee protection.
Sec. 24. Employment effects.
Sec. 25. Studies.
Sec. 26. Administration of Act.
Sec. 27. Development and evaluation of test methods.
Sec. 28. State programs.
Sec. 29. Sunshine in government.
Sec. 30. Authorization for appropriations.
Sec. 31. Annual report.
Sec. 32. Rule review.
Sec. 33. Effective date.

FINDINGS, POLICY, AND INTENT

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

(1) humans and the environment are being exposed to a large number of chemical substances and mixtures each year;

(2) among the many chemical substances and mixtures constantly being developed and produced are some whose manufacture, processing, distribution in commerce, use, or disposal may cause or significantly contribute to an unreasonable risk to health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances and mixtures also necessitates the regulation of intrastate commerce in such chemical substances and mixtures.

(b) POLICY.—It is the policy of the United States that—

(1) hazardous and potentially hazardous chemical substances and mixtures should be adequately tested with respect to their effect on health and the environment and that such testing should be the responsibility of those who manufacture and those who process such chemical substances and mixtures;

(2) adequate authority should exist to regulate chemical substances and mixtures which cause or significantly contribute to an unreasonable risk to health or the environment, and to take action with respect to chemical substances and mixtures which are imminent hazards; and

(3) authority over chemical substances and mixtures should be exercised in such a manner as not unduly to impede, or to create unnecessary economic barriers to, technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances and mixtures do not cause or significantly contribute to an unreasonable risk to health or the environment.

(c) INTENT OF CONGRESS.—It is the intent of Congress that the Administrator shall carry out this Act in a reasonable and prudent manner, and that the Administrator shall consider the environmental, economic, and social impact of any action the Administrator proposes to take under this Act.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) (A) Except as provided in subparagraph (B), the term "chemical substance" means—

(i) any organic or inorganic substance of a particular molecular identity including a combination of such substances occurring (I) in whole or in part as a result of a chemical reaction, or (II) in nature, or

(ii) any element or uncombined radical.

(B) Such term does not include—

(i) any mixture,

(ii) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide,

(iii) tobacco or any tobacco product,

(iv) any source material, special nuclear material, or byproduct material (as such terms are defined in the Atomic Energy Act of 1954 and regulations issued under such Act),

(v) any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221 or any other provision of such Code), and

(vi) any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

The term "food" as used in clause (vi) of this subparagraph includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(3) The term "commerce" means trade, traffic, or transportation (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, or transportation described in clause (A).

(4) The term "distribute in commerce" or "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture means to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introducing or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(5) The term "environment" includes water, air, and land and the interrelationship which exist among and between water, air, and land and all living things.

(6) The term "health and safety study" means any study of any effect of a chemical substance or mixture on health or the environment, including epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this Act.

(7) The term "manufacture" means to import, produce, or manufacture.

(8) The term "mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include a combination which occurs, in whole or in part, as a result of a chemical reaction if each of the chemical substances comprising the combination is not a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(9) The term "new chemical substance" means any chemical substance not included in the chemical substance list compiled and published under section 8(b).

(10) The term "process" means the preparation of a chemical substance or mixture for distribution in commerce—

(A) in the same form or physical state, or in a different form or physical state from that in which it was received by the person making such preparation, or

(B) as part of an article containing the chemical substance or mixture.

(11) The term "processor" means any person who processes a chemical substance or mixture.

(12) The term "standards for the development of test data" means a prescription of—

(A) the—

(i) health and environmental effects, and

(ii) information relating to toxicity, persistence, and other characteristics which affect health and the environment,

for which test data for a chemical substance or mixture are to be developed and any analysis that is to be performed on such data, and

(B) to the extent necessary to assure that such data are reliable and adequate, the manner in which such data are to be developed, the specification of any test protocol or methodology to be employed in the development of such data, and such other requirements as are necessary to provide such assurance.

(13) The term "State" means any of the

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several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(14) The term "United States", when used in the geographic sense, means all the States.

TESTING OF CHEMICAL SUBSTANCES AND MIXTURES

SEC. 4. (a) TESTING REQUIREMENTS.—If the Administrator finds that—

(1)(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture or any combination of such actions may cause or significantly contribute to an unreasonable risk to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal or combination of such actions on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or any combination of such actions on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; and

(2) in the case of a mixture, the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal or any combination of such actions may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture;

the Administrator shall by rule require that testing be conducted on such substance or mixture to develop data with respect to the health and environmental effects for which there is an insufficiency of data and experience and which are relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or any combination of such actions does or does not cause or significantly contribute to an unreasonable risk to health or the environment.

(b)(1) TESTING REQUIREMENT RULE.—A rule under subsection (a) requiring the testing of a chemical substance or mixture shall include—

(A) identification of the substance or mixture for which testing is required,

(B) standards for the development of test data for such substance or mixture, and

(C) a specification of the period (which period may not be unreasonable) within which the persons required to conduct the testing shall submit to the Administrator data developed in accordance with the standards referred to in subparagraph (B).

In determining the standards and period to be included, pursuant to subparagraphs (B) and (C), in a rule under subsection (a), the costs of the various test protocols and methodologies which may be required under the rule and the reasonably foreseeable availability of facilities and personnel for performing testing under the rule. Such a rule may require the submission of preliminary data during the period prescribed under subparagraph (C).

(2)(A) The health and environmental effects for which standards for the development of test data may be prescribed include carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects, and any other effect which may cause or significantly contribute to an unreasonable risk to health or the environment, and the characteristics of chemical substances and mixtures for which such standards may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may cause or significantly contribute to such a risk. The methodologies that may be prescribed in such standards include epidemiology, serial, or hierarchical tests; in vitro tests; and whole animal tests. Before prescribing epidemiology tests in such standards, the Administrator shall consult with the Director of the National Institute for Occupational Safety and Health.

(B) From time to time, but not less than once each twelve months, the Administrator shall review the adequacy of the standards for development of data prescribed in rules under subsection (a) and shall, if necessary, institute proceedings to make appropriate revisions of such standards.

(3)(A) A rule under subsection (a) respecting a chemical substance or mixture shall require the persons described in subparagraph (B) to conduct tests and submit data on such substance or mixture, except that the Administrator may permit two or more of such persons to designate one such person or a qualified third party to conduct such tests and submit such data on behalf of the perosns making the designation.

(B) The following persons shall be required to conduct tests and submit data on a chemical substance or mixture subject to a rule under subsection (a):

(i) Each person who manufactures or intends to manufacture such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the manufacture of such substance or mixture.

(ii) Each person who processes or intends to process such substance or mixture if the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii) with respect to the processing of such substance or mixture.

(iii) Each person who manufactures or processes or intends to manufacture or process such substance or mixture for distribution in commerce if with respect to the distribution in commerce of such substance or mixture the Administrator makes a finding describing in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii).

(iv) Each person who manufactures or processes or intends to manufacture or process such substance or mixture if with respect to the disposal of such substance or mixture the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii).

(v) Each person who manufactures or processes or intends to manufacture or process such chemical substance or mixture for a use with respect to which the Administrator makes a finding described in subsection (a)(1)(A)(ii) or (a)(1)(B)(ii).

(4) A rule under subsection (a) requiring the testing of a chemical substance or mixture shall expire at the end of the reimbursement period (as defined in subsection (c)(3)(B)) applicable to test data for such substance or mixture, unless the Administrator repeals the rule before such date.

(5) Rules issued under subsection (a) (and any amendment thereto or repeal thereof) shall be promulgated pursuant to section 553 of title 5, United States Code, except that in promulgating, amending, or repealing any such rule (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; and (B) a transcript shall be made of any oral presentation. The Administrator may not promulgate a rule under subsection (a) respecting a substance or mixture unless the Administrator makes and publishes with the rule the findings described in paragraph (1)(A) or (1)(B) of such subsection and, in the case of a rule respecting a mixture, the finding described in paragraph (2) of such subsection.

(c) EXEMPTION.—(1) Any person required by a rule under subsection (a) to conduct tests and submit data on a chemical substance or mixture may apply to the Administrator (in such form and manner as the Administrator shall prescribe) for an exemption from such requirement.

(2) If, upon receipt of an application under paragraph (1), the Administrator determines that—

(A) the chemical substance or mixture (including any contaminant present in such substance or mixture) with respect to which such application was submitted is equivalent to a chemical substance or mixture for which data has been submitted to the Administrator in accordance with a rule under subsection (a) or for which data is being developed pursuant to such a rule, and

(B) submission of data by the applicant on such substance or mixture would be duplicative of data which has been submitted to the Administrator in accordance with such rule or which is being developed pursuant to such rule,

the Administrator shall exempt, in accordance with paragraph (3) or (4), the applicant from conducting tests and submitting data on such substance or mixture.

(3)(A) If the exemption of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the existence of previously submitted test data and if such exemption is granted during the reimbursement period for such test data (as prescribed by subparagraph (B)), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted such test data, for a portion of the costs incurred by such person in complying with the requirement to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the persons to be reimbursed and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) For purposes of subparagraph (A), the reimbursement period for any test data for a chemical substance or mixture is a period—

(i) beginning on the date such data was

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submitted in accordance with a rule promulgated under subsection (a), and

(ii) ending—

(I) five years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(4)(A) If the exemption of any person from the requirement to conduct tests and submit test data on a chemical substance or mixture is granted on the basis of the fact that test data is being developed by one or more persons pursuant to a rule promulgated under subsection (a), then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules by the Administrator)—

(i) to each such person who is developing such test data, for a portion of the costs incurred by each such person in complying with such rules, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to the costs of complying with such rule, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance or mixture, the Administrator shall consider the factors described in the second sentence of paragraph (3)(A). An order under this subparagraph shall, for purposes of judicial review, be considered final agency action.

(B) If an exemption is granted on the basis of the fact that one or more persons are developing test data pursuant to a rule promulgated under subsection (a) and if after such exemption is granted the Administrator determines that no such person has complied with such rule, the Administrator shall (i) after providing written notice to the person who holds such exemption and an opportunity for a hearing, by order terminate such exemption, and (ii) notify in writing such person of the requirements of the rule with respect to which such exemption was granted.

(d) NOTICE.—Upon the receipt of any test data pursuant to a rule under subsection (a), the Administrator shall, subject to section 14, promptly publish a notice of the receipt of such data in the Federal Register. Each such notice shall (1) identify the chemical substance or mixture for which data have been received; (2) list the uses or intended uses of such substance or mixture and the information required by the applicable standards for the development of test data; and (3) describe the nature of the test data developed. Except as otherwise provided in section 14, such data shall be made available by the Administrator for examination by any person.

(e) PRIORITY LIST.—(1)(A) There is established a committee to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule under subsection (a). In making such a recommendation with respect to any chemical substance or mixture, the committee shall consider all relevant factors, including—

(i) the quantities in which the substance or mixture is or will be manufactured,

(ii) the quantities in which the substance or mixture enters the environment,

(iii) the number of persons who will be exposed to the substance or mixture in their places of employment and the duration of such exposure,

(iv) the extent of human exposure to the substance or mixture,

(v) the extent to which the substance or mixture is closely related to a chemical substance or mixture which is known to cause or significantly contribute to an unreasonable risk to health or the environment,

(vi) the existence of data concerning the effects of the substance or mixture on health or the environment,

(vii) the extent to which testing of the substance or mixture may result in the development of data upon which the effects of the substance or mixture on health or the environment can reasonably be determined or predicted, and

(viii) the reasonably foreseeable availability of facilities and personnel for performing testing on the substance or mixture.

The recommendations of the committee shall be in the form of a list of chemical substances and mixtures which shall be listed, either by individual substance or mixture or by groups of substances or mixtures, in the order in which the committee determines the Administrator should take action under subsection (a) with respect to the substances and mixtures.

(B) Not later than twelve months after the effective date of this Act, the committee shall transmit to the Administrator the list required by subparagraph (A) together with the reasons for the committee's inclusion of each chemical substance or mixture on the lists. At least every six months after the transmission to the Administrator of the list pursuant to the preceding sentence, the committee shall make such revisions in the list as it determines to be necessary and shall transmit them to the Administrator together with the committee's reasons for the revisions. The Administrator shall make available to the public the list transmitted by the committee, any revision by the committee in such list (including the date on which such revision was transmitted to the Administrator), and the reasons of the committee for inclusion of a chemical substance or mixture on the list and for any revision in the list. The Administrator shall provide reasonable opportunity to any interested person to file with the Administrator written comments on the committee's list or any revision of the committee of such list and shall make such comments available to the public.

(C) The Administrator may promulgate a rule under subsection (a) with respect to a chemical substance or mixture which is not contained on a list published under this subsection.

(2)(A) The committee established by paragraph (1)(A) shall consist of eight members as follows:

(i) One member (or designee of the member) appointed from the Environmental Protection Agency by the Administrator.

(ii) One member (or designee of the member) appointed by the Secretary of Labor from officers of the Department of Labor engaged in the Secretary's activities under the Occupational Safety and Health Act of 1970.

(iii) One member (or designee of the member) appointed from the Council on Environmental Quality by the Chairman of the Council.

(iv) One member (or designee of the member) appointed from the National Institute for Occupational Safety and Health by the Director of the Institute.

(v) One member (or the designee of the member) appointed from the National Institute of Environmental Health Sciences by the Director of the Institute.

(vi) One member (or designee of the member) appointed from the National Cancer Institute by the Director of the Institute.

(vii) One member (or designee of the member) appointed from the National Science Foundation by the Director of the Foundation.

(viii) One member (or designee of the member) appointed from the Department of Commerce by the Secretary of Commerce.

A member may designate an individual to serve on the member's behalf only with the approval of the applicable appointing authority and only if the individual is from the entity from which the member was appointed. A vacancy in the committee shall be filled in the same manner in which the original appointment was made.

(B)(i) The term of office of a member of the committee is four years, except that of the members first appointed, four members shall have initial terms of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. If any member of the committee leaves the office or entity from which the member was appointed, such member may not continue as a member of the committee, and, for purposes of the preceding sentence, the member's position shall be considered as being vacant. A member may serve after the expiration of the member's term of office until a successor has taken office.

(ii) Initial appointments to the committee shall be made not later than the sixtieth day after the effective date of this Act. Not later than the ninetieth day after such date the members of the committee shall hold a meeting for the selection of a chairman from among their number and to determine, by lot, the four members who shall have initial terms of two years.

(C) The Administrator shall provide the committee such administrative support services as may be necessary for the committee to carry out its function under this subsection.

MANUFACTURING AND PROCESSING NOTICES

SEC. 5. (a) NOTIFICATION FOR MANUFACTURE OF NEW CHEMICAL SUBSTANCES.—On and after the date on which the Adminisrator first publishes under section 8(b) a list of chemical substances manufactured or processed in the United States, no person may manufacture a new chemical substances unless (except as provided in subsection (i) (relating to exemptions)) such peson—

(1) has, at least ninety days before such manufacture, submitted to the Administrator, in accordance with subsection (f) (relating to notice content), a notice of such person's intention to manufacture such substance, and

(2) has complied with any applicable requirement of subsection (d) (relating to submission of test data).

(b) NOTIFICATION FOR THE MANUFACTURE OR PROCESSING OF A CHEMICAL SUBSTANCE FOR A SIGNIFICANT NEW USE.—(1) No person may manufacture or process a chemical substance for a use which the Administrator has determined, in accordance with paragraph (2), is a significant new use of such substance unless (except as provided in subsection (i)) such person—

(A) has, at least ninety days before such manufacture or processing, submitted to the Administrator, in accordance with subsection (f), a notice of such person's intention to manufacture or process such substance for such use, and

(B) has complied with any applicable requirement of subsection (d).

(2) A determination by the Administrator that a new use of a chemical substance is a significant new use with respect to which notification is required under paragraph (1) or subsection (c)(1)(B) shall be made by a

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rule promulgated after a consideration of all relevant factors, including—

(A) the projected volume of manufacturing and processing of such substance for such use,

(B) the extent to which such use changes the type or form of exposure of humans or the environment to such substance, and

(C) the extent to which such use increases the magnitude and duration of exposure of humans or the environment to such substance.

The last sentence of section 19(c)(1) shall not apply to judicial review of any rule promulgated under this paragraph.

(c) NOTIFICATION FOR THE MANUFACTURE OR PROCESSING OF LISTED CHEMICAL SUBSTANCES.—(1)(A) No person may manufacture a chemical substance—

(i) which is listed under paragraph (2), and

(ii) which was a new chemical substance at the time of publication of the earliest proposed rule under paragraph (2) listing such substance,

unless (except as provided in subsection (i)) such person has, at least ninety days before such manufacture, submitted to the Administrator, in accordance with subsection (f), a notice of such person's intention to manufacture such substance and has complied with the requirement of subsection (d).

(B) No person may manufacture or process a chemical substance, listed under paragraph (2), for a use which the Administrator has determined, in accordance with subsection (b)(2), is a significant new use of such substance unless (except as provided in subsection (i)) such person—

(i) has, at least ninety days before such manufacture or processing, submitted to the Administrator, in accordance with subsection (f), a notice of such person's intention to manufacture or process such substance for such use, and

(ii) has complied with the requirement of subsection (d).

(2)(A)(i) Within twelve months after the effective date of this Act, the Administrator shall, by rule, compile, and from time to time thereafter revise, a list of chemical substances the manufacture, processing, distribution in commerce, use, or disposal of which, or any combination of such actions respecting which, the Administrator finds causes or significantly contributes to or may cause or significantly contribute to an unreasonable risk to health or the environment.

(ii) In making a finding under clause (i) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or any combination of such actions causes or significantly contributes to or may cause or significantly contribute to an unreasonable risk to health or the environment, the Administrator shall consider all relevant factors, including—

(I) the effects of the chemical substance on health and the magnitude of human exposure to it; and

(II) the effects of the chemical substance on the environment and the magnitude of environmental exposure to it.

(B) The Administrator shall, in prescribing a rule under subparagraph (A) which lists any chemical substance, identify those uses, if any, which the Administrator determines, in accordance with subsection (b)(2), would constitute a significant new use of such substance. The last sentence of section 19(c)(1) shall not apply to judicial review of any provision of a rule under subparagraph (A) which provision is prescribed pursuant to this subparagraph.

(C) Any rule under subparagraph (A), and any amendment or repeal of such a rule, shall be promulgated pursuant to the procedures specified in section 553 of title 5, United States Code, except that (i) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions, and (ii) a transcript shall be kept of any oral presentation. The Administrator may not promulgate under subparagraph (A) a rule listing a chemical substance unless the Administrator makes and publishes with the rule the finding described in such subparagraph.

(d) REQUIREMENT RESPECTING SUBMISSION OF TEST DATA.—(1)(A) If—

(i) a person is required by subsection (a), (b), or (c) to submit a notice to the Administrator before beginning the manufacture or processing of a chemical substance, and

(ii) such person is required to submit test data for such substance pursuant to a rule promulgated under section 4 before the submission of such notice or such person has been granted an exemption under section 4(c) from the requirement of such rule,

such person may not, before the expiration of the period prescribed by subparagraph (B), manufacture such substance if the person is subject to subsection (a) or (c)(1)(A) or manufacture of process such substance for a significant new use if the person is subject to subsection (b) or (c)(1)(B).

(B) The period referred to in subparagraph (A) is—

(i) in the case of a person required to submit test data pursuant to a rule promulgated under section 4(a) a period of ninety days which begins on the date on which such person submits to the Administrator such data in accordance with such rule, and

(ii) in the case of a person who under section 4(c) is exempt from a requirement to submit test data pursuant to a rule promulgated under section 4(a), a period of ninety days which begins on the date of the submission in accordance with such rule of the test data the submission or the development of which was the basis for the exemption.

(2)(A) If—

(i) a person is required by subsection (c) to submit a notice to the Administrator before beginning the manufacture or processing of a chemical substance, and

(ii)(I) a rule promulgated under section 4 before the submission of such notice requiring the submission of test data for such substance does not require such person to submit such data, or

(II) the Administrator has not promulgated such a rule for such substance before the submission of such notice,

such person may not, before the expiration of the ninety-day period which begins on the date such person submits to the Administrator data prescribed by subparagraph (B), manufacture such substance if such person is subject to subsection (c)(1)(A) or manufacture or process such substance for a significant new use if such person is subject to subsection (c)(1)(B).

(B) Data submitted pursuant to subparagraph (A) shall be data which the person submitting the data believes show that—

(i) in the case of a substance for which notice is required under subsection (c)(1)(A), the manufacture, processing, distribution in commerce, use, and disposal of the chemical substance or any combination of such actions would not cause or significantly contribute to an unreasonable risk to health or the environment, or

(ii) in the case of a chemical substance for which notice is required under subsection (c)(1)(B), the intended significant new use of the chemical substance would not cause or significantly contribute to an unreasonable risk to health or the environment.

(3) Data submitted under paragraph (1) or (2) shall be made available, subject to section 14, for examination by interested persons.

(e) EXTENSION OF NOTICE PERIOD.—The Administrator may for good cause extend for one additional period of not to exceed ninety days the period, prescribed by subsection (a), (b), (c), or (d), before which the manufacturing or processing of a chemical substance subject to such subsection may begin. Subject to section 14, such an extension and the reasons therefor shall be published in the Federal Register and shall constitute a final agency action subject to judicial review.

(f) CONTENT OF NOTICE; PUBLICATION IN THE FEDERAL REGISTER.—(1) The notice required by subsections (a), (b), and (c) respecting a chemical substance shall include—

(A) the name of the chemical substance;

(B) the chemical identity and molecular structure of the substance, insofar as such are reasonably ascertainable;

(C) the proposed categories of use of such substance, insofar as such are reasonably ascertainable;

(D) a reasonable estimate of the amount of the substance to be manufactured or processed and, insofar as reasonably ascertainable, a reasonable estimate of the amount of the substance to be manufactured or processed for each proposed category of use of the substance;

(E) a description of the byproducts, if any, resulting from the manufacture, processing, use, or disposal of the substance, insofar as such are reasonably ascertainable; and

(F) any test data in the possession or control of the person giving such notice which are related to the effect on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the substance or any article containing such substance.

Such a notice shall be made available, subject to section 14, for examination by interested persons.

(2) Subject to section 14, not later than five days (excluding Saturdays, Sundays and legal holidays) after the date of the receipt of a notice under subsection (a), (b), or (c) or data under subsection (d) the Administrator shall publish in the Federal Register a notice which—

(A) identifies the chemical substance for which notice or data has been received;

(B) lists the uses or intended uses of such substance; and

(C) in the case of the receipt of data under subsection (d), describes the nature of the tests performed on such substance and any data which was developed pursuant to subsection (d) or a rule under section 4.

Notice under this paragraph respecting a chemical substance shall identify the chemical substance by generic class unless the Administrator determines that more specific identification is required in the public interest.

(g) REGULATION PENDING DEVELOPMENT OF INFORMATION.—(1)(A) The district courts of the United States shall, upon application of the Administrator made through attorneys of the Environmental Protection Agency, have jurisdiction to enjoin in accordance with subparagraph (B), the manufacture, processing, or distribution in commerce of a chemical substance subject to a notification requirement of subsection (a), (b), or (c) if the court finds that—

(i) information available to the Administrator is insufficient to permit a reasoned evaluation of the effects on health or the environment of the manufacture, processing, distribution in commerce, use, or disposal of such chemical substance or any combination of such actions, and

(ii) in the absence of such information, the manufacture, processing, distribution in commerce, use, or disposal of such substance or any combination of such actions may

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cause or significantly contribute to an unreasonable risk to health or the environment.

(B) An injunction issued under subparagraph (A) with respect to a chemical substance subject to a notification requirement under subsection (b) or (c)(1)(B) respecting a significant new use of such substance shall apply only to the manufacture, processing, or distribution in commerce, as the case may be, of the substance for such use.

(C) An injunction issued under subparagraph (A) with respect to a chemical substance shall expire—

(i) upon the expiration of the five-day period beginning on the day after the issuance of the injunction, if the Administrator does not within such period publish the notice required by paragraph (2), or

(ii) if the Administrator publishes such notice within such period, upon the completion or termination of the proceeding begun by publication of such notice.

(2)(A) Within five days after the issuance of an injunction under paragraph (1) with respect to a chemical substance, the Administrator shall publish, in accordance with section 553(b) of title 5, United States Code, a general notice of proposed rulemaking to begin proceedings for the promulgation of a rule to apply to such substance one or more of the requirements described in section 6(a) as is necessary to adequately protect against the risk to health or the environment found by the court under paragraph (1)(A)(ii).

(B) Upon publication of such a notice the Administrator shall, as expeditiously as possible, provide reasonable opportunity for a hearing (in accordance with paragraphs (2) and (3) of section 6(c)) on such proposed rule, and either adopt such rule (as proposed or with modifications) or by notice published in the Federal Register terminate the proceeding for the promulgation of the rule. If such a hearing is requested, the Administrator shall commence the hearing within fifteen days from the date such request is made unless the Administrator and each person making the request agree upon a later date for the hearing to begin, and after the hearing is concluded the Administrator shall, within thirty days of the conclusion of the hearing, either adopt such rule (as proposed or with modifications) or terminate the proceeding (as prescribed in the preceding sentence).

(3) After a rule promulgated under paragraph (2) has taken effect any person may petition the Administrator to initiate a proceeding to amend or repeal such rule. Within thirty days of the receipt of such a petition, the Administrator shall by order either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly initiate a proceeding for the amendment or repeal, as the case may be, of such rule. Such a proceeding shall be conducted in accordance with paragraphs (2) and (3) of section 6(c).

(h) PETITION FOR STANDARDS FOR THE DEVELOPMENT OF TEST DATA.—A person intending to manufacture or process a chemical substance for which notice is required under subsection (a), (b), or (c) and who is not required under a rule under section 4 to conduct tests and submit data on such substance may petition the Administrator to prescribe standards for the development of test data for such substance. The Administrator shall either grant or deny any such petition within sixty days of its receipt. If the petition is granted, the Administrator shall prescribe such standards for such substance within seventy-five days of the date the petition is granted. If the petition is denied, the Administrator shall publish in the Federal Register the reasons for such denial.

(i) EXEMPTION.—(1) The Administrator may, upon application (made in such form and manner as the Administrator may prescribe) exempt any person from the requirement of subsection (a), (b), (c), or (d) or of any combination of such subsections to enable such person to manufacture or process a chemical substance for test marketing purposes—

(A) upon a showing by such person satisfactory to the Administrator that the manufacture, processing, distribution in commerce, use, and disposal of such substance for such purposes would not cause or significantly contribute to any unreasonable risk to health or the environment, and

(B) under such restrictions as the Administrator considers appropriate.

Within forty-five days of the receipt of an application under this paragraph the Administrator shall either approve or deny such application.

(2)(A) The Administrator may upon application (made in such form and manner as the Administrator may prescribe) exempt any person from the requirement of subsection (d)(2) to submit data for a chemical substance. If, upon receipt of an application under the preceding sentence, the Administrator determines that—

(i) the chemical substance (including any contaminant present in such substance) with respect to which such application was submitted is equivalent to a chemical substance for which data has been submitted to the Administrator in accordance with subsection (d)(2), and

(ii) submission of data by the applicant on such substance would be duplicative of data which has been submitted to the Administrator in accordance with such subsection,

the Administrator shall exempt the applicant from submitting such data on such substance. No exemption granted under this subparagraph with respect to the submission of data for a chemical substance may take effect before the beginning of the reimbursement period applicable to such data.

(B) If the Administrator, under subparagraph (A), exempts any person from submitting under subsection (d)(2) data for a chemical substance because of the existence of previously submitted data and if such exemption is granted during the reimbursement period for such data, then (unless such person and the persons referred to in clauses (i) and (ii) agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount determined under rules of the Administrator)—

(i) to the person who previously submitted the data on which the exemption was based, for a portion of the costs incurred by such person in complying with the requirement under subsection (d)(2) to submit such data, and

(ii) to any other person who has been required under this subparagraph to contribute with respect to such costs, for a portion of the amount such person was required to contribute.

In promulgating rules for the determination of fair and equitable reimbursement to the persons described in clauses (i) and (ii) for costs incurred with respect to a chemical substance, the Administrator shall consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the persons to be reimbursed and the share of the market for such substance of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed. An order under this subparagraph shall be considered final agency action, for purposes of judicial review.

(C) For purposes of this paragraph, the reimbursement period for any previously submitted data for a chemical substance is a period—

(i) beginning on the date of the termination of the prohibition, imposed under this section, on the manufacture or processing of such substance by the person who submitted such data to the Administrator, and

(ii) ending—

(I) five years after the date referred to in clause (i), or

(II) at the expiration of a period which begins on the date referred to in clause (i) and is equal to the period which the Administrator determines was necessary to develop such data,

whichever is later.

(3) The requirements of subsections (a), (b), (c), and (d) do not apply with respect to the manufacturing or processing of any chemical substance which is manufactured or processed, or proposed to be manufactured or processed, only in small quantities (as defined by the Administrator by rule) solely for—

(A) scientific experimentation or analysis, or

(B) chemical research or analysis on such substance or another substance, including such research or analysis for the development of a product,

if all persons engaged in such experimentation, research, or analysis for a manufacturer or processor are notified (in such form and manner as the Administrator may prescribe) of any risk to health which the manufacturer or processor has reason to believe may be associated with such chemical substance.

(4)(A) The requirements of subsections (a) and (c)(1)(A) do not apply with respect to the manufacturing or processing of any chemical substance which is the same as a listed chemical substance.

(B) For purposes of subparagraph (A), a chemical substance shall not be considered as different from a listed chemical substance solely because—

(i) the proportion of the inert chemical substances which are present in the listed chemical substance is different from the proportion of such substances present in the chemical substance being compared to the listed chemical substance; or

(ii) an inert listed chemical substance has been added to or deleted from the chemical substance being compared.

(C) For purposes of this paragraph—

(i) the term "inert chemical substance" means a chemical substance which when combined with other chemical substances to produce another chemical substance does not react chemically with such other chemical substances; and

(ii) the term "listed chemical substance" means a chemical substance included in the list compiled and published under section 8(b).

(5) The Administrator may, upon application, by rule exempt the manufacturer of any new chemical substance from all or part of the requirements of this section if the Administrator determines that such chemical substance will not cause or significantly contribute to an unreasonable risk to health or the environment. A rule under this paragraph (and any substantive amendment to, or repeal of, such a rule) shall be promulgated in accordance with paragraphs (2) and (3) of section 6(c).

(j) DEFINITION.—For purposes of this section, the terms "manufacture" and "process" mean to manufacture or to process for commercial purposes.

REGULATION OF HAZARDOUS CHEMICAL SUBSTANCES AND MIXTURES

SEC. 6. (a) SCOPE OF REGULATION.—If the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture

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or any combination of such actions causes or significantly contributes to or will cause or significantly contribute to an unreasonable risk to health or the environment, the Administrator shall by rule apply to such substance or mixture one or more of the following requirements as is necessary to adequately protect against such risk:

(1) A requirement prohibiting the manufacturing, processing, or distribution in commerce of such substance or mixture or limiting the amount of such substance or mixture which maybe manufactured, processed, or distributed in commerce.

(2) A requirement—

(A) prohibiting the manufacture, processing, or distribution in commerce of such substance or mixture for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement, or

(B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement.

(3) A requirement that such substance or mixture or any article containing such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal or with respect to both. The form and content of such warnings and instructions shall be prescribed by the Administrator.

(4) A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture.

(5)(A) A requirement regulating the manner or method of disposal of such substance or mixture or article containing such substance or mixture by its manufacturer or processor or any other person who uses it for commercial purposes.

(B) A requirement under subparagraph (A) may not require any person to take any action which would be in violation of any law or requirement of or in effect for a State or political subdivision, and shall require each person subject to it to notify each State and political subdivision in which a required disposal may occur of such requirement.

(6) If the rule imposes on a chemical substance or mixture a requirement described in paragraph (1) or (2), a requirement directing the manufacturer, processor, or distributor in commerce of such substance or mixture or article containing such substance or mixture or directing any combination of such persons (A) to give notice of such risk to processors or distributors in commerce of such substance, mixture, or article, or to both, and to the extent reasonably ascertainable, to any other person in possession of or exposed to such substance, mixture, or article; (B) to give public notice of such risk; or (C) to give both such notices.

A requirement imposed under this subsection shall be the least burdensome requirement necessary to adequately protect against the risk with respect to which the requirement was imposed and may be limited in application to specified geographic areas.

(b) PROTECTION AGAINST ADULTERATION OR CONTAMINATION OF SUBSTANCES AND MIXTURES.—If the Administrator has good cause to believe that a particular manufacturer or processor is manufacturing or processing a chemical substance or mixture in a manner which unintentionally causes the chemical substance or mixture to cause or significantly contribute to or to be likely to cause or significantly contribute to an unreasonable risk to health or the environment—

(1) the Administrator may by order require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or mixture; and

(2) if the Administrator determines after the issuance of an order described in paragraph (1)—

(A) that such quality control procedures are inadequate to prevent the chemical substance or mixture from causing or significantly contributing to such risk, the Administrator may order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy; or

(B) that the use of such quality control procedures has resulted in the distribution in commerce of chemical substances or mixtures which cause or significantly contribute to an unreasonable risk to health or the environment, the Administrator may order the manufacturer or processor to (i) give notice of such risk to processors or distributors in commerce of any such substance or mixture, or to both, and, to the extent reasonably ascertainable, to any other person in possession of or exposed to any such substance, (ii) to give public notice of such risk, and (iii) to provide such replacement or repurchase of any such substance or mixture as is necessary to adequately protect health or the environment.

A determination under subparagraph (A) or (B) of paragraph (2) shall be made on the record after opportunity for hearing in accordance with section 554 of title 5, United States Code. The manufacturer or processor subject to a requirement to replace or repurchase a chemical substance or mixture may decide whether to replace or repurchase the substance or mixture and shall take either such action in the manner prescribed by the Administrator.

(c) PROMULGATION OF SUBSECTION (a) RULES.—(1) In promulgating any rule under subsection (a) with respect to a chemical substance or mixture, the Administrator shall consider all relevant factors and make findings with respect to—

(A) the effects of such substance or mixture on health and the magnitude of human exposure to such substance or mixture,

(B) the effects of such substance or mixture on the environment and the magnitude of environmental exposure to such substance or mixture,

(C) the benefits of such substance or mixture for various uses and the availability of other substances or mixtures for such uses, and

(D) the reasonably ascertainable economic consequences of such rule taking into account the impact on small business.

If the Administrator determines that a risk to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under another Federal law (or laws) administered in whole or in part by the Administrator, the Administrator may not promulgate a rule under subsection (a) to protect against such risk unless the Administrator makes a finding that it is in the public interest to protect against such risk under such rule taking into consideration all aspects of the risk, the authorities under this Act and such other law (or laws) to enforce actions taken under this Act or such law (or laws) to protect against such risk, a comparison of the estimated costs of complying with actions taken under this Act and under such law (or laws), and the relative efficiency of actions under this Act and under such law (or laws). In the judicial review of a rule under subsection (a) the last sentence of section 19(c)(1) shall not apply with respect to the determinations and findings required to be made by this paragraph.

(2)(A) Rules under subsection (a) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule (i) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (ii) a transcript shall be kept of any oral presentation; and (iii) during any such oral presentation, the Administrator shall include an opportunity for cross-examination as provided in subparagraph (B). The Administrator may not promulgate a rule under subsection (a) respecting a chemical substance or mixture unless the Administrator makes and publishes with the rule the finding described in such subsection.

(B) An interested person is entitled, if the Administrator determines that it is necessary to resolve disputed issues of material fact, to conduct or have conducted by the Administrator such cross-examination of persons as the Administrator determines (i) to be appropriate in view of any need for expedition, the nature of the issues involved, and the number of participants and the nature of their interests, and (ii) to be required for a full and true disclosure with respect to such issues.

(C)(i) If the Administrator determines that a group of persons, each of whom would but for this subparagraph be entitled to conduct (or have conducted) cross-examination, has the same or similar interests in a proceeding, the Administrator may (I) conduct cross-examination on behalf of such group, or (II) require such group to designate a single representative of such interests for purposes of conducting cross-examination in such proceeding and such representative shall, except as provided in clause (ii), conduct such cross-examination. If such group cannot agree upon a single representative for such purposes, the Administrator may limit the representation of such interests for such purposes.

(ii) When any person who is a member of a group with respect to which the Administrator has made a determination under clause (i) is unable to agree upon group representation with the other members of the group, then such person shall not be denied under the authority of such clause the opportunity to conduct (or have conducted) cross-examination as to issues affecting the person's particular interests if (I) the person satisfies the Administrator that the person has made a reasonable and good faith effort to reach agreement upon group representation with the other members of the group and (II) the Administrator determines that there are substantial and relevant issues which are not adequately presented by the group representative.

(D) The Administrator may issue procedural rules for the conduct of any oral presentation (including cross-examination) under this paragraph and may impose such reasonable time limits on each person's oral presentations authorized by this paragraph as may be appropriate in view of any need for expedition, the nature of the issues involved, and the number of participants and the nature of their interests.

(E) In the judicial review of a rule under subsection (a) the last sentence of section 19(c)(1) shall not apply to any determination of the Administrator under this paragraph.

(3)(A) The Administrator may, pursuant to rules prescribed by it, provide compensation for reasonable attorneys' fees, expert witness fees, and other costs of participating in a rulemaking proceeding for the promulgation of a rule under subsection (a) to any person who represents an interest which will substantially contribute to a fair determination of the issues to be resolved in the proceeding taking into account the number

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and complexity of such issues and whether representation of such interest will contribute to widespread public participation in the proceeding and representation of a fair balance of interests for the resolution of such issues if—

(i) the economic interest of such person is small in comparison to the costs of effective participation in the proceeding by such person, or

(ii) such person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources adequately to participate in the proceeding in the absence of compensation under this subparagraph.

In determining whether compensation should be provided to a person under this subparagraph and the amount of such compensation, the Administrator shall take into account the financial burden which will be incurred by such person in participating in the rulemaking proceeding.

(B) The aggregate amount of compensation paid under this paragraph in any fiscal year to all persons who, in rulemaking proceedings in which they receive compensation, are persons who either—

(i) would be regulated by the proposed rule, or

(ii) represent persons who would be so regulated, may not exceed 25 per centum of the aggregate amount paid as compensation under this paragraph to all persons in such fiscal year.

(4) Paragraphs (1), (2), and (3) of this subsection apply to the promulgation of a rule repealing, or making a substantive amendment to, a rule promulgated under subsection (a).

(d) EFFECTIVE DATE.—(1) The Administrator shall specify in any rule under subsection (a) the date on which it shall take effect, which date shall be as soon as feasible.

(2)(A) The Administrator may declare a proposed rule under subsection (a) to be effective upon its publication in the Federal Register and until the effective date of final action taken, in accordance with subparagraph (B), respecting such rule if—

(i) the Administrator determines that—

(I) the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture subject to such proposed rule or any combination of such activities is likely to result in an unreasonable risk of serious or widespread harm to health or the environment before such effective date; and

(II) making such proposed rule so effective is necessary to protect the public interest; and

(ii) in the case of a proposed rule to prohibit the manufacture, processing, or distribution of a chemical substance or mixture because of the risk determined under clause (i)(I), a court has in an action under section 7 granted relief with respect to such risk associated with such substance or mixture.

(B) If the Administrator makes a proposed rule effective upon its publication in the Federal Register, the Administrator shall, as expeditiously as possible, give interested persons prompt notice of such action, provide reasonable opportunity, in accordance with paragraphs (2) and (3) of subsection (c), for a hearing on such rule, and either affirm such rule (as proposed or with modifications) or revoke it; and if such a hearing is requested, the Administrator shall commence the hearing within five days from the date such request is made unless the Administrator and the person making the request agree upon a later date for the hearing to begin, and after the hearing is concluded the Administrator shall, within ten days of the conclusion of the hearing, either affirm such rule (as proposed or with modifications) or revoke it.

(e) Polychlorinated Biphenyls.—(1) Within 6 months after the effective date of this Act the Administrator shall initiate proceedings for the promulgation of rules to—

(A) prescribe methods for the disposal of polychlorinated biphenyls, and

(B) require polychlorinated biphenyls to be marked with clear and adequate warnings and instructions with respect to their processing, distribution in commerce, use, or disposal or with respect to any combination of such activities.

Requirements prescribed by rules under this paragraph shall be consistent with the requirements prescribed by or under paragraphs (2) and (3).

(2)(A) Except as provided under subparagraph (B), effective one year after the effective date of this Act no person may manufacture, process, or distribute in commerce any polychlorinated biphenyl for any use other than a use in a totally enclosed manner.

(B) The Administrator may by rule authorize the manufacture, processing, or distribution in commerce (or any combination of such activities) of any polychlorinated biphenyl for any use other than a use in a totally enclosed manner if the Administrator finds that such manufacture, processing, or distribution in commerce (or combination of such activities) will not cause or significantly contribute to an unreasonable risk to health or the environment.

(C) for the purposes of this paragraph, the term "totally enclosed manner" means any manner which will ensure that any leakage of a polychlorinated biphenyl from its enclosure will be insignificant as determined by the Administrator by rule.

(3)(A) Except as provided in subparagraphs (B) and (C), effective two years after the effective date of this Act no person may manufacture any polychlorinated biphenyl, and effective two and one-half years after such effective date no person may process or distributed in commerce any polychlorinated biphenyl.

(B) Any interested person may petition the Administrator for an exemption from the requirements of subparagraph (A) for a particular use of a polychlorinated biphenyl, and the Administrator may grant by rule such an exemption if the Administrator determines that—

(i) the exemption is necessary for the protection of the health or environment, and

(ii) good faith efforts have been made to develop a chemical substance which may be substituted for such polychlorinated biphenyl in such use and which does not cause or significantly contribute to an unreasonable risk to health or the environment.

An exemption granted under this subparagraph shall be subject to such terms and conditions as the Administrator may prescribe and shall be in effect for such period (but not more than one year from the date it is granted) as the Administrator may prescribe.

(C) Subparagraph (A) shall not apply to the distribution in commerce of any article containing any polychlorinated biphenyl if such article was manufactured before two and one half years after the effective date of this Act.

(4) Any rule under paragraph (1), (2)(B), or (3)(B) shall be promulgated in accordance with paragraphs (2) and (3) of subsection (c).

IMMINENT HAZARDS

SEC. 7. (a) ACTIONS AUTHORIZED AND REQUIRED.—(1) The Administrator may file an action in a district court of the United States—

(A) for seizure of an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture,

(B) for relief (as authorized by subsection (b)) against any person who manufactures, processes, or distributes in commerce an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture, or

(C) for both such seizure and relief.

An action may be filed under this paragraph notwithstanding the existence of a rule under section 4, 5, or 6, and notwithstanding the pendency of any administrative or judicial proceeding under any provision of this Act.

(2) If the Administrator has not made a rule under section 6(a) immediately effective (as authorized by subsection 6(d)(2)(A)(i)) with respect to an imminently hazardous chemical substance or mixture, the Administrator shall file in a district court of the United States with respect to such substance or mixture or article containing such substance or mixture an action described in subparagraph (A), (B), or (C) or paragraph (1).

(b) JURISDICTION OF COURT.—(1) The district court of the United States in which an action under subsection (a) is brought shall have jurisdiction to grant such temporary or permanent relief as may be necessary to protect health or the environment from the unreasonable risk associated with the chemical substance, mixture, or article involved in such action.

(2) In the case of an action under subsection (a) brought against a person who manufactures, processes, or distributes in commerce a chemical substance or mixture or an article containing a chemical substance or mixture, the relief authorized by paragraph (1) may include the issuance of a mandatory order requiring (A) in the case of purchasers of such substance, mixture, or article known to the defendant, notification to such purchasers of the risk associated with it; (B) public notice of such risk; (C) recall; (D) the replacement or repurchase of such substance, mixture, or article; or (E) any combination of the actions described in the preceding clauses.

(3) In the case of an action under subsection (a) against a chemical substance, mixture, or article, such substance, mixture, or article may be proceeded against by process of libel for its seizure and condemnation. Proceedings in such an action shall conform as nearly as possible to proceedings in rem in admiralty.

(c) VENUE AND CONSOLIDATION.—(1)(A) An action under subsection (a) against a person who manufactures, processes, or distributes a chemical substance or mixture or an article containing a chemical substance or mixture may be brought in the United States District Court for the District of Columbia or for any judicial district in which any of the defendants is found, resides, or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. An action under subsection (a) against a chemical substance, mixture, or article may be brought in any United States district court within the jurisdiction of which the substance, mixture, or article is found.

(B) In determinig the judicial district in which an action may be brought under subsection (a) in instances in which such action may be brought in more than one judicial district, the Administrator shall take into account the convenience of the parties.

(C) Subpenas requiring attendance of witnesses in an action brought under subsection (a) may run into any judicial district.

(2) Whenever proceedings under subsection (a) involving identical chemical substances, mixtures, or articles are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all parties in interest.

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(d) ACTION UNDER SECTION 6.—Where appropriate, concurrently with the filing of an action under subsection (a) or as soon thereafter as may be practicable, the Administrator shall initiate a proceeding for the promulgation of a rule under section 6(a).

(e) REPRESENTATION.—Notwithstanding any other provision of law, in any action under subsection (a), the Administrator may direct attorneys of the Environmental Protection Agency to appear and represent the Administrator in such an action.

(f) DEFINITION.—For purposes of subsection (a), the term "imminently hazardous chemical substance or mixture" means a chemical substance or mixture which causes or significantly contributes to an imminent and unreasonable risk of serious or widespread harm to health or the environment. Such a risk to health or the environment shall be considered imminent if it is shown that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture or any combination of such actions is likely to result in such harm to health or the environment before a final rule under section 6 can protect against such risk.

REPORTING AND RETENTION OF INFORMATION

SEC. 8. (a) REPORTS.—(1) The Administrator shall promulgate rules under which—

(A) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process a chemical substance (other than a chemical substance described in subparagraph (B)(ii)) shall maintain such records, and shall submit to the Administrator such reports, as the Administrator may reasonably require, and

(B) each person (other than a small manufacturer or processor) who manufactures or processes or proposes to manufacture or process—

(i) a mixture, or

(ii) a chemical substance in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis on such substance or another substance, including such research or analysis for the development of a product,

shall maintain records and submit to the Administrator reports but only to the extent the Administrator determines the maintenance of records or submission of reports, or both, is necessary for the effective enforcement of this Act.

The Administrator may not require in a rule promulgated under this paragraph the maintenance of records or the submission of reports with respect to changes in the proportions of the components of a mixture unless the Administrator finds that the maintenance of such records or the submission of such reports, or both, is necessary for the effective enforcement of this Act. For purposes of the compilation of the list of chemical substances required under subsection (b), the Administrator shall promulgate rules pursuant to this subsection not later than one hundred and eighty days after the effective date of this Act.

(2) The Administrator may require under paragraph (1) reporting with respect to the following:

(A) The common or trade name, the chemical identity, and the molecular structure of each chemical substance or mixture for which such a report is required, insofar as known to the person making the report or insofar as reasonably ascertainable.

(B) The categories or proposed categories of use of each such substance or mixture, insofar as known to the person making the report or insofar as reasonably ascertainable.

(C) Reasonable estimates of the amount of each substance and mixture to be manufactured or processed and, insofar as known to the person making the report or insofar as reasonably ascertainable, a reasonable estimate of the amount of each such substance and mixture to be manufactured or processed for each of its categories or proposed categories of use.

(D) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture, insofar as known to the person making the report or insofar as reasonably ascertainable.

(E) All existing data concerning the adverse environmental and health effects of such substance or mixture, insofar as known to the person making the report.

(F) Estimates of the number of persons who will be exposed to such substance or mixture in their places of employment and the duration of such exposure, insofar as known to the person making the report.

To the extent feasible the Administration shall not require under paragraph (1) unnecessary or duplicate reporting.

(3)(A)(i) The Administrator may by rule require a small manufacturer or processor of a chemical substance to submit to the Administrator such information respecting the chemical substance as the Administrator may require for publication of the first list of chemical substances required by subsection (b).

(ii) The Administrator may by rule require a small manufacturer or processor of a chemical substance or mixture—

(I) subject to a rule proposed or promulgated under section 4, 5(c), 5(g), or 6, or

(II) with respect to which relief has been granted pursuant to a civil action brought under section 7, to maintain such records on such substance or mixture, and to submit to the Administrator such reports on such substance or mixture, as the Administrator may reasonably require. A rule under this clause requiring reporting may require reporting with respect to the matters referred to in paragraph (2).

(B) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the manufacturers and processors which qualify as small manufacturers and processors for purposes of this paragraph and paragraph (1).

(b) INVENTORY.—(1) The Administrator shall compile, keep current, and publish a list of each chemical substance which is manufactured or processed in the United States. Such list shall at least include each chemical substance which any person reports, under section 5 or subsection (a) of this section, is manufactured or processed in the United States or was manufactured or processed in the United States within three years before the effective date of the rules promulgated pursuant to the last sentence of subsection (a)(1). In the case of a chemical substance for which a notice is submitted in accordance with section 5, such chemical substance shall be included in such list as of the earliest date (as determined by the Administrator) on which such substance was manufactured or processed in the United States. The Administrator shall first publish such a list not later than one year after the effective date of this Act. The Administrator shall not include in such list any chemical substance which is manufactured or processed only in small quantities (as defined by the Administrator by rule) solely for scientific experimentation or analysis or for chemical research or analysis on such substance or another substance, including such research or analysis for the development of a product.

(2) To the extent consistent with the purposes of this Act, the Administrator may, in lieu of listing, pursuant to paragraph (1), a chemical substance individually, list a category of chemical substances in which such substance is included.

(c) RECORDS.—Any person who manufactures, processes, or distributes in commerce or proposes to manufacture, process, or distribute in commerce any chemical substance or mixture shall, as required by the Administrator by rule, maintain records of adverse reactions to health or the environment alleged to have been caused by the substance or mixture. In such a rule the Administrator may require that—

(1) records of adverse reactions to the health of employees be retained for a period of not more than fifty years from the date such reactions were first reported to or known by the person maintaining such records, and

(2) any other record be retained for a period of not more than five years from the date the information contained in the record was first reported to or known by the person maintaining the record.

Records required to be maintained under this subsection may include records of consumer allegations of personal injury or harm to health, reports of occupational disease or injury, and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor in commerce by individuals or governmental agencies. Upon request of an officer or employee duly designated by the Administrator, each person who is required to maintain records under this subsection shall permit the inspection of such records and shall submit copies of such records.

(d) HEALTH AND SAFETY STUDIES.—The Administrator shall promulgate rules under which the Administrator may require any person who manufactures, processes, or distributes in commerce or who proposes to manufacture, process, or distribute in commerce any chemical substance or mixture (or with respect to paragraph (2), any person who has possession of a study) to submit to the Administrator—

(1) lists of health and safety studies conducted or initiated by or for such person at any time or known to such person; and

(2) copies of any such studies appearing on a list submitted pursuant to paragraph (1) or (2), or otherwise known by such person.

(e) NOTICE TO ADMINISTRATOR OF UNREASONABLE RISKS.—Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture causes or significantly contributes to a substantial risk to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has been adequately informed of such information.

(f) DEFINITIONS.—For purposes of this section, the terms "manufacture" and "process" mean manufacture or process for commercial purposes.

RELATIONSHIP TO OTHER FEDERAL LAWS

SEC. 9 (a) LAWS NOT ADMINISTERED BY THE ADMINISTRATOR.—(1) If the Administrator has reason to believe that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture or any combination of such actions causes or significantly contributes to or is likely to cause or significantly contribute to an unreasonable risk to health or the environment and determines that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such de-

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scription a specification of the activity or combination of activities which the Administrator has reason to believe so causes or contributes to such risk. Such report shall also request such agency—

(A) (i) to determine if the risk described in such report may be prevented or reduced to a sufficient extent by action taken under such law, and

(ii) if the agency determines that such risk may be so prevented or reduced, to issue an order declaring whether or not the activity or combination of activities specified in the description of such risk causes or significantly contributes to such risk; and

(B) to report such determination and order to the Administrator.

Any report of the Administrator shall include a detailed statement of the information on which it is based and shall be published in the Federal Register. The agency receiving a request under such a report shall make the requested determination, issue the requested order, and make the requested report within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report of an agency in response to a request of the Administrator shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the order and determination requested to be made and shall be published in the Federal Register.

(2) If the Administrator makes a report under paragraph (1) with respect to a chemical substance or mixture and the agency to which such report was made either—

(A) issues an order declaring that the activity or combination of activities specified in the description of the risk described in the report does not cause or significantly contribute to the risk described in the report, or

(B) initiates, within ninety days of the publication in the Federal Register of the report of the agency under paragraph (1) in response to the Administrator's report, action under the law (or laws) administered by such agency to protect against such risk, the Administrator may not take any action under section 6 or 7 with respect to such risk.

(3) If the Administrator has initiated action under section 6 or 7 with respect to a risk associated with a chemical substance or mixture which was the subject of a report made to an agency under paragraph (1), such agency shall before taking action under the law (or laws) administered by it to protect against such risk consult with the Administrator for the purpose of avoiding duplication of Federal action against such risk.

(b) LAWS ADMINISTERED BY THE ADMINISTRATOR.—The Administrator shall coordinate actions taken under this Act with actions taken under other Federal laws administered in whole or in part by the Administrator. If a risk to health or the environment associated with a chemical substance or mixture could be eliminated or reduced to a sufficient extent by actions taken under the authorities contained in such other Federal laws, the Administrator shall use such authorities to protect against such risk unless the Administrator determines that it is in the public interest to protect against such risk by actions taken under this Act. This subsection shall not be construed to relieve the Administrator of any requirement imposed on the Administrator by such other Federal laws.

(c) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(d) COORDINATION.—In administering this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any other appropriate instrumentality of the Federal Government for the purpose of achieving the maximum enforcement of this Act while imposing the least burdens of duplicative requirements on those subject to the Act and for other purposes. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal departments, agencies, or instrumentalities, and on actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b).

RESEARCH, DEVELOPMENT, COLLECTION, DISSEMINATION, AND UTILIZATION OF DATA

SEC. 10. (a) AUTHORITY.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare and with other heads of appropriate departments and agencies, conduct such research, development, and monitoring as is necessary to carry out the purposes of this Act. The Administrator may enter into contracts and may make grants for such research, development, and monitoring. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

(b) DATA SYSTEMS.—(1) The Administrator shall establish, administer, and be responsible for the continuing activities of an interagency committee which will design, establish, and coordinate an efficient and effective system, within the Environmental Protection Agency, for the collection, dissemination to other Federal departments and agencies, and use of data submitted to the Administrator under this Act.

(2)(A) The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate departments and agencies design, establish, and coordinate an efficient and effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out the purposes of this Act. Systematized retrieval shall be developed for use by all Federal and other departments and agencies with responsibilities in the area of regulation or study of chemical substances and mixtures and their effect on health or the environment.

(B) The Administrator, in consultation with the Secretary of Health, Education, and Welfare, is authorized to make grants and enter into contracts for the development of a data retrieval system described in subparagraph (A). Contracts may be entered into under this subparagraph without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

(c) SCREENING TECHNIQUES.—The Administrator shall coordinate with the Assistant Secretary for Health research undertaken by the Administrator and directed toward the development of rapid, reliable, and economical screening techniques for carcinogenic, mutagenic, teratogenic, and ecological effects of chemical substances and mixtures.

(d) MONITORING.—The Administrator shall establish and be responsible for research aimed at the development, in cooperation with local, State, and Federal agencies, of monitoring techniques and instruments which may be used in the detection of toxic chemical substances and mixtures and which are reliable, economical, and capable of being implemented under a wide variety of conditions.

(e) BASIC RESEARCH.—The Administrator shall establish research programs to develop the fundamental scientific basis of the screening and monitoring techniques described in subsections (c) and (d), the bounds of their reliability of such techniques, and the opportunities for their improvement.

(f) MANPOWER TRAINING.—The Administrator shall establish and promote programs and workshops to train or facilitate the training of Federal laboratory and technical personnel in existing or newly developed screening and monitoring techniques.

(g) EXCHANGE OF RESEARCH AND DEVELOPMENT RESULTS.—The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other heads of appropriate agencies, establish and coordinate a system for exchange among Federal, State, and local authorities of research and development results respecting toxic chemical substances and mixtures, including a system to facilitate and promote the development of standard data format and analysis and consistent testing procedures.

INSPECTIONS

SEC. 11. (a) IN GENERAL.—For purposes of enforcement of this Act the Administrator, or any representative of the Administrator, duly designated by the Administrator, may inspect any establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce and any conveyance being used to transport chemical substances or mixtures in connection with distribution in commerce. Such an inspection may only be made upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge of the premises or conveyance to be inspected. A separate notice shall be given for each such inspection but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(b) SCOPE.—(1) Except as provided in paragraph (2), an inspection under subsection (a) shall extend to all things within the premises or conveyance inspected (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of this Act applicable to the chemical substances or mixtures within such premises or conveyance have been complied with.

(2) No inspection under subsection (a) shall extend to—

(A) financial data,

(B) sales data other than shipment data,

(C) pricing data,

(D) personnel data, or

(E) research data (other than research data required by this Act),

unless the nature and extent of such data are described with reasonable specificity in the written notice required by subsection (a) for such inspection.

EXPORTS

SEC. 12. (a) GENERAL.—(1) Except as provided in paragraph (2) and subsection (b), this Act (other than section 8) shall not apply to any chemical substance, mixture, or an article containing a chemical substance or mixture if—

(A) it can be shown that such substance, mixture, or article is being manufactured, processed, sold, or held for sale, for export from the United States, unless such substance, mixture, or article was, in fact, manufactured, processed, or distributed in commerce, for use in the United States, and

(B) such substance, mixture, or article when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such substance, mixture, or article is intended for export.

(2) Paragraph (1) shall not apply to any chemical substance, mixture, or article if the

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Administrator finds that the substance, mixture, or article will cause or significantly contribute to an unreasonable risk to health within the United States or to the environment of the United States. The Administrator may require, under section 4, testing of a chemical substance or mixture exempted from this Act by paragraph (1) to determine whether or not such substance or mixture causes or significantly contributes to an unreasonable risk to health within the United States or to the environment of the United States.

(b) NOTICE.—(1) If any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 or 5(d), such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of the availability of the data submitted to the Administrator under such section for such substance or mixture.

(2) If any person exports or intends to export to a foreign country a chemical substance or mixture for which a rule has been proposed or promulgated under section 5 or 6, or with respect to which an action is pending, or relief has been granted under section 7, such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule, action, or relief.

ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES

SEC. 13. (a) IN GENERAL.—(1) The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substance, mixture, or article containing a chemical substance or mixture offered for entry if—

(A) it fails to comply with any rule in effect under this Act, or

(B) it is offered for entry in violation of section 5, a rule or order under section 5 or 6, or an order issued in an action brought under section 5 or 7.

(2) If a chemical substance, mixture, or article is refused entry under paragraph (1), the Secretary of the Treasury shall notify the consignee of such entry refusal, shall not release it to the consignee, and shall cause its disposal or storage (under such rules as the Secretary of the Treasury may prescribe) if it has not been exported by the consignee within ninety days from the date of receipt of notice of such refusal, except that the Secretary of the Treasury may, pending a review by the Administrator of the entry refusal, release to the consignee such substance, mixture, or article on execution of bond for the amount of the full invoice of such substance, mixture, or article (as such value is set forth in the customs entry), together with the duty thereon. On failure to return such substance, mixture, or article for any cause to the custody of the Secretary of the Treasury when demanded, such consignee shall be liable to the United States for liquidated damages equal to the full amount of such bond. All charges for storage, cartage, and labor on substances, mixtures, or articles which are refused entry or release under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future entry made by such owner or consignee.

(b) RULES.—The Secretary of the Treasury, after consultation with the Administrator, shall issue rules for the enforcement of subsection (a) of this section.

DISCLOSURE OF DATA

SEC. 14. (a) IN GENERAL.—Except as provided by subsection (b), any information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act, which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of such section, shall not be disclosed by the Administrator or by any officer or employee of the United States, except that such information may be disclosed—

(1) to officers and employees of the United States—

(A) in connection with their official duties under laws for the protection of health or the environment, or

(B) for specific law enforcement purposes;

(2) to contractors with the United States and employees of such contractors if in the opinion of the Administrator such disclosure is necessary for the satisfactory performance by the contractor of a contract with the United States entered into on or after the effective date of this Act for the performance of work in connection with this Act; or

(3) when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(b) DATA FROM HEALTH AND SAFETY STUDIES.—(1) Subsection (a) does not prohibit the disclosure of—

(A) any health and safety study submitted under this Act with respect to—

(i) any chemical substance or mixture which on the date the study is to be disclosed has been offered for commercial distribution, or

(ii) any chemical substance or mixture for which testing is required under section 4 or for which notification is required under section 5, and

(B) any data reported to, or otherwise obtained by the Administrator from a health and safety study which relates to a chemical substance or mixture described in clause (i) or (ii) of subparagraph (A).

This paragraph does not authorize the release of data which discloses processes used in the manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, the release of data disclosing the portion of the mixture comprised by any of the chemical substances in the mixture.

(2) If a request is made to the Administrator under subsection (a) of section 552 of title 5, United States Code, for information which is described in the first sentence of paragraph (1) and which is not information described in the second sentence of such paragraph, the Administrator may not deny such request on the basis of subsection (b)(3) or (b)(4) of such section.

(c) DESIGNATION OF CONFIDENTIAL DATA; DISPUTES.—(1) In submitting data under this Act, a person may (A) designate the data which the person believes is entitled to confidential treatment under subsection (a), and (B) submit such designated data separately from other data submitted under this Act.

(2) If the Administrator proposes to release for inspection data which has been designated under paragraph (1)(A), the Administrator shall notify, in writing and by certified mail, the person who submitted such data of the intent to release such data. If the release of such data is to be made pursuant to a request made under section 552(a) of title 5, United States Code, such notice shall be given immediately upon approval of such request by the Administrator. The Administrator may not release such data until the expiration of thirty days after the person submitting such data has received the notice required by this paragraph.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—(1) Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, material the disclosure of which is prohibited by subsection (a), and who knowing that disclosure of such material is prohibited by such subsection, willfully discloses the material in any manner to any person not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000 or imprisoned for not more than one year, or both. Section 1905 of title 18, United States Code, does not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act.

(2) For the purposes of paragraph (1), any contractor with the United States who is furnished information as authorized by subsection (a)(2), and any employee of any such contractor, shall be considered to be an employee of the United States.

(e) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

PROHIBITED ACTS

SEC. 15. It shall be unlawful for any person to—

(1) fail or refuse to comply with (A) any rule or order promulgated or issued under section 4, (B) any requirement prescribed by section 5, or (C) any rule or order promulgated under section 5 or 6;

(2) use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5, a rule or order under section 5 or 6, or an order issued in an action brought under section 5 or 7;

(3) fail or refuse to (A) establish or maintain records, (B) submit reports, notices, or other information, or (C) permit access to or copying of records, as required by this Act or a rule thereunder; or

(4) fail or refuse to permit entry or inspection as required by section 11.

PENALTIES

SEC. 16. (a) CIVIL.—(1) Any person who violates a provision of section 15 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall for purposes of this subsection constitute a separate violation of section 15.

(2)(A) A civil penalty for a violation of section 15 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within fifteen days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(C) The Administrator may, in the Administrator's discretion, compromise, modify, or remit, with or without conditions, any civil

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penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the thirty-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final order and does not file a petition for judicial review of the order in accordance with paragraph (3) or after a court in an action brought under paragraph (3) has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from such date) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly or willfully violates any provision of section 15 shall, in addition to or in lieu of a civil penalty which may be imposed under subsection (a) of this section for such violation, be subject, upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than one year, or both.

(c) NOTICE, REPURCHASE, OR REPLACEMENT.—If in a proceeding for the issuance of an order under paragraph (1) to assess a civil penalty against a person the Administrator determines that such person manufactured, processed, or distributed in commerce a chemical substance or mixture in violation of a requirement applicable to such substance or mixture under paragraph (1) or (2) of section 6(a) or otherwise determines by order made on the record after opportunity for agency hearing that a person has so violated such a requirement, the Administrator may, in such order, require such person (1) to give notice of the risk associated with the chemical substance or mixture subject to such requirement to processors or distributors in commerce of such substance or mixture, or to both, and, to the extent reasonably ascertainable, to any other person in possession of or exposed to such substance or mixture; (2) to give public notice of such risk; (3) to either replace or repurchase such substance or mixture, as determined by the person (or persons) to whom the requirement is directed, in the manner prescribed by the Administrator; or (4) to take any combination of the actions described in the preceding clauses.

SPECIFIC ENFORCEMENT AND SEIZURE

SEC. 17. (a) SPECIFIC ENFORCEMENT.—(1) The district courts of the United States shall have jurisdiction over civil actions to—

(A) restrain any violation of section 15,

(B) restrain any person from manufacturing or processing a chemical substance before the expiration of the period before which such manufacturing or processing is prohibited under section 5,

(C) restrain any person from taking any action prohibited by section 5 or by a rule or order under section 5 or 6, or

(D) compel the taking of any action required by or under this Act.

(2) A civil action described in paragraph (1) may be brought—

(A) in the case of a civil action described in subparagraph (A) of such paragraph, in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 15 occurred or wherein the defendant is found or transacts business, or

(B) in the case of any other civil action described in such paragraph, in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant in any judicial district in which a defendant resides or may be found. Subpenas requiring attendance of witnesses in any such action may run into any judicial district.

(b) SEIZURE.—Any chemical substance or mixture which was manufactured, processed, or distributed in commerce in violation of this Act or any rule or order promulgated under this Act or any article containing such a substance or mixture shall be liable to be proceeded against, by process, of libel for the seizure and condemnation of such substance, mixture, or article, in any district court of the United States within the jurisdiction of which such substance, mixture, or article is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

PREEMPTION

SEC. 18. (a) EFFECT ON STATE LAW.—(1) Except as provided in paragraph (2), nothing in this Act shall affect the authority of any State or political subdivision of a State to establish or continue in effect regulation of any chemical substance, mixture, or article containing a chemical substance or mixture.

(2) Except as provided in subsection (b)—

(A) if the Administrator requires by a rule promulgated under section 4 the testing of a chemical substance or mixture, no State or political subdivision may, after the effective date of such rule, establish or continue in effect a requirement for the testing of such substance or mixture for purposes similar to those for which testing is required under such rule; and

(B) if the Administrator prescribes a rule or order under section 5 or 6 of this Act (other than a rule imposing a requirement described in subsection (a)(5) of section 6) which is applicable to a chemical substance or mixture, and which is designed to protect against a risk to health or the environment associated with such substance or mixture, no State or political subdivision of a State may, after the effective date of such requirement, establish or continue in effect a requirement applicable to such substance or mixture, or an article containing such substance or mixture, and designed to protect against such risk unless such requirement is identical to the requirement prescribed by the Administrator or unless such requirement is adopted under the authority of the Clean Air Act or any other Federal law.

(b) EXEMPTION.—Upon application of a State or political subdivision of a State the Administrator may by rule exempt from subsection (a)(2), under such conditions as may be prescribed in such rule, a requirement of such State or political subdivision designed to protect against a risk to health or the environment associated with a chemical substance, mixture, or article containing a chemical substance or mixture if—

(1) compliance with the requirement would not cause the manufacturing, processing, distribution in commerce, or use of the substance, mixture, or article to be in violation of the applicable requirement under this Act described in subsection (a)(2), and

(2) the State or political subdivision requirement (A) provides a significantly higher degree of protection from such risk than the requirement under this Act described in subsection (a)(2) and (B) does not, through difficulties in marketing, distribution, or other factors, unduly burden interstate commerce.

JUDICIAL REVIEW

SEC. 19. (a) IN GENERAL.—Not later than sixty days following the promulgation of a rule under section 4, 6, or 6(a) of this Act, any person may file a petition for judicial review of such rule with the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which such person resides or in which such person's principal place of business is located. Copies of the petition shall be forthwith transmitted by the clerk of such court to the Administrator and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based such rule as provided in section 2112 of title 28, United States Code. For purposes of this section, the term "record" means such rule; any transcript required of any oral presentation; any writen submission of interested parties; and any other information which the Administrator considers to be relevant to such rule and with respect to which the Administrator, on or before the Administrator, the court may rule, published a notice in the Federal Register identifying such information.

(b) ADDITIONAL DATA.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments, and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrative, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify findings or determinations upon which the rule subject to review by such court was based, or make new findings or determinations by reason of the additional data, views or arguments so taken and shall file such modified or new findings or determinations, and the Administrator's recommendation, if any, for the modification or selling aside of such rule, with the return of such additional data, views, or arguments.

(c) AUTHORITY AND REVIEW STANDARD.—(1) Upon the filing of a petition under subsection (a), the court shall have jurisdiction (A) to review the rule involved, in accordance with chapter 7 of title 5, United States Code, and (B) to grant appropriate relief, including interim relief, as provided in such chapter. Any rule promulgated by the Administrator under section 4, 6, or 6 of this Act and reviewed under this section shall be affirmed, unless the determination or findings required to be made by the Administrator under the applicable section are not supported by substantial evidence on the record taken as a whole.

(2) The judgment of the court affirming or setting aside, in whole or in part, any rule reviewed in accordance with this section shall be final to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(3) The judgment of the court in an action brought pursuant to subsection (a) may include an award of costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. The Supreme Court of the United States in its decision on a review of a judgment in such an action may provide for the award of costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

(d) OTHER REMEDIES.—The remedies pro-

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vided in this section shall be in addition to and not in lieu of any other remedies provided by law.

CITIZENS' CIVIL ACTIONS

SEC. 20. (a) IN GENERAL.—Except as provided in subsection (b), any person may commence a civil action—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of this Act or any rule prescribed under section 4, 5, or 6(a) to restrain such violation, or

(2) against the Administrator to compel the Administrator to perform any act or duty under this Act which is not discretionary.

Any civil action under paragraph (1) shall be brought in the United States district court for the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. Any action brought under paragraph (2) shall be brought in the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the plaintiff is domiciled. The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. In any civil action under this subsection process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpenas for witnesses may run into any judicial district.

(b) LIMITATION.—No civil action may be commenced—

(1) under subsection (a)(1) to restrain a violation of this Act or rule under this Act—

(A) before the expiration of sixty days after the plaintiff has given notice of such violation (i) to the Administrator, and (ii) to the person who is alleged to have committed such violation, or

(B) if the Administrator (or the Attorney General on behalf of the Administrator) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with this Act or such rule, but if such action is commenced after the giving of notice, any person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) before the expiration of sixty days after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action or, in the case of an action under such subsection for the failure of the Administrator to file an action under section 7, before the expiration of tend days after such notification.

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

(c) GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

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

(d) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions, upon application of such defendants to such actions which is made to a court in which any such action is brought, may, if such court in its discretion so decides, be consolidated for trial by order (issued after giving all parties reasonable notice and opportunity to be heard) of such court and tried in—

(1) any district which is selected by such defendant and in which one of such actions is pending,

(2) a district which is agreed upon by stipulation between all the parties to such actions and in which one of such actions is pending, or

(3) a district which is selected by the court and in which one of such actions is pending.

The court issuing such an order shall give prompt notification of the order to the other courts in which the civil actions consolidated under the order are pending.

CITIZENS' PETITIONS

SEC. 21. (a) IN GENERAL.—Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under section 4, 5(c), or 6(a).

(b) PROCEDURES.—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed established that it is necessary to issue, amend, or repeal a rule under section 4, 5(c), or 6(a).

(2) The Administrator may hold a public hearing or may conduct such investigation or proceeding as the Administrator deems appropriate in order to determine whether or not such petition should be granted.

(3) Within ninety days after filing of a petition described in paragraph (1), the Administrator shall either grant or deny the petition. If the Administrator grants such petition, the Administrator shall promptly commence an appropriate proceeding in accordance with section 4, 5(c), or 6(a). If the Administrator denies such petition, the Administrator shall publish in the Federal Register the Administrator's reasons for such denial.

(4)(A) If the Administrator denies a petition filed under this section (or if the Administrator fails to grant or deny such petition within the ninety-day period) the petitioner may commence a civil action in a United States district court to compel the Administrator to initiate a rulemaking proceeding to take the action requested. Any such action shall be filed within sixty days after the Administrator's denial of the petition or, if the Administrator fails to grant or deny the petition within ninety days after filing the petition, within sixty days after the expiration of the ninety-day period.

(B) If in an action under subparagraph (A) respecting a petition to initiate a proceeding to issue a rule under section 4, 5(c), or 6(a) the petitioner demonstrates to the satisfaction of the court, by a preponderance of the evidence in a de novo proceeding before the court, that—

(i) in the case of a petition to initiate a proceeding for the issuance of a rule under section 4, shall the manufacture, distribution in commerce, processing, use, or disposal of the chemical substance or mixture to be subject to such rule may cause or significantly contribute to an unreasonable risk to health or the environment,

(ii) in the case of a petition to initiate a proceeding for the issuance of a rule under section 5(c), that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance petitioned to be included in a list, compiled under such rule causes or significantly contributes to an unreasonable risk to health or the environment, or

(iii) in the case of a petition for the issuance of a rule under section 6(a), that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture to be subject to such rule causes or significantly contributes to or will cause or significantly contribute to an unreasonable risk to health or the environment,

the court shall order the Administrator to initiate the action requested by the petitioner unless the court finds, after considering the extent of the risk to health or the environment alleged by the petitioner in relation to the extent of risks to health or the environment with respect to which the Administrator is taking action under this Act, the resources available to the Administrator to take action requested by the petitioner, and other relevant factors, the failure of the Administrator to initiate such action was not unreasonable.

(C) The court in issuing any final order in any action brought pursuant to subparagraph (A) may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such an award is appropriate. Any court, in issuing its decision in an action brought to review such an order, may award costs of suit and reasonable fees for attorneys if the court determines that such an award is appropriate.

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

NATIONAL DEFENSE WAIVER

SEC. 22. The Administrator shall waive compliance with any provision of this Act upon a request and determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the President, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

EMPLOYEE PROTECTION

SEC. 23. (a) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

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

(2) testified or is about to testify in any such proceeding; or

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

(b) REMEDY.—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") alleging such discharge or discrim-

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ination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(c) REVIEW.—(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code.

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

(d) ENFORCEMENT.—(1) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropraite relief, including injunctive relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

(2) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28, United States Code.

(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.

EMPLOYMENT EFFECTS

SEC. 24. (a) IN GENERAL.—The Administrator shall evaluate on a continuing basis the potential effects on employment (including reductions in employment or loss of employment from threatened plant closures of—

(1) the issuance of a rule or order under section 4, 5, or 6, or

(2) a requirement of section 5.

(b)(1) INVESTIGATIONS.—Any employee (or any representative of an employee) may request the Administrator to make an investigation of—

(A) a discharge or layoff or threatened discharge or layoff of the employee, or

(B) adverse or threatened adverse effects on the employee's employment,

allegedly resulting from a rule or order under section 4, 5, or 6 or a requirement of section 5. Any such request shall be made in writing, shall set forth with reasonable particularity the grounds for the request, and shall be signed by the employee, or representative of such employee, making the request.

(2)(A) Upon receipt of a request made in accordance with paragraph (1) the Administrator shall (i) conduct the investigation requested, and (ii) if requested by any interested person, hold public hearings on any matter involved in the investigation unless the Administrator determines that there are no reasonable grounds for holding such hearings. If the Administrator makes such a determination respecting a request for a hearing, the Administrator shall notify in writing the person requesting the hearing of the determination and the reasons therefor.

(B) If public hearings are to be held on any matter involved in an investigation conducted under this subsection—

(i) at least five days' notice shall be provided the person making the request for the investigation and any person identified in such request,

(ii) a transcript shall be made of the hearings, and

(iii) each employee who made or for whom was made a request for such hearings and the employer of such employee shall be required to present information respecting the applicable matter referred to in paragraph (1)(A) or (1)(B) together with the basis for such information.

(3) Upon completion of an investigation under paragraph (2), the Administrator shall make findings of fact, shall make such recommendations as the Administrator deems appropriate, and shall make available to the public such findings and recommendations.

(4) In connection with any investigation or public hearing conducted under this subsection, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and the Administrator may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this paragraph, the United States district court for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

STUDIES

SEC. 25. (a) INDEMNIFICATION STUDY.—The Administrator shall conduct a study of all Federal laws administered by the Administrator for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any such law. The study shall—

(1) include an estimate of the probable cost of any indemnification programs which may be recommended;

(2) include an examination of all viable means of financing the cost of any recommended indemnification; and

(3) be completed and submitted to Congress not less than two years from the effective date of this Act.

The General Accounting Office shall review the adequacy of the study submitted to Congress pursuant to paragraph (3) and shall report the results of its review to the Congress within six months of the date such study is submitted to Congress.

(b) CLASSIFICATION, STORAGE, AND RETRIEVAL STUDY.—The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal departments or agencies, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical substances and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such substances. A report on such study shall be completed and submitted to Congress not later than eighteen months after the effective date of this Act.

ADMINISTRATION OF ACT

SEC. 26. (a) COOPERATION OF FEDERAL AGENCIES.—Upon request by the Administrator, each Federal department and agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist the Administrator in the administration of this Act; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the administration of this Act.

(b) FEES.—(1) The Administrator may, by rule, require the payment of a reasonable fee from any person required to submit data under section 4 or 5 of this Act to defray the cost of administering this Act. Such rules shall not provide for any fee in excess of $2,500 or in the case of a small business concern, any fee in excess of $100. In setting such a fee, the Administrator shall take into account the ability to pay of the person required to submit such data and the cost to the Administrator of reviewing such data. Such rules may provide for sharing such a fee in any case in which the expenses of testing are shared under section 4 or 5 of this Act.

(2) The Administrator, after consultation with the Administrator of the Small Business Administration, shall by rule prescribe standards for determining the persons which qualify as small business concerns for purposes of this subsection.

(c) ACTION WITH RESPECT TO CATEGORIES.—(1) Any action authorized or required to be taken by the Administrator under any provision of this Act with respect to a chemical substance or mixture may be taken by the Administrator in accordance with that provision with respect to a category of chemical substances or mixtures. Whenever the Administrator takes action under a provision of this Act with respect to a category of

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chemical substances or mixtures, any reference in this Act to a chemical substance or mixture (insofar as it relates to such action) shall be deemed to be a reference to each chemical substance or mixture in such category.

(2) For purposes of paragraph (1):

(A) The term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, 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 such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

(B) The term "category of mixtures" means a group of mixtures the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or into the environment, or the members of which are in some way suitable for classification as such for purposes of this Act.

(d) ASSISTANCE OFFICE.—The Administrator shall establish in the Environmental Protection Agency an identifiable office to provide technical and other nonfinancial assistance to manufacturers and processors of chemical substances and mixtures respecting the requirements of this Act applicable to such manufacturers and processors, the policy of the Agency respecting the application of such requirements to such manufacturers and processors, and the means and methods by which such manufacturers and processors may comply with such requirements.

DEVELOPMENT AND EVALUATION OF TEST METHODS

SEC. 27. (a) The Secretary of Health, Education, and Welfare, in consultation with the Administrator and acting through the Assistant Secretary for Health, may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities for, projects for the development and evaluation if inexpensive and efficient methods (1) for determining and evaluating the health and environmental effects of chemical substances and mixtures, and their toxicity, persistence, and other characteristics which affect health and the environment, and (2) which may be used for the development of test data to meet the requirements of rules promulgated under section 4. The Administrator shall consider such methods in prescribing under section 4 standards for the development of test data.

(b) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and contain such information as the Secretary may require. The Secretary may apply such conditions to grants and contracts under subsection (a) as the Secretary determines are necessary to carry out the purposes of such subsection. Contracts may be entered into under such subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) (1) The Secretary shall prepare and submit to the President and the Congress on or before January 1 of each year a report of the number of grants made and contracts entered into under this section and the results of such grants and contracts.

(2) The Secretary shall periodically publish in the Federal Register reports describing the progress and results of any contract entered into or grant made under this section.

STATE PROGRAMS

SEC. 28. (a) For the purpose of complementing (but not reducing) the authority of, or actions taken by, the Administrator under this Act, the Administrator may make grants to States for the establishment and operation of programs to prevent or eliminate unreasonable risks within the States to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable to take action under this Act for their prevention or elimination. The amount of a grant under this subsection shall be determined by the Administrator, except that no grant for any State program may exceed 75 per centum of the establishment and operation costs (as determined by the Administrator) of such program during the period for which the grant is made.

(b) (1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Administrator. Such an application shall be submitted in such form and manner as the Administrator may require and shall—

(A) set forth the need of the applicant for a grant under subsection (a),

(B) identify the agency or agencies of the State which shall establish or operate, or both, the program for which the application is submitted,

(C) describe the actions proposed to be taken under such program,

(D) contain or be supported by assurances satisfactory to the Administrator that such program shall, to the extent feasible, be integrated with other programs of the applicant for environmental and public health protection,

(E) provide for the making of such reports and evaluations as the Administrator may require, and

(F) contain such other information as the Administrator may prescribe.

(2) The Administrator may approve an application submitted in accordance with paragraph (1) only if the applicant has established to the satisfaction of the Administrator a priority need, as determined under rules of the Administrator, for the grant for which the application has been submitted. Such rules shall take into consideration the seriousness of the health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations, the extent of the exposure in a State of human beings and the environment to chemical substancec and mixtures, and the extent to which chemical substances and mixtures are manufactured, processed, used, and disposed of in a State.

(c) Not later than six months after the end of each of the fiscal years 1979, 1980, and 1981, the Administrator shall submit to the Congress a report respecting the programs assisted by grants under subsection (a) in the preceding fiscal year and the extent to which the Administrator has disseminated information respecting such programs.

(d) For the purpose of making grants under subsection (a) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1978, $1,000,000 for the fiscal year ending September 30, 1979, and $1,000,000 for the fiscal year ending September 30, 1980. Sums appropriated under this subsection shall remain available until expended.

SUNSHINE IN GOVERNMENT

SEC. 29. (a) Each officer or employee of the Administrator and the Secretary of Health, Education and Welfare who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest (A) in any person subject to this Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

shall, beginning on February 1, 1977, annually file with the Administrator or the Secretary of Health, Education and Welfare, as appropriate, a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Administrator and said Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator and said Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Administrator and said Secretary may identify specific positions within the appropriate agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 30. There are authorized to be appropriated to the Administrator for purposes of carrying out this Act (other than sections 27 and 28 and subsections (a) and (c) through (g) of section 10 thereof) $12,625,000 for the fiscal year ending September 30, 1978, $16,200,000 for the fiscal year ending September 30, 1979, and $17,350,000 for the fiscal year ending September 30, 1980. No part of the funds appropriated under this section may be used to construct any research laboratories.

ANNUAL REPORT

SEC. 31. The Administrator shall prepare and submit to the President and the Congress on or before January 1, 1979, and on or before January 1 of each succeeding year a comprehensive report on the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of the testing required under section 4 during the year for which the report is made and an estimate of the costs incurred during such year by the persons required to perform such tests;

(2) the number of notices received during such year under section 5, the number of such notices received during such year under such section for chemical substances subject to a section 4 rule, and a summary of any action taken during such year under section 5(g);

(3) a list of rules issued during such year under section 6;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act during such year;

(5) a summary of major problems encountered in the administration of this Act; and

(6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of this Act.

RULE REVIEW

SEC. 32. (a) Any rule prescribed pursuant to this Act by the Administrator may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not

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continuous) which period begins on the date such rule is finally adopted by the Administrator, Secretary of the Treasury, or Secretary of Health, Education, and Welfare, as the case may be. The authority which prescribes a rule pursuant to this Act shall transmit such rule to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within such 60-day period, such rule, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval of a rule promulgated under this Act shall not be deemed an expression of approval of such rule.

EFFECTIVE DATE

SEC. 33. This Act shall take effect October 1, 1977.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 14032) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 3149, TOXIC SUBSTANCES CONTROL ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 3149) to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and without objection appoints the following conferees: Messrs. STAGGERS, MURPHY of New York, STUCKEY, ECKHARDT, METCALFE, McCOLLISTER, and BROYHILL.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12168, AMENDING NATURAL GAS PIPELINE SAFETY ACT OF 1968

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12168), to amend the National Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia? The Chair hears none and, without objection, appoints the following conferees: Messrs. STAGGERS, DINGELL, WIRTH, SHARP, BROOKHEAD, BROWN of Ohio, and MOORHEAD of California.

There was no objection.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 14032, the Toxic Substances Control Act, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objectioon.

FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I have asked for this time in order to announce the program for tomorrow. We are putting over until tomorrow the bill H.R. 14070, the guaranteed student loan amendments. It will be placed at the end of the calendar.

Also on tomorrow, Mr. Speaker, we are adding three suspensions at the end of the list: H.R. 14681, termination of Overseas Private Investment Corporation insurance in certain circumstances; S. 3542, Teton Dam disaster assistance; and House Joint Resolution 519, appointing Gen. George Washington General of the Armies.

We will then consider a resolution originally listed for Wednesday, House Resolution 1462, anti-trust resolution.

Also as the third bill on Wednesday we are adding H.R. 8911, supplemental security income amendments which will be considered under a modified open rule with 2 hours of debate.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I am happy to yield to the distinguished gentleman from Arizona.

Mr. RHODES. Mr. Speaker, it would seem to me that tomorrow must be about a 26 hour day. Does the gentleman from Massachusetts really believe we can complete this program tomorrow within a reasonable time?

Mr. O'NEILL. As the gentleman from Arizona knows, the rollcalls will be taken up at the end of the day. We appreciate the fact that it will be a long day due to the schedule but we do believe we can complete it, the Lord being on our side.

Mr. RHODES. I would further ask the distinguished gentleman from Massachusetts if there is any agreement, or whether there will be any agreement as to the time for adjournment tomorrow.

Mr. O'NEILL. We will go to a reasonable hour.

Mr. RHODES. I appreciate that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague, the gentleman from Massachusetts (Mr. O'NEILL) yielding to me.

I would inquire of the distinguished gentleman from Massachusetts when unanimous consent was gained before the recess for the suspension calendar, we understood that there were only going to be three or four bills to be taken up. What increased the number so rapidly, the lull?

Mr. O'NEILL. I am sorry, but would the gentleman from California please repeat his inquiry?

Mr. ROUSSELOT. Mr. Speaker, when the unanimous consent request was gained to take up the suspension calendar for tomorrow, which was done before the recess, we understood that there would be only three, four or five bills. How come the number proliferated so fast?

Mr. O'NEILL. Because the Committee on Ways and Means came out with a group of bills.

Mr. ROUSSELOT. They are primarily Ways and Means Committee bills?

Mr. O'NEILL. That is correct.

Mr. ROUSSELOT. I thank the gentleman for yielding.

1977 BUDGET REQUEST FOR NATIONAL DEFENSE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-586)

The SPEAKER pro tempore (Mr. McFALL) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Armed Services and the Committee on Appropriations, and ordered to be printed:

To the Congress of the United States:

My total fiscal year 1977 Budget request for national defense, including amendments, is $114.9 billion in budget authority. This budget request is based upon a careful assessment of the international situation and of the contingencies we must be prepared to meet. The request is substantial, as it must be to provide what is necessary for our national security.

When I submitted my budget last January, I pointed out that the request might need to be increased for three reasons: (1) in the event that the Congress did not approve legislative proposals necessary to reduce spending in lower-priority areas involving manpower and related costs and sale of unneeded items from the stockpile; (2) in the shipbuilding area, where a National Security Council study then under way, could lead to an increase in the shipbuilding budget; and (3) a possible increase later in the year depending on the progress of the SALT II negotiations and our continuing assessment of Soviet ICBM programs. Indeed, there have been changes in these areas and they have been reflected in my revised budget request.

On July 14, 1976, I approved legislation authorizing 1977 appropriations for procurement and for research and development programs. At that time I indicated that in a number of important respects the Congress has not fully faced up to the nation's needs. First, the Congress has not approved a number of essential Defense programs. Second, the Congress has added programs and funds which are of a lower priority. Finally, the Congress has not yet acted upon certain of my legislative proposals which are necessary to restrain manpower cost growth and to achieve other economies.

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