

BUSINESS MEETING

MEETING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS
FIRST SESSION

APRIL 28-29, 2015

Printed for the use of the Committee on Environment and Public Works



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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FOURTEENTH CONGRESS
FIRST SESSION

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BUSINESS MEETING

TUESDAY, APRIL 28–WEDNESDAY, APRIL 29, 2015

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Building, Hon. James M. Inhofe (chairman of the committee) presiding.

Present: Senators Inhofe, Boxer, Vitter, Barrasso, Boozman, Fischer, Crapo, Wicker, Sullivan, Capito, Rounds, Carper, Whitehouse, Merkley, Gillibrand, Sanders, Markey, and Booker.

OPENING STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. Our meeting will come to order. We already have a pretty good crowd here. This is the first mark-up of the EPW committee to order.

We have a number of items, many of which are bipartisan, which we can report out of the committee this morning. Senator Barrasso's bill, S. 544, ensuring data on which EPA bases its regulations are available to the public sector, and I think we may get a visitor on that from Representative Lamar Smith, who had the bill over in the House. He should be probably coming here for this.

We have Senator Wicker's bill, S. 611, to reauthorize the Safe Drinking Water Act's technical assistance and training provision to assist small and rural public water systems. This is something that is near and dear to me, because Mississippi isn't that much different from Oklahoma, and that need is there. This is legislation that the committee reported last Congress by voice vote.

Senator Cardin's and Senator Boozman's bill to reauthorize Water Resources Research Act grants. We have a few naming bills, the nomination of Mark Scarano to be Federal co-chairman of the Northern Border Regional Commission. And finally GSA resolutions, all of which have already been considered and passed out of the T&I Committee over in the House.

One of the principal items on the agenda is S. 679, the Frank R. Lautenberg Chemical Security for the 21st Century Act. It is authored by Senators Vitter and Udall. This is something which has been in the works for a long time, and I have often said this is really kind of the legacy of Frank Lautenberg. This legislation is now bipartisan. Co-sponsors are equal in number of Democrats and Republicans. It has bipartisan support within this committee.

In fact, due to the consistent work of Senators Vitter and Udall, we now have reached a new amendment or an underlying bill with

the support of Senators Whitehouse, Booker, and Merkley. I genuinely appreciate their work over the last number of weeks to reach this compromise.

For years, Senator Lautenberg worked to update the 1976 law, introducing bills each Congress. He and I met in my office back in 2012, and it was his idea that we get people together, the stakeholders together, and talk about what should be a part of legislation. Everyone agreed we needed to do something, not exactly what it was. So we started working on it at that time. Major environmental laws do not get passed or updated without bipartisan support. And certainly we have that.

TSCA is long overdue. As Dr. McCabe, the chief medical officer of the March of Dimes, testified at our legislative hearing just a couple of weeks ago here, “The current Federal framework for the regulation of toxic substances is badly antiquated. The legislation before this committee today,” referring to this legislation, “developed by Senators Tom Udall and David Vitter, and co-sponsored by numerous other Senators, including the Chairman, represents a critical step forward toward establishing a system of chemical regulation that will be protective of maternal and child health.”

Dr. Richard Denison of Environmental Defense Fund testified, “The Environmental Defense Fund supports the Lautenberg Act as a solid compromise that fixes the biggest problems in the current law, is health protective and has the strong bipartisan support necessary to become law.”

Finally, Dr. Lynn Goldman, a former EPA assistant administrator for the Office of Prevention, Pesticides and Toxic Substances during the Clinton administration, a former California regulator, and perhaps most importantly, a pediatrician, testified the public health standard in this bill is “an immense improvement over current law.” She also identified that the bill orders strong chemical testing, directs that EPA certify safety of new chemicals, and makes more chemical information public.

This is a bill which has the support of the regulated community, environmental community, many in the medical community, and bipartisan support in the Senate. We should report it to the full Senate so we can consider the bill.

Senator Boxer.

[The prepared statement of Senator Inhofe follows:]

**OPENING STATEMENT – EPA MARK-UP
Tuesday April 28, 2015 – 10am**

I call this first mark-up of the EPW Committee to order.

We have a number of items, many of which are bipartisan, which we can report out of the Committee this morning. Senator Barrasso's bill (S.544) ensuring data on which EPA bases its regulations available to the public, Senator Wicker's bill (S.611) to reauthorize the Safe Drinking Water Act's technical assistance and training provision to assist small and rural public water systems. This is legislation that the Committee reported last Congress by voice vote. *Senator Cardin and Boozman's bill to reauthorize Water Resources Research Act grants.* We have a few naming bills, the nomination of Mark Scarano to be Federal Co-chairperson of the Northern Border Regional Commission, and finally GSA resolutions all of which have already been approved by the House Transportation and Infrastructure Committee this Congress.

One of the principal items on the agenda is S. 679, the Frank R. Lautenberg Chemical Security for the 21st Century Act authored by Senators Vitter and Udall. This is legislation which now has the bipartisan cosponsorship of 22 Senators – 11 Democrats and 11 Republicans, and has bipartisan support within this Committee. *In fact, due to the consistent work of Senators Vitter and Udall, we now have reached a new amendment with the support of Senators Whitehouse,*

Merkley, and Booker. I genuinely appreciate their work over the last number of weeks to reach this compromise.

For years Senator Lautenberg worked to update the 1976 law, introducing bills each Congress. He and I met in my office in 2012 and he asked if we could work together organizing stakeholder meetings to gather information to craft legislation with actual bipartisan support. Major environmental laws do not get passed or updated without bipartisan support. TSCA is long overdue as Dr. McCabe, chief medical officer of the March of Dimes, testified at our legislative hearing on March 18, “the current Federal framework for the regulation of toxic substances is badly antiquated.” He also testified, “The legislation before the committee today, developed by Senators Tom Udall and David Vitter, and co-sponsored by numerous other Senators, including the Chairman, represents a critical step forward toward establishing a system of chemical regulation that will be protective of maternal and child health.”

Dr. Richard Denison of Environmental Defense Fund testified, “EDF supports the Lautenberg Act as a solid compromise that fixes the biggest problems in the current law, is health protective and has the strong bipartisan support necessary to become law.”

Finally, Dr. Lynn Goldman, a former EPA assistant administrator for the Office of Prevention, Pesticides and Toxic Substances during the Clinton Administration, a former California regulator, and perhaps most importantly a pediatrician testified the public health standard in this bill is “an immense improvement over current law.” She also identified that the bill orders strong chemical testing, directs that EPA certify safety of new chemicals, and make more chemical information public. This is a bill which has the support of the regulated community, environmental community, many in the medical community, and bipartisan support in the Senate. We should report so that the full Senate may consider this bill.

**OPENING STATEMENT OF HON. BARBARA BOXER,
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. Thank you, Mr. Chairman.

Colleagues, this is the Environment Committee, not the board room of the chemical companies. That is why I am pleased with the 179-page Vitter amendment as a substitute for S. 697. We are witnessing the death of that original bill, which according to a prize winning reporter, was written on the computer of the American Chemistry Council. I ask unanimous consent to place in the record that article.

Senator INHOFE. Without objection.
[The referenced article follows:]

Houston Chronicle

Chemical industry's 'fingerprint' on draft bill causes buzz

By David McCumber

WASHINGTON - It's certainly well-known in Washington that when it comes to the making of the sausage, lobbyists frequently have their thumbs in the pork. But usually, they don't actually leave their electronic signatures on bills.

The elaborately titled Frank R. Lautenberg Chemical Safety for the 21st Century Act makes its debut at a Senate Environment and Public Works Committee hearing Wednesday. It's a high-stakes bill: If it becomes law, it would be the first update in 39 years of federal regulation of toxic substances like asbestos, formaldehyde and hundreds of other chemicals.

In recent days, a draft of the bill - considered the product of more than two years of negotiation and collaboration between U.S. Sen. David Vitter, R-La.; Sen. Tom Udall, D-N.M.; and both chemical-industry and environmental groups - was circulated by Udall's office ahead of the hearing. The draft bill, obtained by Hearst Newspapers, is in the form of a Microsoft Word document. Rudimentary digital forensics - going to "advanced properties" in Word - shows the "company" of origin to be the American Chemistry Council.

The ACC, as the council is known, is the leading trade organization and lobbyist for the chemical industry. And opponents of the Vitter-Udall bill have pounced on the document's digital fingerprints to make the point that they believe the bill favors industry far too much.

"We're apparently at the point in the minds of some people in the Congress that laws intended to regulate polluters are now written by the polluters themselves," said Ken Cook, president of the Environmental Working Group, who will testify against the bill at Wednesday's hearing.

"Call me old-fashioned, but a bill to protect the public from harmful chemicals should not be written by chemical industry lobbyists," Sen. Barbara Boxer said Monday. "The voices of our families must not be drowned out by the very industry whose documented harmful impacts must be addressed, or the whole exercise is a sham."

Boxer, who chaired the committee when the Democrats held the majority, and Sen. Edward Markey, D-Mass., have introduced an alternative version of the bill with much more stringent regulatory provisions.

Udall's office was a little indignant and somewhat embarrassed Monday. "That document originated in our office," said Udall's communications director, Jennifer Talhelm. "It was shared with a number of stakeholders including at least one other senator's office. One of those stakeholders was the ACC."

Talhelm added, "We believe that somebody at the ACC saved the document, and sent it back to us," accounting for the digital trail. "Sen. Udall's office has been very, very engaged with bringing various stakeholders to the table as part of the process of writing the best possible bill," Talhelm added. "This is just one example."

Earlier this month, a New York Times story detailed Udall's alliance with the chemical industry on the bill. In that story, ACC President Cal Dooley, a former California Democratic congressman, said "the leadership (Udall) is providing is absolutely critical" to the industry.

On Monday, ACC spokeswoman and vice president Anne Kolter said, "It doesn't mean the original document was generated here. Anyone could have put that (digital signature) in there. You could change it."

Asked if that meant she was denying ACC wrote the document, she said, "I have no idea ... There's no way for anyone to tell."

"You're not the first reporter to ask about this," she said. "We've been able to raise enough questions" that nobody else has written about it, she added.

Cook of the EWG said the copy of the draft he received bore the same electronic signature, and a Boxer staffer on the committee confirmed that their copy did as well.

A Senate IT staffer told Boxer's office, "We can confidently say that the document was created by a user with American Chemistry Council. Their name is specified as Author and their Organization is specified as American Chemistry Council."

The Vitter-Udall version of the bill is expected to gain enough bipartisan support to pass out of committee to the Senate floor.

The bill's fate from there is uncertain, and some of the Boxer-Markey provisions could possibly be included in the final bill.

In its current form, the bill is opposed by many environmental, health and labor organizations and several states, because it would gut state chemical regulations. So the president's signature is not assured.

<http://www.houstonchronicle.com/news/politics/us/article/Chemical-industry-s-fingerprint-on-draft-bill-6138071.php>

Senator BOXER. That bill is gone, and I give my deepest thanks to the many public health organizations, environmental organizations like the Environmental Working Group, NRDC, Safer Chemicals, the Breast Cancer Fund, the Asbestos Disease Awareness Organization, nurses, physicians, the media and individuals like Deirdre Imus, Linda Reinstein and Trevor Schaefer. Those individuals and organizations put S. 697, the original bill, front and center and, despite its magnificent name, named after one of my most dearly beloved colleagues, they saw it for what it was. I ask unanimous consent to place in the record a Chronicle editorial that was written after they met with the breast cancer people.

Senator INHOFE. Without objection.
[The referenced material follows:]



NATURAL RESOURCES DEFENSE COUNCIL

April 27, 2015

Honorable James Inhofe, Chairman
U.S. Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Honorable Barbara Boxer, Ranking Member
U.S. Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Inhofe and Ranking Member Boxer,

On behalf of the Natural Resources Defense Council, I am writing to provide information that I hope will inform the Environment and Public Works (EPW) Committee's April 28 formal markup of S. 544, the "Secret Science Reform Act of 2015."

This bill is deeply troubling and deserves no support by committee members. The draft legislation would effectively amend numerous environmental statutes, and it marks a radical departure from longstanding practices. Its end result would be to make it much more difficult to protect the public by forcing EPA to ignore key scientific studies, including those submitted by industry.

This bill originally passed through the House Science Committee as part of that committee's attacks on two particular studies of the health impacts of fine particle air pollution. We urge this committee to decline to follow that committee's path, as this bill proceeds from a faulty premise from which it then undermines EPA's ability to carry out and enforce its most basic responsibilities.

The notion of "secret science" is a canard and ignores longstanding practices, recognized in law, that protect patient information, intellectual property and industrial secrets. This letter

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inventories some of the key ways such information is used, and needs to be used by EPA. It also shows how the public would suffer if the bill's proscriptions and restrictions were put into effect.

This letter will elaborate on these points:

- The whole notion of “secret science,” based on studies of fine soot pollution conducted almost two decades ago, is unfounded.
- The bill would make it impossible for EPA to use many kinds of studies that it necessarily relies on to protect the public because those studies use data that has long been understood to be legitimately confidential.
- The bill would make it impossible for EPA to use many kinds of economic models it routinely relies on because those models are proprietary.
- The bill advantages industry by exempting from its coverage EPA activities where industry is the primary party likely to submit confidential information, such as permitting. Nonetheless, the bill would make it harder for EPA to consider confidential information from industry in many instances, limiting the agency's ability both to protect the public and to reduce the costs of regulation.

Nonetheless, the bill would make it harder for EPA to consider confidential information from industry in many instances, limiting the agency's ability both to protect the public and to reduce the costs of regulation.

Covered Actions

The bill defines a “covered action” to mean “a risk, exposure, or hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance.” This definition creates a fundamental double-standard biased in favor of corporations and against public health and safety.

The legislation (1) restricts the information EPA can use to take a series of actions to protect public health and the environment, while it (2) simultaneously leaves untouched a host of actions that industry needs and desires—notwithstanding that these industry- favored actions often rely on industry-supplied scientific and technical information that industry may shield from the public.

Consider just a few examples of EPA actions that industry wants or needs EPA to take, and that do *not* fall under the definition of “covered action.” For these actions, EPA can continue to rely on so-called “secret science” supplied by industry that remains shielded from Americans:

- Industry permit approvals, revisions and renewals under the Clean Air Act, Clean Water Act and RCRA;
- Industry pesticide registrations, exemptions, and tolerances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA);

- Applicability determinations under EPA statutes and adjudications under the Administrative Procedure Act that determine whether regulations do or do not apply;
- Requests under some EPA regulations for industry exemptions that may be granted without need for proposed or final regulations by the agency;
- Certifications and compliance reports for vehicles, engines and equipment for various Clean Air Act motor vehicle regulations.

The legislation exempts all of these industry-desired or needed agency actions from the bill's strictures as well as from the bill's purported concern for transparency.

Examples of Other Health Protections That the Bill Would Obstruct

The following examples are drawn from just some of the statutory responsibilities and authorities that EPA carries out and enforces under current law. The draft bill would limit EPA's ability to review relevant information that current law allows EPA to consider to protect public health, safety and the environment:

- EPA could not establish a drinking water standard or health advisory for a contaminant under the Safe Drinking Water Act, based on information that industry claims was protected Confidential Business Information.
- EPA could be hindered in responding to emergency situations. For example, initially some of the data on the chemical Freedom Industries spilled last year in West Virginia was not publicly disclosed. It was eventually released in response to a letter from Congressman Waxman to the manufacturer of the chemical, Eastman Chemical. This legislation is problematic in the extreme by allowing industry to decide selectively what information EPA can use to issue a health advisory or a risk or hazard assessment, based on industry claiming that information to be Confidential Business Information.
- EPA could not establish a drinking water standard or health advisory based upon epidemiological evidence or clinical studies where the medical records of the patients are confidential under the Health Insurance Portability and Accountability Act (HIPAA) or other patient confidentiality requirements, or where the study would not be "reproducible" because of restrictions on access to confidential patient information. These confidentiality safeguards for patient data are routine in the field of medical research, yet the legislation renders important advances and understandings in health and environmental research off-limits to EPA when carrying out the law to protect Americans.
- EPA could not issue a risk/hazard assessment or a cancellation of a pesticide based upon (1) studies containing CBI; (2) epidemiological or clinical studies where the medical records of the patients are confidential under HIPAA or other patient confidentiality requirements; or (3) where the study would not be "reproducible" because of restrictions on access to confidential patient information. For example, studies completed by Columbia University doctors have shown certain pesticides used indoors harm pregnant mothers and their fetuses, causing smaller head circumferences, and interfering with children's brains' development as they grow up. These patient records have been aggregated and published in peer-reviewed journal literature, but underlying medical records are required to be kept confidential under HIPAA and agreements with patients.

- EPA could not regulate or issue guidance to prevent lead poisoning of children in housing being renovated, or lead contaminated water or plumbing, based upon clinical and epidemiological studies, where the medical records of the patients are confidential under HIPAA or other patient confidentiality requirements, or where the study would not be “reproducible” because of restrictions on access to confidential patient information. For example, many of the studies of the adverse impacts of lead follow patients who have been exposed to lead, and those records would be protected from public disclosure.
- EPA could not conduct risk/hazard assessments necessary to inform and govern the cleanup of Superfund sites, to the extent that potentially responsible parties asserted CBI protections over company information potentially implicating their contribution to a site, or CBI relating to specific chemicals. The legislation thus would allow any assertion of confidentiality claims by responsible parties engaged in Superfund cleanups to delay or thwart those cleanups in local communities, including the jobs associated with those activities.

In each of these examples, the legislation would mark a radical retreat from current law, by preventing EPA from considering key studies in deciding how to protect public health, safety and the environment.

Hazard Assessments and Imminent and Substantial Endangerment

The bill would prohibit EPA from taking actions under federal laws like the Resource Conservation and Recovery Act (RCRA) and the Clean Air Act to protect Americans against “imminent and substantial endangerment,” to the extent EPA relies upon any health studies involving confidential patient data or relies upon industry CBI. The latter could include industrial chemical or product formulations, process data, industry testing or research or trade secrets. EPA must conduct hazard and risk assessments to understand the nature of chemical and oil spills, explosions or other hazards endangering the public. Under current law, there are no restrictions on EPA conducting those hazard assessments, protecting the industry CBI *and* safeguarding the public. The legislation radically changes that. To the extent that any information covered by the bill is relied upon by EPA, the agency could not act against imminent and substantial endangerment of public health. Nor could EPA even “disseminate” warnings to the public, because the legislation amounts to an impossible gag order on public health and safety officials.

“Dissemination,” Censorship and Reckless Retroactivity

The bill’s astonishingly broad language prohibits EPA from “disseminating” any “risk, exposure, or hazard assessment, criteria document, standard, limitation, regulation, regulatory impact analysis, or guidance” that relied on scientific and technical information meeting the bill’s criteria. This language produces the perverse result that EPA would be barred from publishing on its website—or indeed even in the Code of Federal Regulations— *prior and existing* regulations, reports, guidance, risk, exposure or hazard assessments that relied on scientific and technical information before the bill’s consideration. This results in a reckless retroactivity and censorship of duly enacted regulations and agency reports that one cannot imagine even the legislation’s authors intended. (Of course, prohibiting EPA from disseminating adopted regulations would not cause those regulations to be repealed; it would just make it

immeasurably harder for anyone to find and follow the law.) But that is the consequence of the plain language of the bill, and such a “dissemination” prohibition would result in the massive censorship of valuable public health and safety information.

Illegal Delay and the Circular Problem of “Reproducibility”

The bill prohibits EPA from taking any covered actions unless all scientific and technical information relied on are “publicly available in a manner that is sufficient for independent analysis and substantial reproduction of research results.” The perverse problem with this language is that it could be read to mean that the only way to know with any certainty whether information is sufficiently reproducible is to allow time for independent parties to attempt to reproduce those research results. We know from experience that this can take years and involve great expenses.

The bill’s prohibition thus would prevent EPA from complying with statutory deadlines created by Congress under numerous federal laws. Before EPA may even propose or finalize a regulation to meet a statutory deadline, the agency would need to await confirmation of reproducibility, or else face constant anti-regulatory attacks from the earliest stages of a rulemaking that some scientific or technical information is not reproducible. This dynamic would poison EPA rulemakings either with massive delay or inescapable uncertainty, fundamentally obstructing EPA’s responsibilities under its various statutes to protect human health and the environment.

Moreover, this provision actually creates a perverse incentive for regulated industries with the financial means to do so either to (1) not undertake efforts to reproduce research results, so they may continue to charge that results are not reproducible; or (2) withhold from EPA research results that do prove the information is reproducible. And of course members of the public that lack the resources to conduct such reproduction studies, citizens who want EPA to protect public health and the environment, will be unable to clear this hurdle in the bill.

Regulations Granting Industry Flexibility or Regulatory Relief

Industry sometimes appeals to EPA during the course of proposed rulemakings, or even prior to the initiation of rulemaking, to loosen the rigor of agency regulations, accord industry operational flexibilities, extend compliance deadlines or take other actions to reduce alleged regulatory burdens. Frequently industry does so by submitting information particular to a specific company or industry sector; a particular chemical or product formulation; or a particular process unit or process line. These submissions frequently are accompanied by claims that information is CBI, due to the company-specific or industry-specific nature of information that may be proprietary, confidential or trade secrets. Industry parties sometimes submit health studies or risk assessments they have conducted that may contain confidential clinical data or other information that they do not wish to make publicly available.

The legislation would create a dynamic in which EPA is unable to consider that CBI or otherwise confidential health or risk data in deciding whether to adopt regulations or issue guidance that grants industry the requested regulatory flexibilities. When EPA exercises its regulatory authorities, at least, the bill also constrains the agency’s ability to be flexible or relieve regulatory obligations, precisely where it might be needed most: by being responsive to

particular demonstrations made by specific companies based on persuasive information that also happens to be CBI. It does not appear that the bill's co-sponsors could have intended this outcome, but that is just how the bill works as written.

Proprietary Models

The bill prohibits EPA from taking covered actions to enforce the law and protect the public if doing so involves relying on “computer codes and models” for creating and analyzing scientific and technical information. Section 6(b)(3)(B). This provision has the perverse effect of barring EPA from relying on proprietary models or computer programs whose software, design features and other inputs were created by and are owned by the private sector. There are undoubtedly numerous proprietary models used by EPA,¹ but a widely used model under the Clean Air Act serves as a useful example to highlight the bill's irresponsible—and probably unintended—consequences.

The Integrated Planning Model (IPM) is the most widely used model “to analyze the impact of air emissions policies on the U.S. electric power sector.”² It is employed by EPA, state governments, the private sector and public interest organizations, and was developed by ICF Consulting, Inc., which owns the rights to the model and its utilization. EPA explains the purpose of the IPM and its value thusly:

EPA uses the Integrated Planning Model (IPM) to analyze the projected impact of environmental policies on the electric power sector in the 48 contiguous states and the District of Columbia. Developed by ICF Consulting, Inc. and used to support public and private sector clients, IPM is a multi-regional, dynamic, deterministic linear programming model of the U.S. electric power sector. It provides forecasts of least-cost capacity expansion, electricity dispatch, and emission control strategies for meeting energy demand and environmental, transmission, dispatch, and reliability constraints. IPM can be used to evaluate the cost and emissions impacts of proposed policies to limit emissions of sulfur dioxide (SO₂), nitrogen oxides (NO_x), carbon dioxide (CO₂), hydrogen chloride (HCl), and mercury (Hg) from the electric power sector.

The IPM depends on computer codes and models whose content, features, inputs and other elements are not “specifically identified” and “publicly available in a manner that is sufficient for independent analysis and substantial reproduction of research results.”

¹ For other examples of proprietary models employed by EPA, see http://www.epa.gov/pesticides/science/models_pg.htm. The agency has said that “EPA prefers using non-proprietary models when available. However, the Agency acknowledges there will be times when the use of proprietary models provides the most reliable and best-accepted characterization of a system.” http://www.epa.gov/crem/library/cred_guidance_0309.pdf, at 31. We respectfully submit that EPA should be asked to identify all proprietary models used by the agency, and how restrictions on their use would impede the agency's ability to enforce the law and protect public health and the environment, before this Committee proceeds to mark up the bill.

² <http://www.epa.gov/powersectormodeling/>.

Thus, the bill would prohibit EPA from proposing, finalizing or disseminating covered actions if the agency relied on the IPM, or it would require EPA to abandon use of the IPM altogether. This would produce the following harmful outcomes:

- When proposing or finalizing regulations, regulatory impact analyses or other covered actions, the bill would prohibit EPA from using the sophisticated IPM to analyze the projected impact of its power plant regulations on the electricity grid and its reliability, transmission lines, dispatch, jobs in the power and coal mining sectors, emissions control and retirement decisions, among other information supplied by the IPM;
- The bill would prohibit EPA from “disseminating” to Congress, the public, industry officials and state and local government any covered action (such as a regulatory impact analysis) that contained or relied upon any information generated from the proprietary IPM;
- The bill would prohibit EPA from proposing or finalizing regulations to lessen regulatory impacts on the power sector, adopt exemptions or issue flexibility guidance to the extent that EPA relied upon the proprietary IPM;
- The bill would prohibit EPA from conducting risk, exposure or hazard assessments at the request of Congress to analyze the impact of proposed Clean Air Act legislation or EPA regulations on the power sector, or “disseminating” such results to Congress, to the extent that EPA relied on the IPM;
- Had the bill been enacted into law at the time, the Bush administration would have been unable to supply members of Congress or the public with all the useful IPM results generated to assess the impacts of Clear Skies legislation in the House and the Senate, as well as the Bush administration’s Clean Air Interstate Rule and Clean Air Mercury Rule.³ Indeed, members of this Committee, others in Congress, President Bush and administration officials drew heavily upon these IPM results in promoting the Clear Skies bills during congressional deliberations and in statements from their offices.⁴

Another example of an EPA model that the legislation likely would render unavailable is the agency’s use of various physiologically based pharmacokinetic (PBPK) models to conduct chemical assessments under the Integrated Risk Information System (IRIS). EPA says that “these models represent an important class of dosimetry models that are useful for predicting internal dose at target organs for risk assessment applications.”⁵ It is likely that some widely-employed PBPK models would not pass muster under this legislation, due to their proprietary

³ Information still available on EPA’s website demonstrates the vast extent to which the Bush administration relied upon the IPM to analyze the Clear Skies bills as well as EPA’s related regulatory actions. See http://www.epa.gov/clearskies/tech_adden.pdf; http://www.epa.gov/clearskies/tech_addendum.pdf; & <http://www.epa.gov/clearskies/clearskiessummary04-11.pdf>;

⁴ See, e.g., <http://yosemite.epa.gov/opa/admpress.nsf/6427a6b7538955c585257359003f0230/c1b111b0d87d591385256c0500625054!OpenDocument>; <http://www.inhofe.senate.gov/epw-archive/press/bchairman-inhofe-introduces-the-administrations-clear-skies-initiative/b>; http://www.epw.senate.gov/107th/smi_061202.htm; <http://georgewbush-whitehouse.archives.gov/news/releases/2002/02/20020214-5.html>.

⁵ <http://cfpub.epa.gov/ncea/cfm/recorddisplay.cfm?deid=135427>.

nature, the public unavailability of information or the inability to sufficiently reproduce model results.

In one recent example, EPA relied upon a PBPK model to propose non-cancer risk estimates for methanol at, or nearly at, an order of magnitude weaker than those proposed previously. The legislation could prohibit EPA from relying upon this PBPK model *to lower* the risk estimates for methanol. Moreover, any other attempt by industry to persuade EPA to weaken risk assessments for chemicals in IRIS could not rely upon PBPK models failing to meet the bill's criteria. Nor could those industry efforts rely upon health studies, risk assessments, research, product or process information or business information claimed by industry to be confidential. The bill would make this true for all risk, hazard and exposure assessments under IRIS and other EPA programs.

Finally, the bill is so poorly drafted that it could prevent EPA from using commercially available software to carry out basic computing functions, because the computer codes behind that software are proprietary and not publicly available. Again, we do not believe this absurd result was intended by the authors of the legislation; but this is the plain reading and result of its language.

Obstructing Clean Air Act Enforcement

This legislation, coupled with last year's unwarranted subpoena steps by the House Science Committee, plainly is targeting a few clean air health studies that show causal associations between fine soot pollution (PM_{2.5}) and premature mortality. House Science Committee Chairman Lamar Smith, one of the House companion bill's co-sponsors, has suggested that the massive body of scientific evidence showing a causal association between soot pollution and mortality comes down to "secret" data from just two studies.⁶ This is incorrect. A much broader body of scientific studies examine and reaffirm the causal association between fine soot pollution and mortality. These studies post-date the so-called "Harvard Six Cities" and "American Cancer Society" studies, some of them independently re-analyze the studies, and they consistently find the same causal soot-mortality relationship.⁷

⁶ Rep. Lamar Smith, "The EPA's Game of Secret Science," The Wall Street Journal (July 29, 2013).
http://online.wsj.com/news/articles/SB10001424127887323829104578624562008231682?mg=r_eno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424127887323829104578624562008231682.html.

⁷ In revising and updating National Ambient Air Quality Standards (NAAQS) for fine particulate matter, EPA devotes an entire chapter of its Regulatory Impact Analysis (RIA) to cataloguing and reviewing updated health effects studies, and explaining how they were incorporated into the agency's 2012 standards review. See, e.g., <http://www.epa.gov/ttn/ecas/regdata/RIAs/finalria.pdf> (at pp. 5-7 to 5-8 listing 5 updates from the proposed 2012 RIA; fig 5-4 at p. 5-73; pp. 5-31 to 5-35).

Chairman Smith has charged that the data in the Harvard and American Cancer Society studies “have not been subjected to scrutiny and analysis by independent scientists.”⁸ This too is incorrect.

In December 2012, a seminal report entitled the 2010 Global Burden of Disease⁹ “estimate[d] over 2.1 million premature deaths and 52 million years of healthy life lost in 2010 due to ambient fine particle air pollution, fully 2/3 of the burden worldwide.” Drawing upon a broad body of data and studies from around the world, the report examined the risks of premature mortality linked to soot pollution and independently affirmed the results of the Harvard Six Cities study. The Global Burden of Disease researchers found significant mortality impacts from fine particulate pollution. They concluded that “[t]he magnitude of disease burden from particulate matter is substantially higher than estimated in previous comparative risk assessment analyses.”

As explained in a release¹⁰ by the esteemed Health Effects Institute, a contributor to the report, “[t]he 2010 [Global Burden of Disease report] was produced by a rigorous scientific process involving over 450 global experts and led by the Institute of Health Metrics and Evaluation (IHME) at the University of Washington along with its partner institutions: the World Health Organization, the University of Queensland, Australia, Johns Hopkins University, and Harvard University.”

Similarly, in July 2000, the Health Effects Institute issued a special report¹¹ entitled “Reanalysis of the Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality.” The explicit goal of that study was “to conduct a rigorous and independent assessment of the findings of the Six Cities and ACS Studies of air pollution and mortality.” (p.ii) To accomplish this goal, the team of researchers had “access to the original data” once they entered into contractual agreements and a Memorandum of Understanding to ensure that confidentiality was protected. (p.4). The report concluded that “reanalyses assured the quality of the original data, replicated the original results, and tested those results against alternative risk models and analytic approaches” (pp.iii-iv).

EPA's Integrated Science Assessment¹² for the PM_{2.5} standards explained (p. 7-95) that the Harvard and ACS studies have “undergone extensive independent reanalysis,” and “were based on cohorts that were broadly representative of the U.S. population.” Reviewing this assessment and the broader body of epidemiological and toxicological studies, EPA's official Clean Air Science Advisory Committee (CASAC) recommended “upgrading’ the causal classification for PM_{2.5} and total mortality to ‘causal’ for both the short-term and long-term time

⁸ *Supra* note 6.

⁹ [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(12\)61766-8/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(12)61766-8/fulltext).

¹⁰ <http://www.healtheffects.org/International/GBD-Press-Release.pdf>. The Health Effects Institute is “a nonprofit corporation chartered in 1980 as an independent research organization to provide high-quality, impartial, and relevant science on the health effects of air pollution.” Funded jointly by the federal government and industry, it is an honest broker that has garnered widespread respect for its scientific expertise, integrity and research excellence.

¹¹ <http://pubs.healtheffects.org/getfile.php?u=274>.

¹² <http://cfpub.epa.gov/ncea/CFM/recordisplay.cfm?deid=216546#Download>.

frames.” CASAC further found “[t]here are epidemiological studies showing a positive association of all-cause mortality with PM_{2.5}.”

Despite this extensive body of evidence, thorough re-analysis, and reaffirmation by governmental scientific advisory bodies, the legislation is founded on an obvious agenda to deny EPA the ability to rely upon peer-reviewed medical studies that involve commitments to patient confidentiality, when the agency carries out its statutory responsibilities to safeguard public health and clean air. The truth is there is a basic difference between “secret science” and confidential patient data subject to confidentiality agreements reached to conduct important medical research. The American people understand this difference. The legitimate researchers and reanalysis initiatives that committed to the confidentiality policies of the relevant research institutions, as HEI and the Global Burden of Disease teams did, were able to access the patient data.

EPA has squarely rejected salacious secrecy charges concerning these same health studies:

The EPA is transparent with regard to the scientific bases of agency decision making and disagrees with assessments and your assertion that the agency relies on “secret” data in regulatory actions and of health benefits. In setting the National Ambient Air Quality Standards (NAAQS) and in assessing health benefits anticipated from air pollution regulations, the EPA relies on the scientific studies that are published in the peer-reviewed literature. The EPA provides the information used in regulatory decisions, including the epidemiological studies, in the publicly available docket accompanying each rulemaking.¹³

This committee should not repeat the mistakes of the House Science committee and go so far as to use unfounded charges to write a bill that would block the use of a breathtaking range of science that has long been used to safeguard the public.

Technology-Based Emission Standards

The legislation would thwart EPA’s responsibility to carry out health safeguards required by Congress under the Clean Air Act and Clean Water Act. For example, both of these statutes contain “technology-based” emission standards for industry based on emissions reductions deemed achievable by state-of-the-art technology.¹⁴ EPA sometimes solicits from corporations information about an industrial sector’s pollution control technology, process units and other pieces of regulated or potentially regulated equipment. Industry requests that some of the information it submits to EPA be treated as CBI. Similarly, when industry representatives submit comments in response to proposed technology-based emissions standards, these commenters request that various information contained in those comments be treated as CBI.

¹³ <http://switchboard.nrdc.org/blogs/jwalke/04-10-13%20EPA%20letter%20to%20Senator%20Vitter.pdf>.

¹⁴ See, e.g., Clean Air Act section 112(d) (Maximum Achievable Control Technology (MACT) standards).

The bill would create a perverse dynamic in which corporate officials could thwart EPA's development of statutorily required technology standards, by designating as CBI information that is crucial to determining what emissions reductions are achievable by state-of-the-art technology. Indeed, the bill's design would particularly obstruct the implementation and enforcement of technology-based safeguards for air and water, because industry representatives could so easily seek to designate a wide variety of technology and process information to be CBI. Accordingly, even though the bill does not purport to amend the Clean Air Act or Clean Water Act, the bill would have the effect of radically re-working and weakening the purpose and effectiveness of these laws. The legislation obstructs the most basic enforcement of these laws.

Toxic Substances Control Act

The bill would fundamentally obstruct EPA's responsibility to protect the public by regulating toxic substances under the Toxic Substances Control Act (TSCA), which relies extensively upon industry claims of confidential business information.

For example, Section 8(e) of TSCA requires chemical manufacturers, importers and processors to report immediately to EPA whenever they obtain evidence "that reasonably supports the conclusion that [a substance or mixture] presents a substantial risk of injury to health or the environment."

Typically, these industry reports claim the information provided is protected confidential business information (CBI) – including the identity of the chemical, the name of the company submitting the information, as well as health and safety studies about the chemical.¹⁵ The most recent list of section 8(e) studies from April 2013 shows just how pervasive these industry CBI claims are.¹⁶

Members of the public can only see the sanitized version of the 8(e) reports, which might show the results of lab testing for human or aquatic toxicity and which "reasonably support the conclusion that [the substance] presents a *substantial risk of injury* to health or the environment." (emphasis added). Although the public will not have access to this information, EPA will, and they use 8(e) reports to prioritize chemicals for greater reporting, or testing, potential regulation, potential voluntary agreements with companies to restrict or phase out the use of particular substances, as well as possible enforcement actions.

A very similar function occurs under the new chemicals program of TSCA (Section 5). Industry officials submit Pre-Manufacturing Notices (PMNs) and claim that information about their proposed new chemicals is CBI. This includes health and safety studies that should not be eligible for treatment as CBI under TSCA, but that EPA routinely treats as CBI anyway. While

¹⁵ EPA has allowed these CBI claims to be asserted even though TSCA section 14(b) does not allow it. The current abuse of CBI under TSCA is a widely recognized problem. EPA is not required even to review all CBI submissions for their validity. There is no up-front justification requirement that must accompany CBI claims. Once CBI status is granted under TSCA it has no sunset and is rarely if ever re-opened. This has resulted in massive overuse and abuse of the CBI designation. For more information, see, e.g., <http://blogs.edf.org/health/2010/02/12/worse-than-we-thought-decades-of-out-of-control-cbi-claims-under-tsca/>.

¹⁶ <http://www.epa.gov/oppt/tsca8e/pubs/8emonthlyreports/2013/8eapr2013.html>.

the public does not see information submitted as CBI, the agency does, and can use that information to take several steps: (1) reject a PMN, for example if the new substance is persistent, bioaccumulative and toxic; (2) require additional testing under a TSCA section 5(e) consent order; or (3) restrict some uses of the new chemical using a Significant New Use Rule (SNUR).

The legislation irresponsibly prohibits EPA from taking or even proposing to take the aforementioned actions because the agency may not rely upon the submitted industry information to the extent that industry claims it to be CBI. This creates the perverse result that industry is allowed to prevent EPA from taking necessary steps to address “substantial risk of injury to health or the environment” caused or potentially caused by the industry’s own chemicals, based on the decision entirely within industry’s control to designate submitted information as CBI. And the particular perversity of the legislation is that information may well be CBI under current law; but current law does not restrict EPA from protecting the public simply because industry has legally protected interests over its CBI.

Consider the following example under TSCA. A chemical manufacturer submits a Pre-Manufacturing Notice (PMN) for a new chemical under TSCA Section 5, and the notice contains data or information that the manufacturer claims to be CBI.

EPA has 90 days (plus an option for a 90-day extension) to review the notice and determine whether or not it wants to allow the new chemical to start being manufactured, whether it wants to require more testing, impose some restrictions, or stop the chemical entirely. If EPA takes *no action* on a PMN within the 90-day review period, the company submitting the notice can begin to manufacture the chemical. Once a new chemical is allowed to be manufactured, the chemical is then added to the TSCA inventory. This allows any other company to begin using the chemical for any other purpose (including in greater volumes than proposed in the original notice, and for different kinds of uses, including uses that may be much more dispersive and lead to greater human exposure, *e.g.*, in a flame retardant).

The definition of “covered action” in the legislation does not include *inaction* by EPA. Accordingly, the chemical manufacturer and other industrial users that follow-on may begin manufacturing new chemicals based upon the submission of CBI— “secret science” to use the nomenclature of the bill—all without any of that information needing to be publicly available or reproducible when EPA fails to take any action on receipt of the notice.

If EPA does have health and safety concerns, however, based in part on the information submitted as CBI, TSCA authorizes EPA to take several steps: (1) require the company to do more testing; (2) impose restrictions on the original notice submitter; and (3) restrict other entities from using the chemical for different uses or different volumes.

The legislation treats all of *these* EPA actions under TSCA as “covered actions,” because they involved proposed or final regulations and/or the need for risk or hazard assessments. Accordingly, the bill prohibits EPA from taking any of these actions to protect the public, to the extent the agency needs to rely upon the industry CBI that raised the concerns in the first instance.

So the legislation is an irresponsible one-way ratchet: industry may proceed to manufacture new chemicals based on EPA's consideration (or even non-consideration) of "secret" CBI. But EPA may not regulate identified dangers or risks to the public from those chemicals based on the consideration of that same "secret" industry CBI.

Congressional Budget Office Projects Bill Will Force EPA to Spend \$250 Million *Annually* for Several Years, or EPA Would be Blocked from Enforcing Health & Environmental Laws to Protect Americans

Section 2 of the legislation instructs the Administrator to carry out the bill's mandates and prohibitions "in a manner that does not exceed \$1,000,000 per fiscal year, to be derived from amounts otherwise authorized to be appropriated." This provision amounts to a phantom fiscal limitation that, as explained below, still leads the Congressional Budget Office to conclude that EPA will spend \$250 million *annually* over several years to implement the bill. Alternatively, were the legislation to be interpreted to place a hard \$1,000,000 cap on implementing the bill's provisions, then EPA would be forced to sharply restrict enforcement and implementation of the nation's environmental laws, and be denied funds to undertake rulemakings, enforcement and a host of other actions critical to protecting Americans.

On March 11, 2015, the Congressional Budget Office released a cost estimate about the essentially identical "Secret Science Reform Act of 2015" in the House, H.R. 1030. CBO concluded that "[b]ased on information from EPA, CBO expects that EPA would spend \$250 million *annually over the next few years* to ensure the transparency of information and data supporting some covered actions."¹⁷ CBO concludes that "additional discretionary spending" actually necessitated by the legislation "would cover the costs of expanding the scope of EPA studies and related activities such as data collection and database construction for all of the information necessary to meet the legislation's requirements."¹⁸

The CBO does examine an alternative scenario in which EPA avoids these enormous additional costs to implement the bill, but the alternative results in more dangerous and reckless consequences for Americans. Estimating that the new mandates imposed by the bill would cost between \$10,000 and \$30,000 for *each* scientific study used by EPA, the CBO acknowledges that EPA could stay within the bill's \$1,000,000 fiscal year spending cap, but only by radically curtailing the number of studies the agency relies upon to carry out and enforce the law. Using CBO's compliance cost estimates per study, EPA could rely upon only 33 to 100 studies per year.

Contrast that with the CBO's finding that EPA "relies on about *50,000 scientific studies annually* to perform its mission—although some of those studies are used more than once from

¹⁷ <http://www.cbo.gov/sites/default/files/cbofiles/attachments/hr1030.pdf> (emphasis added).

¹⁸ *Id.* at 1-2.

year to year.”¹⁹ So the bill either results in more than a billion dollars in additional costs (*i.e.*, tax dollars) for EPA to do its job, or it forces the agency to rely upon *less than 0.02%* of the annual studies EPA currently relies upon—preventing the agency from doing its job to protect Americans.

CBO concludes that EPA would “base its future work on fewer scientific studies”—a profound understatement, considering that the legislation denies EPA funding to ensure that any more than the tiniest fraction of these 50,000 annual studies pass muster against the bill’s sweeping new mandates. And as the bill makes clear, EPA is *prohibited* from enforcing any and all environmental laws that rely upon proposing, finalizing or disseminating covered actions—encompassing a vast, vast array of the agency’s legal responsibilities—that rely upon scientific studies that EPA lacks funding to ensure do pass muster.

Conclusion

In sum, this legislation would effectively amend numerous environmental statutes in a manner that would obstruct the development and implementation of health and environmental safeguards. It would do so in a fashion that would also restrict industry’s ability to inform EPA decision-making, raising the costs of regulation. At the same time, the bill unfairly caters to industry by exempting permitting and other agency actions from its ambit and underscoring the CBI protections in existing law.

The legislation would block EPA from enforcing and carrying out bedrock health, safety and environmental laws designed to protect Americans. Public polling indicates that the American people rightly are concerned that there is inconsistent and too little enforcement of environmental laws and regulations. This legislation would take us dramatically backwards, interfering with enforcement of U.S. environmental laws as thoroughly as any more overt legislation that simply directed EPA not to enforce the law. A better name for this dangerous legislation would be the Anti-Environmental Enforcement Act of 2015.

The EPW Committee ought to abandon this misguided project of chasing the phantom notion of “secret science.” With this bill, the Committee would move from reviving baseless charges about clean air science that were disproved over a decade ago to damaging EPA’s ability to use science and enforce the law for decades ahead.

Sincerely,



John Walke
Clean Air Director
Natural Resources Defense Council

¹⁹ *Id.* at 2 (emphasis added).

Senate bill goes wrong way on toxic-chemical rules

San Francisco Chronicle
April 26, 2015

An unlikely alliance of the chemical industry and some environmental groups has formed to support a bipartisan proposal to overhaul the Toxic Substances Control Act of 1976.

It's hard to find anyone who would disagree with Jeanne Rizzo, president and CEO of the Breast Cancer Fund, that the law is "by all accounts, an incredible failure" because of the maddeningly slow process of getting potentially dangerous toxic substances out of circulation.

This is an unusual case in which an industry desires new federal regulations. Its major concerns are twofold: One, the public is growing increasingly wary of chemicals in consumer products and skeptical of the government's performance as a watchdog of such. Also, the industry is worried about states, such as California, that are stepping up their own regulatory efforts.

The process for reviewing toxic substances is so cumbersome that the Environmental Protection Agency has been unable to ban the use of asbestos in products sold in the U.S., years after its health dangers became so apparent that its manufacture and sale became illegal. The EPA has required safety testing of less than 1 percent of an estimated 80,000 registered synthetic chemicals.

But it could get worse. Much worse. The so-called reform bill recently introduced by Sens. David Vitter, R-La., and Tom Udall, D-N.M., would accelerate the testing of high-risk chemicals ever so marginally — just 10 in the first year.

Their bill gained the support of the Environmental Defense Fund but is vigorously opposed by many others.

The major objection to the Vitter-Udall bill from the environmental and public health groups is that it would preempt states from stepping into the void when the federal government lacks the will or resources to enact or enforce meaningful toxic chemical regulation. In a letter to Sen. Barbara Boxer, D-Calif., state Environmental Protection Agency Secretary Matthew Rodriguez warned that the bill could even go beyond regulations specifically aimed at chemicals and erode state clean air and water laws.

State Attorney General Kamala Harris' office said in a letter to the Senate that the draft represented an "unnecessary evisceration of state regulatory authority." Or, as Michael Green of the Center for Environmental Health put it, by excluding state enforcement the chemical industry is "trying to reduce the number of cops on the beat."

Boxer, who has been a champion of meaningful toxic substance regulation, has suggested that the chemical industry had far too much influence in crafting the Vitter-Udall bill. "Call me old-fashioned, but a bill to protect the public from harmful chemicals should not be written by chemical industry lobbyists," she said last month.

Boxer and Sen. Ed Markey, D-Mass., have proposed an alternative reform bill that would, among other key elements, allow states to continue to exceed federal law in regulating toxic chemicals.

In 1986, Californians passed Proposition 65, which has been highly effective in forcing companies to change the composition of their products to reduce consumers' exposure to potentially toxic chemicals. Examples range from lead in baby bibs to cadmium in jewelry to 4-methylimidazole in soft drinks.

Californians long ago realized they could not count on the federal government to protect public health. States must not lose that right to take action against toxic chemicals.

<http://www.sfchronicle.com/opinion/editorials/article/Senate-bill-goes-wrong-way-on-toxic-chemical-rules-6224495.php>

Senator BOXER. The old bill had, as Senator Whitehouse called it, a death zone. The death zone is the period when States cannot act to address cancer-causing chemicals. Thanks to all of you who were so strong, and particularly those who stood by my side at several press conferences, we have seen great improvements to this bill.

So now in the Vitter amendment, we see fixes to preemption of State air and water laws, co-enforcement of chemical restrictions by States, removal of a harmful provision that would have undermined the EPA's ability to restrict imports of dangerous chemicals from foreign countries.

When several colleagues offered to negotiate the changes, I said yes. Senators Whitehouse, Merkley and Booker, they worked very hard, very hard to improve the bill. I know, because I spoke to them almost every day this past week. They came through on those fixes that I mentioned, and I thank Senators Vitter and Udall for agreeing to them.

With the Vitter amendment, we are still left with a death zone of at least 5 years. What could happen during that time? New scientific evidence could show that a chemical causes cancer, but the States can't act. During the 5-year period, there is a list of conditions that easily could be used to deny a waiver and force the States to go to court.

The House bill, the House bill on TSCA, has no preemption provision. A chemical actually has to be regulated before there is preemption. That is the way it should be, and we have a chance to make the important fix with the Gillibrand amendment. I hope we will. We all talk about the rights of our States to act to protect their people. Let's prove that we mean it when we say States' rights, and support Senator Gillibrand. Let's not have Big Brother tell the States they have no right to act to protect their citizens.

You know when our States act, we all benefit. When Minnesota took first steps to ban BPA in baby bottles, and the State of Washington took the lead on restricting the use of brain-toxic lead in jewelry, and my home State spearheaded the effort to restrict the use of cancer-causing formaldehyde in wood products, that benefited the entire Nation, the entire Nation.

I also don't understand why in the new Vitter substitute there is not even a mention of asbestos, the most dangerous substance. It takes 10,000 lives a year; no mention of it in the substitute.

The new Vitter amendment left out action also on cancer clusters and chemical spills in drinking water, which is so important to West Virginia. We have amendments to address that. There are still many parts of this bill that need fixing, and I urge my colleagues to keep working to make this bill better. And I ask unanimous consent to place in the record letters from organizations that oppose final passage of the Vitter substitute unless we pass strong perfecting amendments.

Senator INHOFE. Without objection.

[The referenced letters were not received at time of print.]

Senator BOXER. Those would include Safer Chemicals, Healthy Families Coalition, which represents 450 environmental, labor, and health groups; the Asbestos Disease Awareness Organization; the AFL-CIO; Environmental Working Group, the Breast Cancer

Fund, and the Center for Environmental Health. I really look forward to making this chemical safety bill better and better. But if we can't support these perfecting amendments today, I intent to vote no on final passage.

I thank you so much for all your work on this.

[The prepared statement of Senator Boxer follows:]

Statement of Ranking Member Barbara Boxer
Full EPW Committee Markup
April 28, 2015
(Remarks as prepared for delivery)

Colleagues, this is the Environment Committee -- not the board room of the chemical companies. That is why I am pleased that with the 179-page Vitter amendment we are witnessing the death of S. 697 that we have held hearings on and, according to a prize winning reporter, was written on the computer of the American Chemistry Council. I ask unanimous consent to place that news article in the record.

That bill is gone, and I give my deepest thanks to the many public health organizations, environmental organizations like the Environmental Working Group, NRDC, Safer Chemicals, the Breast Cancer Fund, and Asbestos Disease Awareness Organization, nurses, physicians, the media, and individuals like Deirdre Imus, Linda Reinstein and Trevor Schaefer. Those individuals and organizations put S. 697, the original bill, front and center and, despite its beautiful name, saw it for what it was.

It was a bill that would harm our people with, as Senator Whitehouse called it, a death zone. The death zone is the period when states cannot act to address cancer-causing chemicals even when the federal government has done nothing to put safeguards in place. Thanks to all of you who were so strong, and particularly those who stood by my side at several press conferences.

So now in the Vitter amendment, we see fixes to preemption of state air and water laws, co-enforcement of chemical restrictions by states, and removal of a harmful provision that would have undermined EPA's ability to restrict the import of dangerous chemicals from foreign countries.

When several colleagues offered to negotiate changes, I said yes. Senators Whitehouse, Merkley and Booker worked hard to try to improve the bill. I know, because I spoke to them almost every day this past week. They came through on those fixes I mentioned, and I thank Senator Vitter and Senator Udall for agreeing to them.

In the amendment, we are still left with a death zone of at least five years, where states are shut out. What could happen during that time? New scientific evidence could show that a chemical causes significant harm to women and children. But instead of acting to address that threat, states would have to wait as long as five years while EPA studied the chemical. During that five-year period, there is a list of conditions that could easily and readily be used to deny any waiver. Further, they would have to go through a complicated and confusing process that virtually guarantees court action before they would be allowed to act.

The House bill does not have this kind of preemption provision; a chemical must actually be regulated before preemption can occur. That's the way it should be, and we have a chance to make that all important fix in the Gillibrand amendment. I hope we will. We all talk about the rights of our states to act in the best interests of their citizens. Then prove it today and vote to

end preemption as the House bill does. Let's not have Big Brother tell the states they have no right to act to protect their citizens.

When our states act, all states benefit. Here is an example of that: Minnesota took the first steps to ban baby bottles made with bisphenol A (BPA), the State of Washington took the lead on restricting the use of brain-toxic lead and cadmium in children's jewelry, and my home State of California spearheaded the effort to restrict the use of cancer-causing formaldehyde in wood products. The entire nation benefitted from all of these states' actions.

I don't understand why any specific action on asbestos was left out of the new Vitter amendment. Asbestos is one of the most dangerous substances known to humankind -- it takes 10,000 lives a year -- and yet there is no mention of it in the Vitter amendment.

The new Vitter amendment also left out any action on cancer clusters, and we will have an amendment to address that. There are still many parts of this bill that need fixing, and I urge my colleagues to keep working to make this bill better.

I ask unanimous consent to place into the record letters and statements from organizations that oppose final passage of the Vitter substitute in its current form without passing strong perfecting amendments, and those who cannot support the bill in its current form without passing strong amendments, including the Safer Chemicals, Healthy Families Coalition, which represents 450 environmental, labor, and public health groups; the Asbestos Disease Awareness Organization; AFL-CIO; Environmental Working Group, the Breast Cancer Fund, and the Center for Environmental Health. I look forward to making this chemical safety bill better by amendment, but if we don't pass the amendments I will vote no.

As the bill takes authority to address dangerous toxic chemicals away from states and gives it to the federal government, some want to handcuff the EPA from using the best available science when developing its regulations. S. 544, the so-called Secret Science Reform Act of 2015, would impose arbitrary, unnecessary, and expensive requirements on the scientific information that EPA relies on to protect human health and the environment. It would also hinder scientific research by forcing the EPA to release confidential personal information about study participants.

I ask unanimous consent to place in the record letters and statements from organizations that oppose the bill, and those who cannot support the bill in its current form without passing strong amendments. I want to note that the Obama administration has issued a veto threat on an identical House bill.

Thank you, and I look forward to making this chemical safety bill better.

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Senator INHOFE. Thank you, Senator Boxer.

We will be dealing with quorums. We need 11 to report the legislation, when we get to that point, and 7 people here for the GSA Resolutions amendments I mentioned in my opening statement.

To begin, we will call up the Vitter substitute, the Vitter-Udall substitute amendment. That will be the underlying bill, and I recognize Senator Vitter for an explanation. Over the weekend, they reached an agreement, as was called to our attention by myself and by Senator Boxer, on the substitute amendment, which I think is supported by a lot of people on this committee.

Senator Vitter.

Senator VITTER. Thank you very much, Mr. Chairman, for convening today's business meeting and for bringing up this new version of S. 697. This work reflects the ongoing strong bipartisan effort between Senator Udall and myself and involving so many others. This bill is a marked improvement over current law. It does represent significant positive compromise. It is the Frank R. Lautenberg Chemical Safety for the 21st Century Act, aptly named.

Mr. Chairman, after this committee held our hearing on the legislation in March, Senator Udall and I took the concerns presented by many colleagues and stakeholders and set out to make the bill even stronger. That is what we have before us today. I am pleased to have worked, in particular, with Senators Whitehouse, Merkley, and Booker to produce this compromise. I welcome their input and their support. I also want to thank Senator Carper for his relentless work on this issue.

Mr. Chairman, let me just briefly note some of the improvements in this bill. First, the amendment creates a compromise on one of, if not the most, controversial issue, and that is high priority preemption. Not only did the bill as originally introduced remove the preemptive effect of low priority decisions, but this amendment today goes farther to balance the need for maintaining business certainty while allowing States to play an important role in protecting public health and the environment.

No. 2, Mr. Chairman, this bill allows for State co-enforcement of regulations that are consistent with current TSCA. No. 3, it requires that for the purposes of TSCA submissions to the EPA, industry look at available alternatives to animal testing. And No. 4, this bill provides clarification that State clean air and water laws are not preempted by the legislation, which was never our intent.

Many of these changes reflect requests made by colleagues. This compromise represents real improvement that my side of the aisle will also appreciate, including allowing for a greater number of chemicals to move through the system at the request of the regulated community, clarifying some necessary protections of confidential business information and clarifying EPA's process around articles.

Again, thank you very much, Mr. Chairman, for your leadership, your work in getting us to this very significant day, marking up and passing out of committee a major improvement to current law. Thank you, Mr. Chairman.

[The text of the amendment in the nature of a substitute offered by Senator Udall follows:]

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Frank R. Lautenberg
5 Chemical Safety for the 21st Century Act”.

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

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

9 (1) by striking “It is the intent” and inserting
10 the following:

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

2

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

4 (3) by adding at the following:

5 “(2) REFORM.—It is the intent of Congress
6 that reform of this Act in accordance with the
7 amendments made by the Frank R. Lautenberg
8 Chemical Safety for the 21st Century Act—

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

11 “(i) protects the health of children,
12 pregnant women, the elderly, workers, con-
13 sumers, the general public, and the envi-
14 ronment from the risks of harmful expo-
15 sures to chemical substances and mixtures;
16 and

17 “(ii) ensures that appropriate infor-
18 mation on chemical substances and mix-
19 tures is available to public health officials
20 and first responders in the event of an
21 emergency; and

22 “(B) shall not displace or supplant com-
23 mon law rights of action or remedies for civil
24 relief.”.

1 **SEC. 3. DEFINITIONS.**

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

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

8 (2) by inserting after paragraph (3) the fol-
9 lowing:

10 “(4) CONDITIONS OF USE.—The term ‘condi-
11 tions of use’ means the intended, known, or reason-
12 ably foreseeable circumstances the Administrator de-
13 termines a chemical substance is manufactured,
14 processed, distributed in commerce, used, or dis-
15 posed of.”;

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

18 “(11) POTENTIALLY EXPOSED OR SUSCEPTIBLE
19 POPULATION.—The term ‘potentially exposed or sus-
20 ceptible population’ means 1 or more groups—

21 “(A) of individuals within the general pop-
22 ulation who may be—

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

1 “(ii) susceptible to greater adverse
2 health consequences from chemical expo-
3 sures than the general population; and

4 “(B) that when identified by the Adminis-
5 trator may include such groups as infants, chil-
6 dren, pregnant women, workers, and the elder-
7 ly.”; and

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

10 “(14) SAFETY ASSESSMENT.—The term ‘safety
11 assessment’ means an assessment of the risk posed
12 by a chemical substance under the conditions of use,
13 integrating hazard, use, and exposure information
14 regarding the chemical substance.

15 “(15) SAFETY DETERMINATION.—The term
16 ‘safety determination’ means a determination by the
17 Administrator as to whether a chemical substance
18 meets the safety standard under the conditions of
19 use.

20 “(16) SAFETY STANDARD.—The term ‘safety
21 standard’ means a standard that ensures, without
22 taking into consideration cost or other nonrisk fac-
23 tors, that no unreasonable risk of injury to health or
24 the environment will result from exposure to a chem-

1 ical substance under the conditions of use, including
2 no unreasonable risk of injury to—

3 “(A) the general population; or

4 “(B) any potentially exposed or susceptible
5 population that the Administrator has identified
6 as relevant to the safety assessment and safety
7 determination for a chemical substance.”.

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

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

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

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

15 “(b) DEADLINE.—Not later than 2 years after the
16 date of enactment of the Frank R. Lautenberg Chemical
17 Safety for the 21st Century Act, the Administrator shall
18 develop, after providing public notice and an opportunity
19 for comment, any policies, procedures, and guidance the
20 Administrator determines to be necessary to carry out sec-
21 tions 4, 4A, 5, and 6, including the policies, procedures,
22 and guidance required by this section.

23 “(c) USE OF SCIENCE.—

24 “(1) IN GENERAL.—The Administrator shall es-
25 tablish policies, procedures, and guidance on the use

6

1 of science in making decisions under sections 4, 4A,
2 5, and 6.

3 “(2) GOAL.—A goal of the policies and proce-
4 dures described in paragraph (1) shall be to make
5 the basis of decisions clear to the public.

6 “(3) REQUIREMENTS.—The policies, proce-
7 dures, and guidance issued under this section shall
8 describe the manner in which the Administrator
9 shall ensure that —

10 “(A) decisions made by the Adminis-
11 trator—

12 “(i) are based on information, proce-
13 dures, measures, methods, and models em-
14 ployed in a manner consistent with the
15 best available science;

16 “(ii) take into account the extent to
17 which—

18 “(I) assumptions and methods
19 are clearly and completely described
20 and documented;

21 “(II) variability and uncertainty
22 are evaluated and characterized; and

23 “(III) the information has been
24 subject to independent verification
25 and peer review; and

7

1 “(iii) are based on the weight of the
2 scientific evidence, by which the Adminis-
3 trator considers all information in a sys-
4 tematic and integrative framework to con-
5 sider the relevance of different informa-
6 tion;

7 “(B) to the extent practicable and if ap-
8 propriate, the use of peer review, standardized
9 test design and methods, consistent data eval-
10 uation procedures, and good laboratory prac-
11 tices will be encouraged;

12 “(C) a clear description of each individual
13 and entity that funded the generation or assess-
14 ment of information, and the degree of control
15 those individuals and entities had over the gen-
16 eration, assessment, and dissemination of infor-
17 mation (including control over the design of the
18 work and the publication of information) is
19 made available; and

20 “(D) if appropriate, the recommendations
21 in reports of the National Academy of Sciences
22 that provide advice regarding assessing the haz-
23 ards, exposures, and risks of chemical sub-
24 stances are considered.

1 “(d) EXISTING EPA POLICIES, PROCEDURES, AND
2 GUIDANCE.—The policies, procedures, and guidance de-
3 scribed in subsection (b) shall incorporate, as appropriate,
4 existing relevant hazard, exposure, and risk assessment
5 guidelines and methodologies, data evaluation and quality
6 criteria, testing methodologies, and other relevant guide-
7 lines and policies of the Environmental Protection Agency.

8 “(e) REVIEW.—Not later than 5 years after the date
9 of enactment of this section, and not less frequently than
10 once every 5 years thereafter, the Administrator shall—

11 “(1) review the adequacy of any policies, proce-
12 dures, and guidance developed under this section, in-
13 cluding animal, nonanimal, and epidemiological test
14 methods and procedures for assessing and deter-
15 mining risk under this Act; and

16 “(2) after providing public notice and an oppor-
17 tunity for comment, revise the policies, procedures,
18 and guidance if necessary to reflect new scientific
19 developments or understandings.

20 “(f) SOURCES OF INFORMATION.—In making any de-
21 cision with respect to a chemical substance under section
22 4, 4A, 5, or 6, the Administrator shall take into consider-
23 ation information relating to the hazards and exposures
24 of a chemical substance under the conditions of use that

1 is reasonably available to the Administrator, including in-
2 formation that is—

3 “(1) submitted to the Administrator pursuant
4 to any rule, consent agreement, order, or other re-
5 quirement of this Act, or on a voluntary basis, in-
6 cluding pursuant to any request made under this
7 Act, by—

8 “(A) manufacturers or processors of a sub-
9 stance;

10 “(B) the public;

11 “(C) other Federal departments or agen-
12 cies; or

13 “(D) the Governor of a State or a State
14 agency with responsibility for protecting health
15 or the environment;

16 “(2) submitted to a governmental entity in any
17 jurisdiction pursuant to a governmental requirement
18 relating to the protection of health or the environ-
19 ment; or

20 “(3) identified through an active search by the
21 Administrator of information sources that are pub-
22 licly available or otherwise accessible by the Admin-
23 istrator.

24 “(g) TESTING OF CHEMICAL SUBSTANCES AND MIX-
25 TURES.—

10

1 “(1) IN GENERAL.—The Administrator shall es-
2 tablish policies and procedures for the testing of
3 chemical substances or mixtures under section 4.

4 “(2) GOAL.—A goal of the policies and proce-
5 dures established under paragraph (1) shall be to
6 make the basis of decisions clear to the public.

7 “(3) CONTENTS.—The policies and procedures
8 established under paragraph (1) shall—

9 “(A) address how and when the exposure
10 level or exposure potential of a chemical sub-
11 stance would factor into decisions to require
12 new testing, subject to the condition that the
13 Administrator shall not interpret the lack of ex-
14 posure information as a lack of exposure or ex-
15 posure potential;

16 “(B) describe the manner in which the Ad-
17 ministrator will determine that additional infor-
18 mation is necessary to carry out this Act, in-
19 cluding information relating to potentially ex-
20 posed or susceptible populations;

21 “(C) require the Administrator to consult
22 with the Director of the National Institute for
23 Occupational Safety and Health prior to pre-
24 scribing epidemiologic studies of employees; and

1 “(D) prior to making a request or adopt-
2 ing a requirement for testing using vertebrate
3 animals, require the Administrator to take into
4 consideration, as appropriate and to the extent
5 practicable, reasonably available—

6 “(i) toxicity information;

7 “(ii) computational toxicology and
8 bioinformatics;

9 “(iii) high-throughput screening meth-
10 ods and the prediction models of those
11 methods; and

12 “(iv) scientifically reliable and rel-
13 evant alternatives to tests on animals that
14 would provide equivalent information.

15 “(h) SAFETY ASSESSMENTS AND SAFETY DETER-
16 MINATIONS.—

17 “(1) SCHEDULE.—

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

24 “(B) DIFFERING TIMES.—The Adminis-
25 trator may allot different times for different

1 chemical substances in the schedules under this
2 paragraph, subject to the condition that all
3 schedules shall comply with the deadlines estab-
4 lished under section 6.

5 “(C) ANNUAL PLAN.—At the beginning of
6 each calendar year, the Administrator shall
7 identify the substances subject to safety assess-
8 ments and safety determinations to be com-
9 pleted that year.

10 “(2) POLICIES AND PROCEDURES FOR SAFETY
11 ASSESSMENTS AND SAFETY DETERMINATIONS.—

12 “(A) IN GENERAL.—The Administrator
13 shall establish, by rule, policies and procedures
14 regarding the manner in which the Adminis-
15 trator shall carry out section 6.

16 “(B) GOAL.—A goal of the policies and
17 procedures under this paragraph shall be to
18 make the basis of decisions of the Adminis-
19 trator clear to the public.

20 “(C) MINIMUM REQUIREMENTS.—At a
21 minimum, the policies and procedures under
22 this paragraph shall—

23 “(i) describe—

24 “(I) the manner in which the Ad-
25 ministrator will identify informational

13

1 needs and seek that information from
2 the public;

3 “(II) the information (including
4 draft safety assessments) that may be
5 submitted by interested individuals or
6 entities, including States; and

7 “(III) the criteria by which that
8 information will be evaluated;

9 “(ii) require the Administrator—

10 “(I)(aa) to define the scope of
11 the safety assessment and safety de-
12 termination to be conducted under
13 section 6, including the hazards, expo-
14 sures, conditions of use, and poten-
15 tially exposed and susceptible popu-
16 lations that the Administrator expects
17 to consider in a safety assessment;

18 “(bb) to explain the basis for the
19 scope of the safety assessment and
20 safety determination; and

21 “(cc) to accept comments regard-
22 ing the scope of the safety assessment
23 and safety determination; and

24 “(II)(aa) to identify the items de-
25 scribed in subclause (I) that the Ad-

14

1 administrator has considered in the final
2 safety assessment; and

3 “(bb) to explain the basis for the
4 consideration of those items;

5 “(iii) describe the manner in which
6 aggregate exposures, or significant subsets
7 of exposures, to a chemical substance
8 under the conditions of use will be consid-
9 ered, and explain the basis for that consid-
10 eration in the final safety assessment;

11 “(iv) require that each safety assess-
12 ment and safety determination shall in-
13 clude—

14 “(I) a description of the weight
15 of the scientific evidence of risk; and

16 “(II) a summary of the informa-
17 tion regarding the impact on health
18 and the environment of the chemical
19 substance that was used to make the
20 assessment or determination, includ-
21 ing, as available, mechanistic, animal
22 toxicity, and epidemiology studies;

23 “(v) establish a timely and trans-
24 parent process for evaluating whether new
25 information submitted or obtained after

1 the date of a final safety assessment or
2 safety determination warrants reconsider-
3 ation of the safety assessment or safety de-
4 termination; and

5 “(vi) when relevant information is
6 provided or otherwise made available to the
7 Administrator, shall consider the extent of
8 Federal regulation under other Federal
9 laws.

10 “(D) GUIDANCE.—

11 “(i) IN GENERAL.—Not later than 1
12 year after the date of enactment of the
13 Frank R. Lautenberg Chemical Safety for
14 the 21st Century Act, the Administrator
15 shall develop guidance to assist interested
16 persons in developing their own draft safe-
17 ty assessments and other information for
18 submission to the Administrator, which
19 may be considered at the discretion of the
20 Administrator.

21 “(ii) REQUIREMENT.—The guidance
22 shall, at a minimum, address the quality of
23 the information submitted and the process
24 to be followed in developing a draft assess-

1 ment for consideration by the Adminis-
2 trator.

3 “(i) PUBLICLY AVAILABLE INFORMATION.—Subject
4 to section 14, the Administrator shall—

5 “(1) make publicly available a nontechnical
6 summary, and the final version, of each safety as-
7 sessment and safety determination;

8 “(2) provide public notice and an opportunity
9 for comment on each proposed safety assessment
10 and safety determination; and

11 “(3) make public in a final safety assessment
12 and safety determination—

13 “(A) the list of studies considered by the
14 Administrator in carrying out the safety assess-
15 ment or safety determination; and

16 “(B) the list of policies, procedures, and
17 guidance that were followed in carrying out the
18 safety assessment or safety determination.

19 “(j) CONSULTATION WITH SCIENCE ADVISORY COM-
20 MITTEE ON CHEMICALS.—

21 “(1) ESTABLISHMENT.—Not later than 1 year
22 after the date of enactment of this section, the Ad-
23 ministrator shall establish an advisory committee, to
24 be known as the ‘Science Advisory Committee on

1 Chemicals' (referred to in this subsection as the
2 'Committee').

3 “(2) PURPOSE.—The purpose of the Committee
4 shall be to provide independent advice and expert
5 consultation, on the request of the Administrator,
6 with respect to the scientific and technical aspects of
7 issues relating to the implementation of this title.

8 “(3) COMPOSITION.—The Committee shall be
9 composed of representatives of such science, govern-
10 ment, labor, public health, public interest, animal
11 protection, industry, and other groups as the Admin-
12 istrator determines to be advisable, including, at a
13 minimum, representatives that have specific sci-
14 entific expertise in the relationship of chemical expo-
15 sures to women, children, and other potentially ex-
16 posed or susceptible populations.

17 “(4) SCHEDULE.—The Administrator shall con-
18 vene the Committee in accordance with such sched-
19 ule as the Administrator determines to be appro-
20 priate, but not less frequently than once every 2
21 years.

22 “(5) RELATIONSHIP TO OTHER LAW.—All pro-
23 ceedings and meetings of the Committee shall be
24 subject to the Federal Advisory Committee Act (5
25 U.S.C. App.).”.

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

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

4 (1) by striking subsections (a), (b), (c), (d), and
5 (g);

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

8 (3) in subsection (f) (as so redesignated)—

9 (A) by striking “rule” each place it ap-
10 pears and inserting “rule, testing consent
11 agreement, or order”;

12 (B) by striking “under subsection (a)”
13 each place it appears and inserting “under this
14 subsection”; and

15 (C) in paragraph (1)—

16 (i) in subparagraph (A)(v), by insert-
17 ing “, without taking into account cost or
18 other nonrisk factors” after “the environ-
19 ment”; and

20 (ii) in subparagraph (B), in the last
21 sentence, by striking “rulemaking”;

22 (4) in subsection (g) (as so redesignated)—

23 (A) in the first sentence—

24 (i) by striking “from cancer, gene
25 mutations, or birth defects”; and

1 (ii) by inserting “, without taking into
2 account cost or other nonrisk factors” be-
3 fore the period at the end; and
4 (B) by striking the last sentence; and
5 (5) by inserting before subsection (f) (as so re-
6 designated) the following:

7 “(a) DEVELOPMENT OF NEW INFORMATION ON
8 CHEMICAL SUBSTANCES AND MIXTURES.—

9 “(1) IN GENERAL.—The Administrator may re-
10 quire the development of new information relating to
11 a chemical substance or mixture in accordance with
12 this section if the Administrator determines that the
13 information is necessary—

14 “(A) to review a notice under section 5(d)
15 or to perform a safety assessment or safety de-
16 termination under section 6;

17 “(B) to implement a requirement imposed
18 in a consent agreement or order issued under
19 section 5(d)(4) or under a rule promulgated
20 under section 6(d)(3);

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

22 “(D) at the request of the implementing
23 authority under another Federal law, to meet
24 the regulatory testing needs of that authority.

1 “(2) LIMITED TESTING FOR PRIORITIZATION
2 PURPOSES.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), the Administrator may re-
5 quire the development of new information for
6 the purposes of section 4A.

7 “(B) PROHIBITION.—Testing required
8 under subparagraph (A) shall not be required
9 for the purpose of establishing or implementing
10 a minimum information requirement.

11 “(C) LIMITATION.—The Administrator
12 may require the development of new informa-
13 tion pursuant to subparagraph (A) only if the
14 Administrator determines that additional infor-
15 mation is necessary to establish the priority of
16 a chemical substance.

17 “(3) FORM.—Subject to section 3A(h), the Ad-
18 ministrator may require the development of informa-
19 tion described in paragraph (1) or (2) by—

20 “(A) promulgating a rule;

21 “(B) entering into a testing consent agree-
22 ment; or

23 “(C) issuing an order.

24 “(4) CONTENTS.—

21

1 “(A) IN GENERAL.—A rule, testing con-
2 sent agreement, or order issued under this sub-
3 section shall include—

4 “(i) identification of the chemical sub-
5 stance or mixture for which testing is re-
6 quired;

7 “(ii) identification of the persons re-
8 quired to conduct the testing;

9 “(iii) test protocols and methodologies
10 for the development of test data and infor-
11 mation for the chemical substance or mix-
12 ture, including specific reference to reliable
13 nonanimal test procedures; and

14 “(iv) specification of the period within
15 which individuals and entities required to
16 conduct the testing shall submit to the Ad-
17 ministrator the information developed in
18 accordance with the procedures described
19 in clause (iii).

20 “(B) CONSIDERATIONS.—In determining
21 the procedures and period to be required under
22 subparagraph (A), the Administrator shall take
23 into consideration—

1 “(i) the relative costs of the various
2 test protocols and methodologies that may
3 be required; and

4 “(ii) the reasonably foreseeable avail-
5 ability of facilities and personnel required
6 to perform the testing.

7 “(b) STATEMENT OF NEED.—

8 “(1) IN GENERAL.—In promulgating a rule, en-
9 tering into a testing consent agreement, or issuing
10 an order for the development of additional informa-
11 tion (including information on exposure or exposure
12 potential) pursuant to this section, the Adminis-
13 trator shall—

14 “(A) identify the need intended to be met
15 by the rule, agreement, or order;

16 “(B) explain why information reasonably
17 available to the Administrator at that time is
18 inadequate to meet that need, including a ref-
19 erence, as appropriate, to the information iden-
20 tified in paragraph (2)(B); and

21 “(C) explain the basis for any decision that
22 requires the use of vertebrate animals.

23 “(2) EXPLANATION IN CASE OF ORDER.—

24 “(A) IN GENERAL.—If the Administrator
25 issues an order under this section, the Adminis-

1 trator shall issue a statement providing a jus-
2 tification for why issuance of an order is war-
3 ranted instead of promulgating a rule or enter-
4 ing into a testing consent agreement.

5 “(B) CONTENTS.—A statement described
6 in subparagraph (A) shall contain a description
7 of—

8 “(i) information that is readily acces-
9 sible to the Administrator, including infor-
10 mation submitted under any other provi-
11 sion of law;

12 “(ii) the extent to which the Adminis-
13 trator has obtained or attempted to obtain
14 the information through voluntary submis-
15 sions; and

16 “(iii) any information relied on in
17 safety assessments for other chemical sub-
18 stances relevant to the chemical substances
19 that would be the subject of the order.

20 “(c) REDUCTION OF TESTING ON VERTEBRATES.—

21 “(1) IN GENERAL.—The Administrator shall
22 minimize, to the extent practicable, the use of
23 vertebrate animals in testing of chemical substances
24 or mixtures, by—

25 “(A) encouraging and facilitating—

1 “(i) the use of integrated and tiered
2 testing and assessment strategies;

3 “(ii) the use of best available science
4 in existence on the date on which the test
5 is conducted;

6 “(iii) the use of test methods that
7 eliminate or reduce the use of animals
8 while providing information of high sci-
9 entific quality;

10 “(iv) the grouping of 2 or more chem-
11 ical substances into scientifically appro-
12 priate categories in cases in which testing
13 of a chemical substance would provide reli-
14 able and useful information on other chem-
15 ical substances in the category;

16 “(v) the formation of industry con-
17 sortia to jointly conduct testing to avoid
18 unnecessary duplication of tests; and

19 “(vi) the submission of information
20 from—

21 “(I) animal-based studies; and

22 “(II) emerging methods and
23 models; and

1 “(B) funding research and validation stud-
2 ies to reduce, refine, and replace the use of ani-
3 mal tests in accordance with this subsection.

4 “(2) IMPLEMENTATION OF ALTERNATIVE TEST-
5 ING METHODS.—To promote the development and
6 timely incorporation of new testing methods that are
7 not based on vertebrate animals, the Administrator
8 shall—

9 “(A) not later than 2 years after the date
10 of enactment of the Frank R. Lautenberg
11 Chemical Safety for the 21st Century Act, de-
12 velop a strategic plan to promote the develop-
13 ment and implementation of alternative test
14 methods and testing strategies to generate in-
15 formation under this title that can reduce, re-
16 fine, or replace the use of vertebrate animals,
17 including toxicity pathway-based risk assess-
18 ment, in vitro studies, systems biology, com-
19 putational toxicology, bioinformatics, and high-
20 throughput screening;

21 “(B) as practicable, ensure that the stra-
22 tegic plan developed under subparagraph (A) is
23 reflected in the development of requirements for
24 testing under this section;

1 “(C) identify in the strategic plan devel-
2 oped under subparagraph (A) particular alter-
3 native test methods or testing strategies that do
4 not require new vertebrate animal testing and
5 are scientifically reliable, relevant, and capable
6 of providing information of equivalent scientific
7 reliability and quality to that which would be
8 obtained from vertebrate animal testing;

9 “(D) provide an opportunity for public no-
10 tice and comment on the contents of the plan
11 developed under subparagraph (A), including
12 the criteria for considering scientific reliability,
13 relevance, and equivalent information and the
14 test methods and strategies identified in sub-
15 paragraph (C);

16 “(E) beginning on the date that is 5 years
17 after the date of enactment of the Frank R.
18 Lautenberg Chemical Safety for the 21st Cen-
19 tury Act and every 5 years thereafter, submit to
20 Congress a report that describes the progress
21 made in implementing this subsection and goals
22 for future alternative test methods implementa-
23 tion;

24 “(F) fund and carry out research, develop-
25 ment, performance assessment, and

1 translational studies to accelerate the develop-
2 ment of test methods and testing strategies that
3 reduce, refine, or replace the use of vertebrate
4 animals in any testing under this title; and

5 “(G) identify synergies with the related in-
6 formation requirements of other jurisdictions to
7 minimize the potential for additional or duplica-
8 tive testing.

9 “(3) CRITERIA FOR ADAPTING OR WAIVING ANI-
10 MAL TESTING REQUIREMENTS.—On request from a
11 manufacturer or processor that is required to con-
12 duct testing of a chemical substance or mixture on
13 vertebrate animals under this section, the Adminis-
14 trator may adapt or waive the requirement, if the
15 Administrator determines that—

16 “(A) there is sufficient evidence from sev-
17 eral independent sources of information to sup-
18 port a conclusion that a chemical substance or
19 mixture has, or does not have, a particular
20 property if the information from each individual
21 source alone is insufficient to support the con-
22 clusion;

23 “(B) as a result of 1 or more physical or
24 chemical properties of the chemical substance

1 or mixture or other toxicokinetic consider-
2 ations—

3 “(i) the substance cannot be absorbed;
4 or

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

7 “(C) a chemical substance or mixture can-
8 not be tested in vertebrate animals at con-
9 centrations that do not result in significant
10 pain or distress, because of physical or chemical
11 properties of the chemical substance or mixture,
12 such as a potential to cause severe corrosion or
13 severe irritation to the tissues of the animal.

14 “(4) VOLUNTARY TESTING.—

15 “(A) IN GENERAL.—Any person developing
16 information for submission under this title on a
17 voluntary basis and not pursuant to any request
18 or requirement by the Administrator shall first
19 attempt to develop the information by means of
20 an alternative or nonanimal test method or test-
21 ing strategy that the Administrator has deter-
22 mined under paragraph (2)(C) to be scientif-
23 ically reliable, relevant, and capable of providing
24 equivalent information, before conducting new
25 animal testing.

1 “(B) EFFECT OF PARAGRAPH.—Nothing
2 in this paragraph—

3 “(i) requires the Administrator to re-
4 view the basis on which the person is con-
5 ducting testing described in subparagraph
6 (A);

7 “(ii) prohibits the use of other test
8 methods or testing strategies by any per-
9 son for purposes other than developing in-
10 formation for submission under this title
11 on a voluntary basis; or

12 “(iii) prohibits the use of other test
13 methods or testing strategies by any per-
14 son, subsequent to the attempt to develop
15 information using the test methods and
16 testing strategies identified by the Admin-
17 istrator under paragraph (2)(C).

18 “(d) TESTING REQUIREMENTS.—

19 “(1) IN GENERAL.—The Administrator may re-
20 quire the development of information by—

21 “(A) manufacturers and processors of the
22 chemical substance or mixture; and

23 “(B) subject to paragraph (3), persons
24 that begin to manufacture or process the chem-
25 ical substance or mixture—

1 “(i) after the effective date of the
2 rule, testing consent agreement, or order;
3 but

4 “(ii) before the period ending on the
5 later of—

6 “(I) 5 years after the date re-
7 ferred to in clause (i); or

8 “(II) the last day of the period
9 that begins on the date referred to in
10 clause (i) and that is equal to the pe-
11 riod that the Administrator deter-
12 mines was necessary to develop the in-
13 formation.

14 “(2) DESIGNATION.—The Administrator may
15 permit 2 or more persons identified in subparagraph
16 (A) or (B) of paragraph (1) to designate 1 of the
17 persons or a qualified third party—

18 “(A) to develop the information; and

19 “(B) to submit the information on behalf
20 of the persons making the designation.

21 “(3) EXEMPTIONS.—

22 “(A) IN GENERAL.—A person otherwise
23 subject to a rule, testing consent agreement, or
24 order under this section may submit to the Ad-
25 ministrators an application for an exemption on

1 the basis that the information is being devel-
 2 oped by a person designated under paragraph
 3 (2).

4 “(B) FAIR AND EQUITABLE REIMBURSE-
 5 MENT TO DESIGNEE.—

6 “(i) IN GENERAL.—If the Adminis-
 7 trator accepts an application submitted
 8 under subparagraph (A), the Adminis-
 9 trator shall direct the applicant to provide
 10 to the person designated under paragraph
 11 (2) fair and equitable reimbursement, as
 12 agreed to between the applicant and the
 13 designee.

14 “(ii) ARBITRATION.—If the applicant
 15 and a person designated under paragraph
 16 (2) cannot reach agreement on the amount
 17 of fair and equitable reimbursement, the
 18 amount shall be determined by arbitration.

19 “(C) TERMINATION.—If, after granting an
 20 exemption under this paragraph, the Adminis-
 21 trator determines that a person covered by the
 22 exemption has failed to comply with the rule,
 23 testing consent agreement, or order, the Admin-
 24 istrator shall—

1 “(i) by order, terminate the exemp-
2 tion; and

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

7 “(4) TIERED TESTING.—

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

15 “(B) SCREENING-LEVEL TESTS.—

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

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

33

1 “(I) to screen chemical sub-
2 stances or mixtures for potential ad-
3 verse effects; and

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

8 “(C) ADDITIONAL TESTING.—If the Ad-
9 ministrator determines under subparagraph (B)
10 that additional testing is necessary to provide
11 more definitive information for safety assess-
12 ments or safety determinations, the Adminis-
13 trator may require more advanced tests for po-
14 tential health or environmental effects or expo-
15 sure potential.

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

23 “(e) TRANSPARENCY.—Subject to section 14, the Ad-
24 ministrator shall make available to the public all testing

1 consent agreements and orders and all information sub-
 2 mitted under this section.”.

3 (b) CONFORMING AMENDMENT.—Section
 4 104(i)(5)(A) of the Comprehensive Environmental Re-
 5 sponse, Compensation, and Liability Act of 1980 (42
 6 U.S.C. 9604(i)(5)(A)) is amended in the third sentence
 7 by striking “section 4(e)” and inserting “section 4(f)”.

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

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

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

12 “(a) ESTABLISHMENT AND LIST OF SUBSTANCES.—

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

18 “(A) a high priority for a safety assess-
 19 ment and safety determination under section 6
 20 (referred to in this Act as ‘high-priority sub-
 21 stances’); and

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

1 “(2) INITIAL LIST OF HIGH- AND LOW-PRIORITY
2 SUBSTANCES.—

3 “(A) IN GENERAL.—Before the date of
4 promulgation of the rule under paragraph (1)
5 and not later than 180 days after the date of
6 enactment of this section, the Administrator—

7 “(i) shall take into consideration and
8 publish an initial list of high-priority sub-
9 stances and low-priority substances; and

10 “(ii) pursuant to section 6(b), may
11 initiate or continue safety assessments and
12 safety determinations for those high-pri-
13 ority substances.

14 “(B) REQUIREMENTS.—

15 “(i) IN GENERAL.—The initial list of
16 chemical substances shall contain at least
17 10 high-priority substances, at least 5 of
18 which are drawn from the list of chemical
19 substances identified by the Administrator
20 in the October 2014 TSCA Work Plan and
21 subsequent updates, and at least 10 low-
22 priority substances.

23 “(ii) SUBSEQUENTLY IDENTIFIED
24 SUBSTANCES.—Insofar as possible, at least
25 50 percent of all substances subsequently

1 identified by the Administrator as high-pri-
2 ority substances shall be drawn from the
3 list of chemical substances identified by the
4 Administrator in the October 2014 TSCA
5 Work Plan and subsequent updates, until
6 all Work Plan chemicals have been des-
7 ignated under this subsection.

8 “(iii) PERSISTENCE AND BIOACCUMU-
9 LATION.—In developing the initial list and
10 in identifying additional high-priority sub-
11 stances, the Administrator shall give pref-
12 erence to chemical substances scored as
13 high for persistence and bioaccumulation
14 in the October 2014 TSCA Work Plan and
15 subsequent updates.

16 “(C) ADDITIONAL CHEMICAL REVIEWS.—
17 The Administrator shall, as soon as practicable
18 and not later than—

19 “(i) 3 years after the date of enact-
20 ment of the Frank R. Lautenberg Chem-
21 ical Safety for the 21st Century Act, add
22 additional high-priority substances suffi-
23 cient to ensure that at least a total of 20
24 high-priority substances have undergone or
25 are undergoing the process established in

1 section 6(a), and additional low-priority
2 substances sufficient to ensure that at
3 least a total of 20 low-priority substances
4 have been designated; and

5 “(ii) 5 years after the date of enact-
6 ment of the Frank R. Lautenberg Chem-
7 ical Safety for the 21st Century Act, add
8 additional high-priority substances suffi-
9 cient to ensure that at least a total of 25
10 high-priority substances have undergone or
11 are undergoing the process established in
12 section 6(a), and additional low-priority
13 substances sufficient to ensure that at
14 least a total of 25 low-priority substances
15 have been designated.

16 “(3) IMPLEMENTATION.—

17 “(A) CONSIDERATION OF ACTIVE AND IN-
18 ACTIVE SUBSTANCES.—

19 “(i) ACTIVE SUBSTANCES.—In car-
20 rying out paragraph (1), the Administrator
21 shall take into consideration active sub-
22 stances, as determined under section 8,
23 which may include chemical substances on
24 the interim list of active substances estab-
25 lished under that section.

1 “(ii) INACTIVE SUBSTANCES.—In car-
2 rying out paragraph (1), the Administrator
3 may take into consideration inactive sub-
4 stances, as determined under section 8,
5 that the Administrator determines—

6 “(I)(aa) have not been subject to
7 a regulatory or other enforceable ac-
8 tion by the Administrator to ban or
9 phase out the substances; and

10 “(bb) have the potential for high
11 hazard and widespread exposure; or

12 “(II)(aa) have been subject to a
13 regulatory or other enforceable action
14 by the Administrator to ban or phase
15 out the substances; and

16 “(bb) with respect to which there
17 exists the potential for residual high
18 hazards or widespread exposures not
19 otherwise addressed by the regulatory
20 or other action.

21 “(iii) REPOPULATION.—

22 “(I) IN GENERAL.—On the com-
23 pletion of a safety determination
24 under section 6 for a chemical sub-
25 stance, the Administrator shall re-

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1 move the chemical substance from the
2 list of high-priority substances estab-
3 lished under this subsection.

4 “(II) ADDITIONS.—The Adminis-
5 trator shall add at least 1 chemical
6 substance to the list of high-priority
7 substances for each chemical sub-
8 stance removed from the list of high-
9 priority substances established under
10 this subsection, until a safety assess-
11 ment and safety determination is com-
12 pleted for all high-priority substances.

13 “(III) LOW-PRIORITY SUB-
14 STANCES.—If a low-priority substance
15 is subsequently designated as a high-
16 priority substance, the Administrator
17 shall remove that substance from the
18 list of low-priority substances.

19 “(B) TIMELY COMPLETION OF
20 PRIORITIZATION SCREENING PROCESS.—

21 “(i) IN GENERAL.—The Administrator
22 shall—

23 “(I) not later than 180 days
24 after the effective date of the final

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1 rule under paragraph (1), begin the
2 prioritization screening process; and

3 “(II) make every effort to com-
4 plete the designation of all active sub-
5 stances as high-priority substances or
6 low-priority substances in a timely
7 manner.

8 “(ii) DECISIONS ON SUBSTANCES SUB-
9 JECT TO TESTING FOR PRIORITIZATION
10 PURPOSES.—Not later than 90 days after
11 the date of receipt of information regard-
12 ing a chemical substance complying with a
13 rule, testing consent agreement, or order
14 issued under section 4(a)(2), the Adminis-
15 trator shall designate the chemical sub-
16 stance as a high-priority substance or low-
17 priority substance.

18 “(iii) CONSIDERATION.—

19 “(I) IN GENERAL.—The Admin-
20 istrator shall screen substances and
21 designate high-priority substances
22 taking into consideration the ability of
23 the Administrator to schedule and
24 complete safety assessments and safe-

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1 ty determinations under section 6 in a
2 timely manner.

3 “(II) ANNUAL GOAL.—The Ad-
4 ministrator shall publish an annual
5 goal for the number of chemical sub-
6 stances to be subject to the
7 prioritization screening process.

8 “(C) SCREENING OF CATEGORIES OF SUB-
9 STANCES.—The Administrator may screen cat-
10 egories of chemical substances to ensure an effi-
11 cient prioritization screening process to allow
12 for timely and adequate designations of high-
13 priority substances and low-priority substances
14 and safety assessments and safety determina-
15 tions for high-priority substances.

16 “(D) PUBLICATION OF LIST OF CHEMICAL
17 SUBSTANCES.—The Administrator shall keep
18 current and publish a list of chemical sub-
19 stances that—

20 “(i) are being considered in the
21 prioritization screening process and the
22 status of the chemical substances in the
23 prioritization process, including those
24 chemical substances for which

1 prioritization decisions have been deferred;
2 and

3 “(ii) are designated as high-priority
4 substances or low-priority substances, in-
5 cluding the bases for such designations.

6 “(4) CRITERIA.—The criteria described in para-
7 graph (1) shall account for—

8 “(A) the recommendation of the Governor
9 of a State or a State agency with responsibility
10 for protecting health or the environment from
11 chemical substances appropriate for
12 prioritization screening;

13 “(B) the hazard and exposure potential of
14 the chemical substance (or category of sub-
15 stances), including persistence, bioaccumulation,
16 and specific scientific classifications and des-
17 ignations by authoritative governmental enti-
18 ties;

19 “(C) the conditions of use or significant
20 changes in the conditions of use of the chemical
21 substance;

22 “(D) evidence and indicators of exposure
23 potential to humans or the environment from
24 the chemical substance, including potentially ex-
25 posed or susceptible populations;

1 “(E) the volume of a chemical substance
2 manufactured or processed;

3 “(F) whether the volume of a chemical
4 substance as reported under a rule promulgated
5 pursuant to section 8(a) has significantly in-
6 creased or decreased during the period begin-
7 ning on the date of a previous report or the
8 date on which a notice has been submitted
9 under section 5(b) for that chemical substance;

10 “(G) the availability of information regard-
11 ing potential hazards and exposures required
12 for conducting a safety assessment or safety de-
13 termination, with limited availability of relevant
14 information to be a sufficient basis for desig-
15 nating a chemical substance as a high-priority
16 substance, subject to the condition that limited
17 availability shall not require designation as a
18 high-priority substance; and

19 “(H) the extent of Federal or State regula-
20 tion of the chemical substance or the extent of
21 the impact of State regulation of the chemical
22 substance on the United States, with existing
23 Federal or State regulation of any uses evalu-
24 ated in the prioritization screening process as a

1 factor in designating a chemical substance to be
2 a high-priority or a low-priority substance.

3 “(b) PRIORITIZATION SCREENING PROCESS AND DE-
4 CISIONS.—

5 “(1) IN GENERAL.—The prioritization screening
6 process developed under subsection (a) shall include
7 a requirement that the Administrator shall—

8 “(A) identify the chemical substances
9 being considered for prioritization;

10 “(B) request interested persons to supply
11 information regarding the chemical substances
12 being considered;

13 “(C) apply the criteria identified in sub-
14 section (a)(4); and

15 “(D) subject to paragraph (5) and using
16 the information available to the Administrator
17 at the time of the decision, identify a chemical
18 substance as a high-priority substance or a low-
19 priority substance.

20 “(2) INTEGRATION OF INFORMATION.—The
21 prioritization screening decision regarding a chem-
22 ical substance shall integrate any hazard and expo-
23 sure information relating to the chemical substance
24 that is available to the Administrator.

1 “(3) IDENTIFICATION OF HIGH-PRIORITY SUB-
2 STANCES.—The Administrator—

3 “(A) shall identify as a high-priority sub-
4 stance a chemical substance that, relative to
5 other active chemical substances, the Adminis-
6 trator determines has the potential for signifi-
7 cant hazard and significant exposure;

8 “(B) may identify as a high-priority sub-
9 stance a chemical substance that, relative to
10 other active chemical substances, the Adminis-
11 trator determines has the potential for signifi-
12 cant hazard or significant exposure; and

13 “(C) may identify as a high-priority sub-
14 stance an inactive substance, as determined
15 under subsection (a)(3)(A)(ii) and section 8(b),
16 that the Administrator determines warrants a
17 safety assessment and safety determination
18 under section 6.

19 “(4) IDENTIFICATION OF LOW-PRIORITY SUB-
20 STANCES.—The Administrator shall identify as a
21 low-priority substance a chemical substance that the
22 Administrator concludes has information sufficient
23 to establish that the chemical substance is likely to
24 meet the safety standard.

1 “(5) DEFERRING A DECISION.—If the Adminis-
2 trator determines that additional information is re-
3 quired to establish the priority of a chemical sub-
4 stance under this section, the Administrator may
5 defer the prioritization screening decision for a rea-
6 sonable period—

7 “(A) to allow for the submission of addi-
8 tional information by an interested person and
9 for the Administrator to evaluate the additional
10 information; or

11 “(B) to require the development of infor-
12 mation pursuant to a rule, testing consent
13 agreement, or order issued under section
14 4(a)(2).

15 “(6) DEADLINES FOR SUBMISSION OF INFOR-
16 MATION.—If the Administrator requests the develop-
17 ment or submission of information under this sec-
18 tion, the Administrator shall establish a deadline for
19 submission of the information.

20 “(7) NOTICE AND COMMENT.—The Adminis-
21 trator shall—

22 “(A) publish, including in the Federal Reg-
23 ister, the proposed decisions made under para-
24 graphs (3), (4), and (5) and the basis for the
25 decisions; and

1 “(B) provide 90 days for public comment.

2 “(8) REVISIONS OF PRIOR DESIGNATIONS.—

3 “(A) IN GENERAL.—At any time, and at
4 the discretion of the Administrator, the Admin-
5 istrator may revise the designation of a chem-
6 ical substance as a high-priority substance or a
7 low-priority substance based on information
8 available to the Administrator after the date of
9 the determination under paragraph (3) or (4).

10 “(B) LIMITED AVAILABILITY.—If limited
11 availability of relevant information was a basis
12 in the designation of a chemical substance as a
13 high-priority substance, the Administrator shall
14 reevaluate the prioritization screening of the
15 chemical substance on receiving the relevant in-
16 formation.

17 “(9) OTHER INFORMATION RELEVANT TO
18 PRIORITIZATION.—

19 “(A) IN GENERAL.—If, after the date of
20 enactment of the Frank R. Lautenberg Chem-
21 ical Safety for the 21st Century Act, a State
22 proposes an administrative action or enacts a
23 statute or takes an administrative action to pro-
24 hibit or otherwise restrict the manufacturing,
25 processing, distribution in commerce, or use of

1 a chemical substance that the Administrator
2 has not as designated a high-priority substance,
3 the Governor or State agency with responsi-
4 bility for implementing the statute or adminis-
5 trative action shall notify the Administrator.

6 “(B) REQUESTS FOR INFORMATION.—Fol-
7 lowing receipt of a notification provided under
8 subparagraph (A), the Administrator may re-
9 quest any available information from the Gov-
10 ernor or the State agency with respect to—

11 “(i) scientific evidence related to the
12 hazards, exposures and risks of the chem-
13 ical substance under the conditions of use
14 which the statute or administrative action
15 is intended to address;

16 “(ii) any State or local conditions
17 which warranted the statute or administra-
18 tive action;

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

21 “(iv) any other available information
22 relevant to the prohibition or other restric-
23 tion, including information on any alter-
24 natives considered and their hazards, expo-
25 sures, and risks.

1 “(C) PRIORITYZATION SCREENING.—The
2 Administrator shall conduct a prioritization
3 screening under this subsection for all sub-
4 stances that—

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

7 “(ii) the Administrator determines—

8 “(I) are likely to have significant
9 health or environmental impacts;

10 “(II) are likely to have signifi-
11 cant impact on interstate commerce;

12 or

13 “(III) have been subject to a pro-
14 hibition or other restriction under a
15 statute or administrative action in 2
16 or more States.

17 “(D) AVAILABILITY TO PUBLIC.—Subject
18 to section 14 and any applicable State law re-
19 garding the protection of confidential informa-
20 tion provided to the State or to the Adminis-
21 trator, the Administrator shall make informa-
22 tion received from a Governor or State agency
23 under subparagraph (A) publicly available.

24 “(E) EFFECT OF PARAGRAPH.—Nothing
25 in this paragraph shall preempt a State statute

1 or administrative action, require approval of a
2 State statute or administrative action, or apply
3 section 15 to a State.

4 “(10) REVIEW.—Not less frequently than once
5 every 5 years after the date on which the process
6 under this subsection is established, the Adminis-
7 trator shall—

8 “(A) review the process on the basis of ex-
9 perience and taking into consideration resources
10 available to efficiently and effectively screen and
11 prioritize chemical substances; and

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

14 “(11) EFFECT.—Subject to section 18, a des-
15 ignation by the Administrator under this section
16 with respect to a chemical substance shall not af-
17 fect—

18 “(A) the manufacture, processing, distribu-
19 tion in commerce, use, or disposal of the chem-
20 ical substance; or

21 “(B) the regulation of those activities.

22 “(c) ADDITIONAL PRIORITIES FOR SAFETY ASSESS-
23 MENTS AND DETERMINATIONS.—

24 “(1) REQUIREMENTS.—

1 “(A) IN GENERAL.—The prioritization
2 screening process developed under subsection
3 (a) shall—

4 “(i) include a process by which a
5 manufacturer or processor of an active
6 chemical substance that has not been des-
7 ignated a high-priority substance or is not
8 in the process of a prioritization screening
9 by the Administrator, may request that the
10 Administrator designate the substance as
11 an additional priority for a safety assess-
12 ment and safety determination, subject to
13 the payment of fees pursuant to section
14 26(b)(3)(E);

15 “(ii) specify the information to be pro-
16 vided in such requests; and

17 “(iii) specify the criteria the Adminis-
18 trator shall use to determine whether or
19 not to grant such a request, which shall in-
20 clude whether the substance is subject to
21 restrictions imposed by statutes enacted or
22 administrative actions taken by 1 or more
23 States on the manufacture, processing, dis-
24 tribution in commerce, or use of the sub-
25 stance.

1 “(B) PREFERENCE.—Subject to paragraph
2 (2), in deciding whether to grant requests
3 under this subsection the Administrator shall
4 give a preference to requests concerning sub-
5 stances for which the Administrator determines
6 that restrictions imposed by 1 or more States
7 have the potential to have a significant impact
8 on interstate commerce or health or the envi-
9 ronment.

10 “(C) EXCEPTIONS.—Requests granted
11 under this subsection shall not be subject to
12 subsection (a)(3)(A)(iii) or section 18(b).

13 “(2) LIMITATIONS.—In considering whether to
14 grant a request submitted under paragraph (1), the
15 Administrator shall ensure that—

16 “(A) if a sufficient number of additional
17 priority requests meet the requirements of para-
18 graph (1), not less than 25 percent, or more
19 than 30 percent, of the cumulative number of
20 substances designated to undergo safety assess-
21 ments and safety determinations under this sec-
22 tion are substances designated under the proc-
23 ess and criteria pursuant to paragraph (1);

24 “(B) the resources allocated to conducting
25 safety assessments and safety determinations

1 for additional priorities designated under this
2 subsection are proportionate to the number of
3 such substances relative to the total number of
4 substances designated to undergo safety assess-
5 ments and safety determinations under this sec-
6 tion; and

7 “(C) the number of additional priority re-
8 quests stipulated under subparagraph (A) is in
9 addition to the total number of high-priority
10 chemicals identified under subsection (a)(2)(B).

11 “(3) ADDITIONAL REVIEW OF WORK PLAN
12 CHEMICALS FOR SAFETY ASSESSMENT AND SAFETY
13 DETERMINATION.—In the case of a request under
14 paragraph (1) with respect to a chemical substance
15 identified by the Administrator in the October 2014
16 Work Plan—

17 “(A) the 30-percent cap specified in para-
18 graph (2)(A) shall not apply and the addition
19 of Work Plan chemicals shall be at the discre-
20 tion of the Administrator; and

21 “(B) notwithstanding paragraph (6), re-
22 quests for additional Work Plan chemicals
23 under this subsection shall be considered high-
24 priority chemicals subject to section 18(b) but
25 not subsection (a)(3)(A)(iii).

1 “(4) REQUIREMENTS.—

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

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

10 “(C) ASSESSMENT AND DETERMINA-
11 TION.—If the Administrator grants a request
12 under this subsection, the safety assessment
13 and safety determination—

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

17 “(ii) shall not be expedited or other-
18 wise subject to special treatment relative to
19 high-priority substances designated pursu-
20 ant to subsection (b)(3) that are under-
21 going safety assessments and safety deter-
22 minations.”.

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

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

- 1 (1) by striking the section designation and
2 heading and inserting the following:
3 **“SEC. 5. NEW CHEMICALS AND SIGNIFICANT NEW USES.”;**
4 (2) by striking subsection (b);
5 (3) by redesignating subsection (a) as sub-
6 section (b);
7 (4) by redesignating subsection (i) as subsection
8 (a) and moving the subsection so as to appear at the
9 beginning of the section;
10 (5) in subsection (b) (as so redesignated)—
11 (A) in the subsection heading, by striking
12 “IN GENERAL” and inserting “NOTICES”;
13 (B) in paragraph (1)—
14 (i) in the matter preceding subpara-
15 graph (A), by striking “subsection (h)”
16 and inserting “paragraph (3) and sub-
17 section (h)”; and
18 (ii) in the matter following subpara-
19 graph (B)—
20 (I) by striking “subsection (d)”
21 and inserting “subsection (c)”; and
22 (II) by striking “and such person
23 complies with any applicable require-
24 ment of subsection (b)”; and
25 (C) by adding at the end the following:

1 “(3) ARTICLE CONSIDERATION.—The Adminis-
2 trator may require the notification for the import or
3 processing of a chemical substance as part of an ar-
4 ticle or category of articles under paragraph (1)(B)
5 if the Administrator makes an affirmative finding in
6 a rule under paragraph (2) that the reasonable po-
7 tential for exposure to the chemical substance
8 through the article or category of articles subject to
9 the rule warrants notification.”;

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

14 (7) in subsection (c) (as so redesignated)—

15 (A) by striking paragraph (1) and insert-
16 ing the following:

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

20 “(A) the information required by sections
21 720.45 and 720.50 of title 40, Code of Federal
22 Regulations (or successor regulations); and

23 “(B) information regarding conditions of
24 use and reasonably anticipated exposures.”;

25 (B) in paragraph (2)—

1 (i) in the matter preceding subpara-
2 graph (A), by striking “or of data under
3 subsection (b)”;

4 (ii) in subparagraph (A), by adding
5 “and” after the semicolon at the end;

6 (iii) in subparagraph (B), by striking
7 “; and” and inserting a period; and

8 (iv) by striking subparagraph (C); and
9 (C) in paragraph (3), by striking “sub-
10 section (a) and for which the notification period
11 prescribed by subsection (a), (b), or (c)” and
12 inserting “subsection (b) and for which the no-
13 tification period prescribed by subsection (b) or
14 (d)”;

15 (8) by striking subsection (d) (as redesignated
16 by paragraph (6)) and inserting the following:

17 “(d) REVIEW OF NOTICE.—
18 “(1) INITIAL REVIEW.—
19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), not later than 90 days after the date
21 of receipt of a notice submitted under sub-
22 section (b), the Administrator shall—
23 “(i) conduct an initial review of the
24 notice;

1 “(ii) as needed, develop a profile of
2 the relevant chemical substance and the
3 potential for exposure to humans and the
4 environment; and

5 “(iii) make any necessary determina-
6 tion under paragraph (3).

7 “(B) EXTENSION.—Except as provided in
8 paragraph (5), the Administrator may extend
9 the period described in subparagraph (A) for
10 good cause for 1 or more periods, the total of
11 which shall be not more than 90 days.

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

15 “(A) any relevant information identified in
16 subsection (c)(1); and

17 “(B) any other relevant additional infor-
18 mation available to the Administrator.

19 “(3) DETERMINATIONS.—Before the end of the
20 applicable period for review under paragraph (1),
21 based on the information described in paragraph (2),
22 and subject to section 18(g), the Administrator shall
23 determine that—

24 “(A) the relevant chemical substance or
25 significant new use is not likely to meet the

1 safety standard, in which case the Adminis-
2 trator shall take appropriate action under para-
3 graph (4);

4 “(B) the relevant chemical substance or
5 significant new use is likely to meet the safety
6 standard, in which case the Administrator shall
7 allow the review period to expire without addi-
8 tional restrictions; or

9 “(C) additional information is necessary in
10 order to make a determination under subpara-
11 graph (A) or (B), in which case the Adminis-
12 trator shall take appropriate action under para-
13 graph (5).

14 “(4) RESTRICTIONS.—

15 “(A) DETERMINATION BY ADMINIS-
16 TRATOR.—

17 “(i) IN GENERAL.—If the Adminis-
18 trator makes a determination under sub-
19 paragraph (A) or (C) of paragraph (3)
20 with respect to a notice submitted under
21 subsection (b)—

22 “(I) the Administrator, before
23 the end of the applicable period for re-
24 view under paragraph (1) and by con-
25 sent agreement or order, as appro-

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1 appropriate, shall prohibit or otherwise re-
2 strict the manufacture, processing,
3 use, distribution in commerce, or dis-
4 posal (as applicable) of the chemical
5 substance, or of the chemical sub-
6 stance for a significant new use, with-
7 out compliance with the restrictions
8 specified in the consent agreement or
9 order that the Administrator deter-
10 mines are sufficient to ensure that the
11 chemical substance or significant new
12 use is likely to meet the safety stand-
13 ard; and

14 “(II) no person may commence
15 manufacture of the chemical sub-
16 stance, or manufacture or processing
17 of the chemical substance for a sig-
18 nificant new use, except in compliance
19 with the restrictions specified in the
20 consent agreement or order.

21 “(ii) LIKELY TO MEET STANDARD.—If
22 the Administrator makes a determination
23 under subparagraph (B) of paragraph (3)
24 with respect to a chemical substance or
25 significant new use for which a notice was

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1 submitted under subsection (b), at the end
2 of the applicable period for review under
3 paragraph (1), the submitter of the notice
4 may commence manufacture for commer-
5 cial purposes of the chemical substance or
6 manufacture or processing of the chemical
7 substance for a significant new use.

8 “(B) REQUIREMENTS.—Not later than 90
9 days after issuing a consent agreement or order
10 under subparagraph (A), the Administrator
11 shall—

12 “(i) take into consideration whether to
13 promulgate a rule pursuant to subsection
14 (b)(2) that identifies as a significant new
15 use any manufacturing, processing, use,
16 distribution in commerce, or disposal of
17 the chemical substance, or of the chemical
18 substance for a new use, that is not in
19 compliance with the restrictions imposed
20 by the consent agreement or order; and

21 “(ii)(I) initiate a rulemaking described
22 in clause (i); or

23 “(II) publish a statement describing
24 the reasons of the Administrator for not
25 initiating a rulemaking.

1 applicable, of the chemical substance,
2 subject to section 4;

3 “(iii) a restriction on the quantity of
4 the chemical substance that may be manu-
5 factured, processed, or distributed in com-
6 merce—

7 “(I) in general; or

8 “(II) for a particular use;

9 “(iv) a prohibition or other restriction
10 of—

11 “(I) the manufacture, processing,
12 or distribution in commerce of the
13 chemical substance for a significant
14 new use;

15 “(II) any method of commercial
16 use of the chemical substance; or

17 “(III) any method of disposal of
18 the chemical substance; or

19 “(v) a prohibition or other restriction
20 on the manufacture, processing, or dis-
21 tribution in commerce of the chemical sub-
22 stance—

23 “(I) in general; or

24 “(II) for a particular use.

1 “(D) PERSISTENT AND BIOACCUMULATIVE
2 SUBSTANCES.—For a chemical substance the
3 Administrator determines ranks high for per-
4 sistence and bioaccumulation, the Administrator
5 shall, in selecting among prohibitions and other
6 restrictions that the Administrator determines
7 are sufficient to ensure that the chemical sub-
8 stance is likely to meet the safety standard, re-
9 duce potential exposure to the substance to the
10 maximum extent practicable.

11 “(E) WORKPLACE EXPOSURES.—The Ad-
12 ministrator shall consult with the Assistant Sec-
13 retary of Labor for Occupational Safety and
14 Health prior to adopting any prohibition or
15 other restriction under this subsection to ad-
16 dress workplace exposures.

17 “(F) DEFINITION OF REQUIREMENT.—For
18 purposes of this Act, the term ‘requirement’ as
19 used in this section does not displace common
20 law.

21 “(5) ADDITIONAL INFORMATION.—If the Ad-
22 ministrator determines under paragraph (3)(C) that
23 additional information is necessary to conduct a re-
24 view under this subsection, the Administrator—

1 “(A) shall provide an opportunity for the
2 submitter of the notice to submit the additional
3 information;

4 “(B) may, by agreement with the sub-
5 mitter, extend the review period for a reason-
6 able time to allow the development and submis-
7 sion of the additional information;

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

12 “(D) on receipt of information the Admin-
13 istrator finds supports the determination under
14 paragraph (3), shall promptly make the deter-
15 mination.”;

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

18 “(e) NOTICE OF COMMENCEMENT.—

19 “(1) IN GENERAL.—Not later than 30 days
20 after the date on which a manufacturer that has
21 submitted a notice under subsection (b) commences
22 nonexempt commercial manufacture of a chemical
23 substance, the manufacturer shall submit to the Ad-
24 ministrators a notice of commencement that identi-
25 fies—

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1 (ii) in subparagraph (A), by inserting
2 “, without taking into account cost or
3 other nonrisk factors” after “the environ-
4 ment”;
5 (B) by striking paragraph (2);
6 (C) by redesignating paragraphs (3)
7 through (6) as paragraphs (2) through (5), re-
8 spectively;
9 (D) in paragraph (2) (as so redesignated),
10 in the matter preceding subparagraph (A), by
11 striking “subsections (a) and (b)” and inserting
12 “subsection (b)”;
13 (E) in paragraph (3) (as so redesign-
14 ated)—
15 (i) in the first sentence, by striking
16 “will not present an unreasonable risk of
17 injury to health or the environment” and
18 inserting “will meet the safety standard”;
19 and
20 (ii) by striking the second sentence;
21 (F) in paragraph (4) (as so redesignated),
22 by striking “subsections (a) and (b)” and in-
23 serting “subsection (b)”;

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

4 **SEC. 8. SAFETY ASSESSMENTS AND SAFETY DETERMINA-**
5 **TIONS.**

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

8 (1) by striking the section designation and
9 heading and inserting the following:

10 **“SEC. 6. SAFETY ASSESSMENTS AND SAFETY DETERMINA-**
11 **TIONS.”;**

12 (2) by redesignating subsections (e) and (f) as
13 subsections (g) and (h), respectively;

14 (3) by striking subsections (a) through (d) and
15 inserting the following:

16 “(a) IN GENERAL.—The Administrator—

17 “(1) shall conduct a safety assessment and
18 make a safety determination of each high-priority
19 substance in accordance with subsections (b) and
20 (c);

21 “(2) shall, as soon as practicable and not later
22 than 6 months after the date on which a chemical
23 substance is designated as a high-priority substance,
24 define and publish the scope of the safety assess-
25 ment and safety determination to be conducted pur-

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1 suant to this section, including the hazards, expo-
2 sures, conditions of use, and potentially exposed or
3 susceptible populations that the Administrator ex-
4 pects to consider;

5 “(3) as appropriate based on the results of a
6 safety determination, shall establish restrictions pur-
7 suant to subsection (d);

8 “(4) shall complete a safety assessment and
9 safety determination not later than 3 years after the
10 date on which a chemical substance is designated as
11 a high-priority substance;

12 “(5) shall promulgate a final rule pursuant to
13 subsection (d) by not later than 2 years after the
14 date on which the safety determination is completed;
15 and

16 “(6) may extend any deadline under this sub-
17 section for a reasonable period of time after an ade-
18 quate public justification, subject to the condition
19 that the aggregate length of all extensions of dead-
20 lines under paragraphs (4) and (5) and any deferral
21 under subsection (c)(2) does not exceed 2 years.

22 “(b) PRIOR ACTIONS AND NOTICE OF EXISTING IN-
23 FORMATION.—

24 “(1) PRIOR-INITIATED ASSESSMENTS.—

1 “(A) IN GENERAL.—Nothing in this Act
2 prevents the Administrator from initiating a
3 safety assessment or safety determination re-
4 garding a chemical substance, or from con-
5 tinuing or completing such a safety assessment
6 or safety determination that was initiated be-
7 fore the date of enactment of the Frank R.
8 Lautenberg Chemical Safety for the 21st Cen-
9 tury Act, prior to the effective date of the poli-
10 cies and procedures required to be established
11 by the Administrator under section 3A or 4A.

12 “(B) INTEGRATION OF PRIOR POLICIES
13 AND PROCEDURES.—As policies and procedures
14 under section 3A and 4A are established, to the
15 maximum extent practicable, the Administrator
16 shall integrate the policies and procedures into
17 ongoing safety assessments and safety deter-
18 minations.

19 “(2) ACTIONS COMPLETED PRIOR TO COMPLE-
20 TION OF POLICIES AND PROCEDURES.—Nothing in
21 this Act requires the Administrator to revise or with-
22 draw a completed safety assessment, safety deter-
23 mination, or rule solely because the action was com-
24 pleted prior to the completion of a policy or proce-
25 dure established under section 3A or 4A, and the va-

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1 lidity of a completed assessment, determination, or
2 rule shall not be determined based on the content of
3 such a policy or procedure.

4 “(3) NOTICE OF EXISTING INFORMATION.—

5 “(A) IN GENERAL.—The Administrator
6 shall, where such information is available, take
7 notice of existing information regarding hazard
8 and exposure published by other Federal agen-
9 cies and the National Academies and incor-
10 porate the information in safety assessments
11 and safety determinations with the objective of
12 increasing the efficiency of the safety assess-
13 ments and safety determinations.

14 “(B) INCLUSION OF INFORMATION.—Ex-
15 isting information described in subparagraph
16 (A) should be included to the extent practicable
17 and where the Administrator determines the in-
18 formation is relevant and scientifically reliable.

19 “(c) SAFETY DETERMINATIONS.—

20 “(1) IN GENERAL.—Based on a review of the
21 information available to the Administrator, including
22 draft safety assessments submitted by interested
23 persons, and subject to section 18, the Adminis-
24 trator shall determine that—

1 “(A) the relevant chemical substance meets
2 the safety standard;

3 “(B) the relevant chemical substance does
4 not meet the safety standard, in which case the
5 Administrator shall, by rule under subsection
6 (d)—

7 “(i) impose restrictions necessary to
8 ensure that the chemical substance meets
9 the safety standard under the conditions of
10 use; or

11 “(ii) if the safety standard cannot be
12 met with the application of restrictions,
13 ban or phase out the chemical substance,
14 as appropriate; or

15 “(C) additional information is necessary in
16 order to make a determination under subpara-
17 graph (A) or (B), in which case the Adminis-
18 trator shall take appropriate action under para-
19 graph (2).

20 “(2) ADDITIONAL INFORMATION.—If the Ad-
21 ministrator determines that additional information is
22 necessary to make a safety assessment or safety de-
23 termination for a high-priority substance, the Ad-
24 ministrator—

1 “(A) shall provide an opportunity for inter-
2 ested persons to submit the additional informa-
3 tion;

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

8 “(C) may defer, for a reasonable period
9 consistent with the deadlines described in sub-
10 section (a), a safety assessment and safety de-
11 termination until after receipt of the informa-
12 tion; and

13 “(D) consistent with the deadlines de-
14 scribed in subsection (a), on receipt of informa-
15 tion the Administrator finds supports the safety
16 assessment and safety determination, shall
17 make a determination under paragraph (1).

18 “(3) ESTABLISHMENT OF DEADLINE.—In re-
19 questing the development or submission of informa-
20 tion under this section, the Administrator shall es-
21 tablish a deadline for the submission of the informa-
22 tion.

23 “(d) RULE.—

24 “(1) IMPLEMENTATION.—If the Administrator
25 makes a determination under subsection (c)(1)(B)

1 with respect to a chemical substance, the Adminis-
2 trator shall promulgate a rule establishing restric-
3 tions necessary to ensure that the chemical sub-
4 stance meets the safety standard.

5 “(2) SCOPE.—

6 “(A) IN GENERAL.—The rule promulgated
7 pursuant to this subsection—

8 “(i) may apply to mixtures containing
9 the chemical substance, as appropriate;

10 “(ii) shall include dates by which com-
11 pliance is mandatory, which—

12 “(I) shall be as soon as prac-
13 ticable;

14 “(II) in the case of a ban or
15 phase-out of the chemical substance,
16 shall implement the ban or phase-out
17 in as short a period as practicable;
18 and

19 “(III) as determined by the Ad-
20 ministrator, may vary for different af-
21 fected persons; and

22 “(iii) shall exempt replacement parts
23 that are manufactured prior to the effec-
24 tive date of the rule for articles that are
25 first manufactured prior to the effective

1 date of the rule unless the Administrator
2 finds the replacement parts contribute sig-
3 nificantly to the identified risk; and

4 “(iv) shall, in selecting among prohibi-
5 tions and other restrictions, apply such
6 prohibitions or other restrictions to articles
7 containing the chemical substance only to
8 the extent necessary to address the identi-
9 fied risks in order to determine that the
10 chemical substance meets the safety stand-
11 ard.

12 “(B) PERSISTENT AND BIOACCUMULATIVE
13 SUBSTANCES.—For a chemical substance the
14 Administrator determines ranks high for per-
15 sistence and bioaccumulation, the Administrator
16 shall, in selecting among prohibitions and other
17 restrictions that the Administrator determines
18 are sufficient to ensure that the chemical sub-
19 stance meets the safety standard, reduce expo-
20 sure to the substance to the maximum extent
21 practicable.

22 “(C) WORKPLACE EXPOSURES.—The Ad-
23 ministrator shall consult with the Assistant Sec-
24 retary of Labor for Occupational Safety and
25 Health before adopting any prohibition or other

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1 restriction under this subsection to address
2 workplace exposures.

3 “(D) DEFINITION OF REQUIREMENT.—For
4 the purposes of this Act, the term ‘requirement’
5 as used in this section does not displace com-
6 mon law.

7 “(3) RESTRICTIONS.—A restriction under para-
8 graph (1) may include, as appropriate—

9 “(A) subject to section 18, a requirement
10 that a chemical substance shall be marked with,
11 or accompanied by, clear and adequate min-
12 imum warnings and instructions with respect to
13 use, distribution in commerce, or disposal, or
14 any combination of those activities, with the
15 form and content of the minimum warnings and
16 instructions to be prescribed by the Adminis-
17 trator;

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

20 “(i) make and retain records of the
21 processes used to manufacture or process
22 the chemical substance;

23 “(ii) describe and apply the relevant
24 quality control procedures followed in the

1 manufacturing or processing of the sub-
2 stance; or

3 “(iii) monitor or conduct tests that
4 are reasonably necessary to ensure compli-
5 ance with the requirements of any rule
6 under this subsection;

7 “(C) a restriction on the quantity of the
8 chemical substance that may be manufactured,
9 processed, or distributed in commerce;

10 “(D) a requirement to ban or phase out, or
11 any other rule regarding, the manufacture,
12 processing, or distribution in commerce of the
13 chemical substance for—

14 “(i) a particular use;

15 “(ii) a particular use at a concentra-
16 tion in excess of a level specified by the
17 Administrator; or

18 “(iii) all uses;

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

22 “(i) a particular use; or

23 “(ii) a particular use at a concentra-
24 tion in excess of a level specified by the
25 Administrator;

1 “(F) a requirement to ban, phase out, or
2 otherwise restrict any method of commercial
3 use of the chemical substance;

4 “(G) a requirement to ban, phase out, or
5 otherwise restrict any method of disposal of the
6 chemical substance or any article containing the
7 chemical substance; and

8 “(H) a requirement directing manufactur-
9 ers or processors of the chemical substance to
10 give notice of the Administrator’s determination
11 under subsection (c)(1)(B) to distributors in
12 commerce of the chemical substance and, to the
13 extent reasonably ascertainable, to other per-
14 sons in the chain of commerce in possession of
15 the chemical substance.

16 “(4) ANALYSIS FOR RULEMAKING.—

17 “(A) CONSIDERATIONS.—In deciding
18 which restrictions to impose under paragraph
19 (3) as part of developing a rule under para-
20 graph (1), the Administrator shall take into
21 consideration, to the extent practicable based on
22 reasonably available information, the quantifi-
23 able and nonquantifiable costs and benefits of
24 the proposed regulatory action and of the 1 or

1 more primary alternative regulatory actions
2 considered by the Administrator.

3 “(B) ALTERNATIVES.—As part of the
4 analysis, the Administrator shall review any 1
5 or more technically and economically feasible al-
6 ternatives to the chemical substance that the
7 Administrator determines are relevant to the
8 rulemaking.

9 “(C) PUBLIC AVAILABILITY.—In proposing
10 a rule under paragraph (1), the Administrator
11 shall make publicly available any analysis con-
12 ducted under this paragraph.

13 “(D) STATEMENT REQUIRED.—In making
14 final a rule under paragraph (1), the Adminis-
15 trator shall include a statement describing how
16 the analysis considered under subparagraph (A)
17 was taken into account.

18 “(5) EXEMPTIONS.—

19 “(A) IN GENERAL.—The Administrator
20 may exempt 1 or more uses of a chemical sub-
21 stance from any restriction in a rule promul-
22 gated under paragraph (1) if the Administrator
23 determines that—

24 “(i) the rule cannot be complied with,
25 without—

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1 “(I) harming national security;

2 “(II) causing significant disruption

3 in the national economy due to

4 the lack of availability of a chemical

5 substance; or

6 “(III) interfering with a critical

7 or essential use for which no technically

8 and economically feasible safer

9 alternative is available, taking into

10 consideration hazard and exposure; or

11 “(ii) the use of the chemical substance,

12 as compared to reasonably available

13 alternatives, provides a substantial benefit

14 to health, the environment, or public safety.

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16 “(B) EXEMPTION ANALYSIS.—In proposing

17 a rule under paragraph (1) that includes

18 an exemption under this paragraph, the Administrator

19 shall make publicly available any analysis

20 conducted under this paragraph to assess

21 the need for the exemption.

22 “(C) STATEMENT REQUIRED.—In making

23 final a rule under paragraph (1) that includes

24 an exemption under this paragraph, the Administrator

25 shall include a statement describing

1 how the analysis considered under subpara-
2 graph (B) was taken into account.

3 “(D) ANALYSIS IN CASE OF BAN OR
4 PHASE-OUT.—In determining whether an ex-
5 emption should be granted under this para-
6 graph for a chemical substance for which a ban
7 or phase-out is proposed, the Administrator
8 shall take into consideration, to the extent prac-
9 ticable based on reasonably available informa-
10 tion, the quantifiable and nonquantifiable costs
11 and benefits of the 1 or more technically and
12 economically feasible alternatives to the chem-
13 ical substance most likely to be used in place of
14 the chemical substance under the conditions of
15 use if the rule is promulgated.

16 “(E) CONDITIONS.—As part of a rule pro-
17 mulgated under paragraph (1), the Adminis-
18 trator shall include conditions in any exemption
19 established under this paragraph, including rea-
20 sonable recordkeeping, monitoring, and report-
21 ing requirements, to the extent that the Admin-
22 istrator determines the conditions are necessary
23 to protect health and the environment while
24 achieving the purposes of the exemption.

25 “(F) DURATION.—

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“(i) IN GENERAL.—The Administrator shall establish, as part of a rule under paragraph (1) that contains an exemption under this paragraph, a time limit on any exemption for a time to be determined by the Administrator as reasonable on a case-by-case basis.

“(ii) AUTHORITY OF ADMINISTRATOR.—The Administrator, by rule, may extend, modify, or eliminate the exemption if the Administrator determines, on the basis of reasonably available information and after adequate public justification, the exemption warrants extension or is no longer necessary.

“(iii) CONSIDERATIONS.—

“(I) IN GENERAL.—Subject to subelause (II), the Administrator shall issue exemptions and establish time periods by considering factors determined by the Administrator to be relevant to the goals of fostering innovation and the development of alternatives that meet the safety standard.

1 “(II) LIMITATION.—Any renewal
2 of an exemption in the case of a rule
3 requiring the ban or phase-out of a
4 chemical substance shall not exceed 5
5 years.

6 “(e) IMMEDIATE EFFECT.—The Administrator may
7 declare a proposed rule under subsection (d)(1) to be ef-
8 fective on publication of the rule in the Federal Register
9 and until the effective date of final action taken respecting
10 the rule, if—

11 “(1) the Administrator determines that—

12 “(A) the manufacture, processing, distribu-
13 tion in commerce, use, or disposal of the chem-
14 ical substance or mixture subject to the pro-
15 posed rule or any combination of those activi-
16 ties is likely to result in a risk of serious or
17 widespread injury to health or the environment
18 before the effective date; and

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

21 “(2) in the case of a proposed rule to prohibit
22 the manufacture, processing, or distribution of a
23 chemical substance or mixture because of the risk
24 determined under paragraph (1)(A), a court has
25 granted relief in an action under section 7 with re-

1 spect to that risk associated with the chemical sub-
2 stance or mixture.

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

5 “(1) a safety determination, and the associated
6 safety assessment, for a chemical substance that the
7 Administrator determines under subsection (c) meets
8 the safety standard, shall be considered to be a final
9 agency action, effective beginning on the date of
10 issuance of the final safety determination; and

11 “(2) a final rule promulgated under subsection
12 (d)(1), and the associated safety assessment and
13 safety determination that a chemical substance does
14 not meet the safety standard, shall be considered to
15 be a final agency action, effective beginning on the
16 date of promulgation of the final rule.”; and

17 (4) in subsection (g) (as redesignated by para-
18 graph (2))—

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

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

22 **SEC. 9. IMMINENT HAZARDS.**

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

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

3 “(a) CIVIL ACTIONS.—

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

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

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

16 “(C) both seizure described in subpara-
17 graph (A) and relief described in subparagraph
18 (B).

19 “(2) RULE, ORDER, OR OTHER PROCEEDING.—
20 A civil action may be commenced under this para-
21 graph, notwithstanding—

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

1 Frank R. Lautenberg Chemical Safety for
2 the 21st Century Act, the Administrator
3 shall promulgate rules requiring the main-
4 tenance of records and the reporting of in-
5 formation known or reasonably ascertain-
6 able by the person making the report, in-
7 cluding rules requiring processors to report
8 information, so that the Administrator has
9 the information necessary to carry out sec-
10 tions 4 and 6.

11 “(ii) MODIFICATION OF PRIOR
12 RULES.—In carrying out this subpara-
13 graph, the Administrator may modify, as
14 appropriate, rules promulgated before the
15 date of enactment of the Frank R. Lauten-
16 berg Chemical Safety for the 21st Century
17 Act.

18 “(B) CONTENTS.—The rules promulgated
19 pursuant to subparagraph (A)—

20 “(i) may impose different reporting
21 and recordkeeping requirements on manu-
22 facturers and processors; and

23 “(ii) shall include the level of detail
24 necessary to be reported, including the

1 manner by which use and exposure infor-
2 mation may be reported.

3 “(C) ADMINISTRATION.—In implementing
4 the reporting and recordkeeping requirements
5 under this paragraph, the Administrator shall
6 take measures—

7 “(i) to limit the potential for duplica-
8 tion in reporting requirements;

9 “(ii) to minimize the impact of the
10 rules on small manufacturers and proc-
11 essors; and

12 “(iii) to apply any reporting obliga-
13 tions to those persons likely to have infor-
14 mation relevant to the effective implemen-
15 tation of this title.

16 “(5) GUIDANCE.—The Administrator shall de-
17 velop guidance relating to the information required
18 to be reported under the rules promulgated under
19 this subsection.”;

20 (2) in subsection (b), by adding at the end the
21 following:

22 “(3) NOMENCLATURE.—

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

1 “(i) maintain the use of Class 2 no-
2 menclature in use on the date of enact-
3 ment of the Frank R. Lautenberg Chem-
4 ical Safety for the 21st Century Act;

5 “(ii) maintain the use of the Soap and
6 Detergent Association Nomenclature Sys-
7 tem, published in March 1978 by the Ad-
8 ministrator in section 1 of addendum III
9 of the document entitled ‘Candidate List of
10 Chemical Substances’, and further de-
11 scribed in the appendix A of volume I of
12 the 1985 edition of the Toxic Substances
13 Control Act Substances Inventory (EPA
14 Document No. EPA-560/7-85-002a); and

15 “(iii) treat all components of cat-
16 egories that are considered to be statutory
17 mixtures under this Act as being included
18 on the list published under paragraph (1)
19 under the Chemical Abstracts Service
20 numbers for the respective categories, in-
21 cluding, without limitation—

22 “(I) cement, Portland, chemicals,
23 CAS No. 65997-15-1;

24 “(II) cement, alumina, chemicals,
25 CAS No. 65997-16-2;

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1 “(III) glass, oxide, chemicals,
2 CAS No. 65997-17-3;

3 “(IV) frits, chemicals, CAS No.
4 65997-18-4;

5 “(V) steel manufacture, chemi-
6 cals, CAS No. 65997-19-5; and

7 “(VI) ceramic materials and
8 wares, chemicals, CAS No. 66402-
9 68-4.

10 “(B) MULTIPLE NOMENCLATURE CONVEN-
11 TIONS.—

12 “(i) IN GENERAL.—If an existing
13 guidance allows for multiple nomenclature
14 conventions, the Administrator shall—

15 “(I) maintain the nomenclature
16 conventions for substances; and

17 “(II) develop new guidance
18 that—

19 “(aa) establishes equivalency
20 between the nomenclature con-
21 ventions for chemical substances
22 on the list published under para-
23 graph (1); and

24 “(bb) permits persons to
25 rely on the new guidance for pur-

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1 poses of determining whether a
2 chemical substance is on the list
3 published under paragraph (1).

4 “(ii) MULTIPLE CAS NUMBERS.—For
5 any chemical substance appearing multiple
6 times on the list under different Chemical
7 Abstracts Service numbers, the Adminis-
8 trator shall develop guidance recognizing
9 the multiple listings as a single chemical
10 substance.

11 “(4) CHEMICAL SUBSTANCES IN COMMERCE.—

12 “(A) RULES.—

13 “(i) IN GENERAL.—Not later than 1
14 year after the date of enactment of the
15 Frank R. Lautenberg Chemical Safety for
16 the 21st Century Act, the Administrator,
17 by rule, shall require manufacturers and
18 processors to notify the Administrator, by
19 not later than 180 days after the date of
20 promulgation of the rule, of each chemical
21 substance on the list published under para-
22 graph (1) that the manufacturer or proc-
23 essor, as applicable, has manufactured or
24 processed for a nonexempt commercial pur-
25 pose during the 10-year period ending on

1 the day before the date of enactment of the
2 Frank R. Lautenberg Chemical Safety for
3 the 21st Century Act.

4 “(ii) ACTIVE SUBSTANCES.—The Ad-
5 ministrator shall, pursuant to paragraph
6 (5)(A), designate chemical substances for
7 which notices are received under clause (i)
8 to be active substances on the list pub-
9 lished under paragraph (1).

10 “(B) CONFIDENTIAL CHEMICAL SUB-
11 STANCES.—The rule promulgated by the Ad-
12 ministrator pursuant to subparagraph (A) shall
13 require—

14 “(i) the Administrator to maintain the
15 list under paragraph (1), which shall in-
16 clude a confidential portion and a noncon-
17 fidential portion consistent with this sec-
18 tion and section 14;

19 “(ii) a manufacturer or processor that
20 is submitting a notice pursuant to sub-
21 paragraph (A) for a chemical substance on
22 the confidential portion of the list pub-
23 lished under paragraph (1) to indicate in
24 the notice whether the manufacturer or
25 processor seeks to maintain any existing

1 claim for protection against disclosure of
2 the specific identity of the substance as
3 confidential pursuant to section 14; and

4 “(iii) the substantiation of those
5 claims pursuant to section 14 and in ac-
6 cordance with the review plan described in
7 subparagraph (C).

8 “(C) REVIEW PLAN.—Not later than 1
9 year after the date on which the Administrator
10 compiles the initial list of active substances pur-
11 suant to subparagraph (A), the Administrator
12 shall promulgate a rule that establishes a plan
13 to review all claims to protect the specific iden-
14 tities of chemical substances on the confidential
15 portion of the list published under paragraph
16 (1) that are notified pursuant to subparagraph
17 (A) or identified as active substances under
18 subsection (f)(1).

19 “(D) REQUIREMENTS OF REVIEW PLAN.—
20 The review plan under subparagraph (C)
21 shall—

22 “(i) require, at the time requested by
23 the Administrator, all manufacturers or
24 processors asserting claims under subpara-
25 graph (B) to substantiate the claim unless

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1 the manufacturer or processor has sub-
2 stantiated the claim in a submission made
3 to the Administrator during the 5-year pe-
4 riod ending on the date of the request by
5 the Administrator;

6 “(ii) require the Administrator, in ac-
7 cordance with section 14—

8 “(I) to review each substan-
9 tiation—

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

14 “(bb) submitted previously
15 by a manufacturer or processor
16 and relied on in lieu of the sub-
17 stantiation required pursuant to
18 clause (i), if the substantiation
19 has not been previously reviewed
20 by the Administrator, to deter-
21 mine if the claim warrants pro-
22 tection from disclosure;

23 “(II) approve, modify, or deny
24 each claim; and

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1 “(III) except as provided in this
2 section and section 14, protect from
3 disclosure information for which the
4 Administrator approves such a claim
5 for a period of 10 years, unless, prior
6 to the expiration of the period—

7 “(aa) the person notifies the
8 Administrator that the person is
9 withdrawing the confidentiality
10 claim, in which case the Adminis-
11 trator shall promptly make the
12 information available to the pub-
13 lic; or

14 “(bb) the Administrator oth-
15 erwise becomes aware that the
16 need for protection from diselo-
17 sure can no longer be substan-
18 tiated, in which case the Admin-
19 istrator shall take the actions de-
20 scribed in section 14(g)(2); and

21 “(iii) encourage manufacturers or
22 processors that have previously made
23 claims to protect the specific identities of
24 chemical substances identified as inactive

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1 pursuant to subsection (f)(2) to review and
2 either withdraw or substantiate the claims.

3 “(E) TIMELINE FOR COMPLETION OF RE-
4 VIEWS.—

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

12 “(ii) CONSIDERATIONS.—

13 “(I) IN GENERAL.—The Admin-
14 istrator may extend the deadline for
15 completion of the reviews for not more
16 than 2 additional years, after an ade-
17 quate public justification, if the Ad-
18 ministrator determines that the exten-
19 sion is necessary based on the number
20 of applicable claims needing review
21 and the available resources.

22 “(II) ANNUAL GOAL.—The Ad-
23 ministrator shall publish an annual
24 goal for the number of reviews to be

1 completed over the course of imple-
2 mentation of the plan.

3 “(5) ACTIVE AND INACTIVE SUBSTANCES.—

4 “(A) IN GENERAL.—The Administrator
5 shall maintain and keep current designations of
6 active substances and inactive substances on
7 the list published under paragraph (1).

8 “(B) UPDATE.—The Administrator shall
9 update the list of chemical substances des-
10 ignated as active substances as soon as prac-
11 ticable after the date of publication of the most
12 recent data reported under—

13 “(i) part 711 of title 40, Code of Fed-
14 eral Regulations (or successor regulations);
15 and

16 “(ii) the rules promulgated pursuant
17 to subsection (a)(4).

18 “(C) CHANGE TO ACTIVE STATUS.—

19 “(i) IN GENERAL.—Any person that
20 intends to manufacture or process for a
21 nonexempt commercial purpose a chemical
22 substance that is designated as an inactive
23 substance shall notify the Administrator
24 before the date on which the inactive sub-
25 stance is manufactured or processed.

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1 tity of the chemical substance and ap-
2 prove, modify, or deny the claim;

3 “(III) except as provided in this
4 section and section 14, protect from
5 disclosure the specific identity of the
6 chemical substance for which the Ad-
7 ministrators approves a claim under
8 subclause (II) for a period of not less
9 than 10 years, unless, prior to the ex-
10 piration of the period—

11 “(aa) the person notifies the
12 Administrator that the person is
13 withdrawing the confidentiality
14 claim, in which case the Adminis-
15 trator shall promptly make the
16 information available to the pub-
17 lic; or

18 “(bb) the Administrator oth-
19 erwise becomes aware that the
20 need for protection from diselo-
21 sure can no longer be substan-
22 tiated, in which case the Admin-
23 istrator shall take the actions de-
24 scribed in section 14(g)(2); and

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1 “(IV) pursuant to section 4A, re-
2 view the priority of the chemical sub-
3 stance as the Administrator deter-
4 mines to be necessary.

5 “(D) CATEGORY STATUS.—The list of in-
6 active substances shall not be considered to be
7 a category for purposes of section 26(c).

8 “(6) INTERIM LIST OF ACTIVE SUBSTANCES.—
9 Prior to the promulgation of the rule required under
10 this subsection, the Administrator shall designate
11 the chemical substances reported under part 711 of
12 title 40, Code of Federal Regulations (or successor
13 regulations), during the reporting period that most
14 closely preceded the date of enactment of the Frank
15 R. Lautenberg Chemical Safety for the 21st Century
16 Act, as the interim list of active substances for the
17 purposes of section 4A.

18 “(7) PUBLIC PARTICIPATION.—Subject to this
19 subsection, the Administrator shall make available to
20 the public—

21 “(A) the specific identity of each chemical
22 substance on the nonconfidential portion of the
23 list published under paragraph (1) that the Ad-
24 ministrator has designated as—

25 “(i) an active substance; or

1 “(ii) an inactive substance;

2 “(B) the accession number, generic name,

3 and, if applicable, premanufacture notice case

4 number for each chemical substance on the con-

5 fidential portion of the list published under

6 paragraph (1) for which a claim of confiden-

7 tiality was received and approved by the Admin-

8 istrator pursuant to section 14; and

9 “(C) subject to section 14(g), the specific

10 identity of any active substance for which—

11 “(i) no claim of protection against dis-

12 closure of the specific identity of the active

13 substance pursuant to this subsection was

14 received;

15 “(ii) a claim for protection against

16 disclosure of the specific identity of the ac-

17 tive substance has been denied by the Ad-

18 ministrator; or

19 “(iii) the time period for protection

20 against disclosure of the specific identity of

21 the active substance has expired.

22 “(8) LIMITATION.—No person may assert a

23 new claim under this subsection for protection from

24 disclosure of a specific identity of any active or inac-

25 tive chemical substance for which a notice is received

1 under paragraph (4)(A)(i) or (5)(C)(i) that is not on
2 the confidential portion of the list published under
3 paragraph (1).

4 “(9) CERTIFICATION.—Under the rule promul-
5 gated under this subsection, manufacturers and
6 processors shall be required—

7 “(A) to certify that each report the manu-
8 facturer or processor submits complies with the
9 requirements of the rule, and that any confiden-
10 tiality claims are true and correct; and

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

14 (3) in subsection (e)—

15 (A) by striking “Any person” and inserting
16 the following:

17 “(1) IN GENERAL.—Any person”; and

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

19 “(2) APPLICABILITY.—Any person may submit
20 to the Administrator information reasonably sup-
21 porting the conclusion that a chemical substance or
22 mixture presents, will present, or does not present a
23 substantial risk of injury to health and the environ-
24 ment.”; and

1 (4) in subsection (f), by striking “For purposes
2 of this section, the” and inserting the following: “In
3 this section:

4 “(1) ACTIVE SUBSTANCE.—The term ‘active
5 substance’ means a chemical substance—

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

11 “(B) that is added to the list published
12 under subsection (b)(1) after that date of en-
13 actment; or

14 “(C) for which a notice is received under
15 subsection (b)(5)(C).

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

20 “(3) MANUFACTURE; PROCESS.—The”.

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

22 Section 9 of the Toxic Substances Control Act (15
23 U.S.C. 2608) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1), in the first sen-
2 tence—

3 (i) by striking “presents or will
4 present an unreasonable risk to health or
5 the environment” and inserting “does not
6 meet the safety standard”; and

7 (ii) by striking “such risk” the first
8 place it appears and inserting “the risk
9 posed by the substance or mixture”;

10 (B) in paragraph (2), in the matter fol-
11 lowing subparagraph (B), by striking “section 6
12 or 7” and inserting “section 6(d) or section 7”;
13 and

14 (C) in paragraph (3), by striking “section
15 6 or 7” and inserting “section 6(d) or 7”;

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

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

20 “(e) EXPOSURE INFORMATION.—If the Adminis-
21 trator obtains information related to exposures or releases
22 of a chemical substance that may be prevented or reduced
23 under another Federal law, including laws not adminis-
24 tered by the Administrator, the Administrator shall make

1 such information available to the relevant Federal agency
2 or office of the Environmental Protection Agency.”.

3 **SEC. 12. RESEARCH, DEVELOPMENT, COLLECTION, DIS-**
4 **SEMINATION, AND UTILIZATION OF DATA.**

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

9 **SEC. 13. EXPORTS.**

10 Section 12 of the Toxic Substances Control Act (15
11 U.S.C. 2611) is amended—

12 (1) in subsection (a), by striking paragraph (2)
13 and inserting the following:

14 “(2) EXCEPTION.—Paragraph (1) shall not
15 apply to any chemical substance that the Adminis-
16 trator determines—

17 “(A) under section 5 is not likely to meet
18 the safety standard; or

19 “(B) under section 6 does not meet the
20 safety standard.

21 “(3) WAIVERS.—For a mixture or article con-
22 taining a chemical substance described in paragraph
23 (2), the Administrator may—

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

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

4 “(4) TESTING.—The Administrator may re-
5 quire testing under section 4 of any chemical sub-
6 stance or mixture exempted from this Act under
7 paragraph (1) for the purpose of determining wheth-
8 er the chemical substance or mixture meets the safe-
9 ty standard within the United States.”;

10 (2) by striking subsection (b) and inserting the
11 following:

12 “(b) NOTICE.—

13 “(1) IN GENERAL.—A person shall notify the
14 Administrator that the person is exporting or in-
15 tends to export to a foreign country—

16 “(A) a chemical substance or a mixture
17 containing a chemical substance that the Ad-
18 ministrator has determined under section 5 is
19 not likely to meet the safety standard and for
20 which a prohibition or other restriction has
21 been proposed or established under that section;

22 “(B) a chemical substance or a mixture
23 containing a chemical substance that the Ad-
24 ministrator has determined under section 6
25 does not meet the safety standard and for

1 which a prohibition or other restriction has
2 been proposed or established under that section;

3 “(C) a chemical substance for which the
4 United States is obligated by treaty to provide
5 export notification;

6 “(D) a chemical substance or mixture sub-
7 ject to a significant new use rule, or a prohibi-
8 tion or other restriction pursuant to a rule,
9 order, or consent agreement in effect under this
10 Act; or

11 “(E) a chemical substance or mixture for
12 which the submission of information is required
13 under section 4.

14 “(2) RULES.—

15 “(A) IN GENERAL.—The Administrator
16 shall promulgate rules to carry out paragraph
17 (1).

18 “(B) CONTENTS.—The rules promulgated
19 pursuant to subparagraph (A) shall—

20 “(i) include such exemptions as the
21 Administrator determines to be appro-
22 priate, which may include exemptions iden-
23 tified under section 5(h); and

24 “(ii) indicate whether, or to what ex-
25 tent, the rules apply to articles containing

1 a chemical substance or mixture described
2 in paragraph (1).

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

6 “(A) for a chemical substance or mixture
7 described in subparagraph (A), (B), or (D) of
8 paragraph (1), a notice of the determination,
9 rule, order, consent agreement, requirement, or
10 designation;

11 “(B) for a chemical substance described in
12 paragraph (1)(C), a notice that satisfies the ob-
13 ligation of the United States under the applica-
14 ble treaty; and

15 “(C) for a chemical substance or mixture
16 described in paragraph (1)(E), a notice of avail-
17 ability of the information on the chemical sub-
18 stance or mixture submitted to the Adminis-
19 trator.”; and

20 (3) in subsection (c)—

21 (A) by striking paragraph (3); and

22 (B) by redesignating paragraphs (4)
23 through (6) as paragraphs (3) through (5), re-
24 spectively.

1 **SEC. 14. CONFIDENTIAL INFORMATION.**

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

4 **“SEC. 14. CONFIDENTIAL INFORMATION.**

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

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

12 “(2) for which the requirements of subsection
13 (d) are met.

14 **“(b) INFORMATION GENERALLY PROTECTED FROM**
15 **DISCLOSURE.**—The following information specific to, and
16 submitted by, a manufacturer, processor, or distributor
17 that meets the requirements of subsections (a) and (d)
18 shall be presumed to be protected from disclosure, subject
19 to the condition that nothing in this Act prohibits the dis-
20 closure of any such information, or information that is the
21 subject of subsection (g)(3), through discovery, subpoena,
22 other court order, or any other judicial process otherwise
23 allowed under applicable Federal or State law:

24 “(1) Specific information describing the proce-
25 sses used in manufacture or processing of a chem-
26 ical substance, mixture, or article.

1 “(2) Marketing and sales information.

2 “(3) Information identifying a supplier or cus-
3 tomer.

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

6 “(5) Specific information regarding the use,
7 function, or application of a chemical substance or
8 mixture in a process, mixture, or product.

9 “(6) Specific production or import volumes of
10 the manufacturer and specific aggregated volumes
11 across manufacturers, if the Administrator deter-
12 mines that disclosure of the specific aggregated vol-
13 umes would reveal confidential information.

14 “(7) Except as otherwise provided in this sec-
15 tion, the specific identity of a chemical substance
16 prior to the date on which the chemical substance is
17 first offered for commercial distribution, including
18 the chemical name, molecular formula, Chemical Ab-
19 stracts Service number, and other information that
20 would identify a specific chemical substance, if—

21 “(A) the specific identity was claimed as
22 confidential information at the time it was sub-
23 mitted in a notice under section 5; and

24 “(B) the claim—

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1 “(i) is not subject to an exception
2 under subsection (e); or

3 “(ii) has not subsequently been with-
4 drawn or found by the Administrator not
5 to warrant protection as confidential infor-
6 mation under subsection (f)(2) or (g).

7 “(c) INFORMATION NOT PROTECTED FROM DISCLO-
8 SURE.—Notwithstanding subsections (a) and (b), the fol-
9 lowing information shall not be protected from disclosure:

10 “(1) INFORMATION FROM HEALTH AND SAFETY
11 STUDIES.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), subsection (a) does not prohibit the
14 disclosure of—

15 “(i) any health and safety study that
16 is submitted under this Act with respect
17 to—

18 “(I) any chemical substance or
19 mixture that, on the date on which
20 the study is to be disclosed, has been
21 offered for commercial distribution; or

22 “(II) any chemical substance or
23 mixture for which—

24 “(aa) testing is required
25 under section 4; or

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1 “(bb) a notification is re-
2 quired under section 5; or

3 “(ii) any information reported to, or
4 otherwise obtained by, the Administrator
5 from a health and safety study relating to
6 a chemical substance or mixture described
7 in subclause (I) or (II) of clause (i).

8 “(B) EFFECT OF PARAGRAPH.—Nothing
9 in this paragraph authorizes the release of any
10 information that discloses—

11 “(i) a process used in the manufac-
12 turing or processing of a chemical sub-
13 stance or mixture; or

14 “(ii) in the case of a mixture, the por-
15 tion of the mixture comprised by any
16 chemical substance in the mixture.

17 “(2) CERTAIN REQUESTS.—If a request is made
18 to the Administrator under section 552(a) of title 5,
19 United States Code, for information that is de-
20 scribed in paragraph (1) that is not described in
21 paragraph (1)(B), the Administrator may not deny
22 the request on the basis of section 552(b)(4) of title
23 5, United States Code.

1 “(3) OTHER INFORMATION NOT PROTECTED
2 FROM DISCLOSURE.—The following information is
3 not protected from disclosure under this section:

4 “(A) For information submitted after the
5 date of enactment of the Frank R. Lautenberg
6 Chemical Safety for the 21st Century Act, the
7 specific identity of a chemical substance as of
8 the date on which the chemical substance is
9 first offered for commercial distribution, if the
10 person submitting the information does not
11 meet the requirements of subsection (d).

12 “(B) A safety assessment developed, or a
13 safety determination made, under section 6.

14 “(C) Any general information describing
15 the manufacturing volumes, expressed as spe-
16 cific aggregated volumes or, if the Adminis-
17 trator determines that disclosure of specific ag-
18 gregated volumes would reveal confidential in-
19 formation, expressed in ranges.

20 “(D) A general description of a process
21 used in the manufacture or processing and in-
22 dustrial, commercial, or consumer functions and
23 uses of a chemical substance, mixture, or article
24 containing a chemical substance or mixture, in-
25 cluding information specific to an industry or

1 industry sector that customarily would be
2 shared with the general public or within an in-
3 dustry or industry sector.

4 “(4) MIXED CONFIDENTIAL AND NONCON-
5 FIDENTIAL INFORMATION.—Any information that is
6 otherwise eligible for protection under this section
7 and contained in a submission of information de-
8 scribed in this subsection shall be protected from
9 disclosure, if the submitter complies with subsection
10 (d), subject to the condition that information in the
11 submission that is not eligible for protection against
12 disclosure shall be disclosed.

13 “(5) BAN OR PHASE-OUT.—If the Adminis-
14 trator promulgates a rule pursuant to section 6(d)
15 that establishes a ban or phase-out of the manufac-
16 ture, processing, or distribution in commerce of a
17 chemical substance, subject to paragraphs (2), (3),
18 and (4) of subsection (g), any protection from diselo-
19 sure provided under this section with respect to the
20 specific identity of the chemical substance and other
21 information relating to the chemical substance shall
22 no longer apply.

23 “(d) REQUIREMENTS FOR CONFIDENTIALITY
24 CLAIMS.—

25 “(1) ASSERTION OF CLAIMS.—

1 “(A) IN GENERAL.—A person seeking to
2 protect any information submitted under this
3 Act from disclosure (including information de-
4 scribed in subsection (b)) shall assert to the Ad-
5 ministrator a claim for protection concurrent
6 with submission of the information, in accord-
7 ance with such rules regarding a claim for pro-
8 tection from disclosure as the Administrator
9 has promulgated or may promulgate pursuant
10 to this title.

11 “(B) INCLUSION.—An assertion of a claim
12 under subparagraph (A) shall include a state-
13 ment that the person has—

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

16 “(ii) determined that the information
17 is not required to be disclosed or otherwise
18 made available to the public under any
19 other Federal law;

20 “(iii) a reasonable basis to conclude
21 that disclosure of the information is likely
22 to cause substantial harm to the competi-
23 tive position of the person; and

1 “(iv) a reasonable basis to believe that
2 the information is not readily discoverable
3 through reverse engineering.

4 “(C) SPECIFIC CHEMICAL IDENTITY.—In
5 the case of a claim under subparagraph (A) for
6 protection against disclosure of a specific chem-
7 ical identity, the claim shall include a struc-
8 turally descriptive generic name for the chem-
9 ical substance that the Administrator may dis-
10 close to the public, subject to the condition that
11 the generic name shall—

12 “(i) conform with guidance prescribed
13 by the Administrator under paragraph
14 (3)(A); and

15 “(ii) describe the chemical structure
16 of the substance as specifically as praec-
17 ticable while protecting those features of
18 the chemical structure—

19 “(I) that are considered to be
20 confidential; and

21 “(II) the disclosure of which
22 would be likely to harm the competi-
23 tive position of the person.

24 “(D) PUBLIC INFORMATION.—No person
25 may assert a claim under this section for pro-

1 tection from disclosure of information that is al-
2 ready publicly available.

3 “(2) ADDITIONAL REQUIREMENTS FOR CON-
4 FIDENTIALITY CLAIMS.—Except for information de-
5 scribed in paragraphs (1) through (7) of subsection
6 (b), a person asserting a claim to protect informa-
7 tion from disclosure under this Act shall substan-
8 tiate the claim, in accordance with the rules promul-
9 gated and guidance issued by the Administrator.

10 “(3) GUIDANCE.—The Administrator shall de-
11 velop guidance regarding—

12 “(A) the determination of structurally de-
13 scriptive generic names, in the case of claims
14 for the protection against disclosure of specific
15 chemical identity; and

16 “(B) the content and form of the state-
17 ments of need and agreements required under
18 paragraphs (4), (5), and (6) of subsection (e).

19 “(4) CERTIFICATION.—An authorized official of
20 a person described in paragraph (1)(A) shall certify
21 that the information that has been submitted is true
22 and correct.

23 “(e) EXCEPTIONS TO PROTECTION FROM DISCLO-
24 SURE.—Information described in subsection (a)—

1 “(1) shall be disclosed if the information is to
2 be disclosed to an officer or employee of the United
3 States in connection with the official duties of the
4 officer or employee—

5 “(A) under any law for the protection of
6 health or the environment; or

7 “(B) for a specific law enforcement pur-
8 pose;

9 “(2) shall be disclosed if the information is to
10 be disclosed to a contractor of the United States and
11 employees of that contractor—

12 “(A) if, in the opinion of the Adminis-
13 trator, the disclosure is necessary for the satis-
14 factory performance by the contractor of a con-
15 tract with the United States for the perform-
16 ance of work in connection with this Act; and

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

19 “(3) shall be disclosed if the Administrator de-
20 termines that disclosure is necessary to protect
21 health or the environment;

22 “(4) shall be disclosed if the information is to
23 be disclosed to a State or political subdivision of a
24 State, on written request, for the purpose of develop-
25 ment, administration, or enforcement of a law, if—

1 “(A) 1 or more applicable agreements with
2 the Administrator that conform with the guid-
3 ance issued under subsection (d)(3)(B) ensure
4 that the recipient will take appropriate meas-
5 ures, and has adequate authority, to maintain
6 the confidentiality of the information in accord-
7 ance with procedures comparable to the proce-
8 dures used by the Administrator to safeguard
9 the information; and

10 “(B) the Administrator notifies the person
11 that submitted the information that the infor-
12 mation has been disclosed to the State or polit-
13 ical subdivision of a State;

14 “(5) shall be disclosed if a health or environ-
15 mental professional employed by a Federal or State
16 agency or a treating physician or nurse in a non-
17 emergency situation provides a written statement of
18 need and agrees to sign a written confidentiality
19 agreement with the Administrator, subject to the
20 conditions that—

21 “(A) the statement of need and confiden-
22 tiality agreement shall conform with the guid-
23 ance issued under subsection (d)(3)(B);

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1 “(B) the written statement of need shall be
2 a statement that the person has a reasonable
3 basis to suspect that—

4 “(i) the information is necessary for,
5 or will assist in—

6 “(I) the diagnosis or treatment of
7 1 or more individuals; or

8 “(II) responding to an environ-
9 mental release or exposure; and

10 “(ii) 1 or more individuals being diag-
11 nosed or treated have been exposed to the
12 chemical substance concerned, or an envi-
13 ronmental release or exposure has oc-
14 curred; and

15 “(C) the confidentiality agreement shall
16 provide that the person will not use the infor-
17 mation for any purpose other than the health or
18 environmental needs asserted in the statement
19 of need, except as otherwise may be authorized
20 by the terms of the agreement or by the person
21 submitting the information to the Adminis-
22 trator, except that nothing in this Act prohibits
23 the disclosure of any such information through
24 discovery, subpoena, other court order, or any

1 other judicial process otherwise allowed under
2 applicable Federal or State law;

3 “(6) shall be disclosed if in the event of an
4 emergency, a treating physician, nurse, agent of a
5 poison control center, public health or environmental
6 official of a State or political subdivision of a State,
7 or first responder (including any individual duly au-
8 thorized by a Federal agency, State, or political sub-
9 division of a State who is trained in urgent medical
10 care or other emergency procedures, including a po-
11 lice officer, firefighter, or emergency medical techni-
12 cian) requests the information, subject to the condi-
13 tions that—

14 “(A) the treating physician, nurse, agent,
15 public health or environmental official of a
16 State or a political subdivision of a State, or
17 first responder shall have a reasonable basis to
18 suspect that—

19 “(i) a medical or public health or en-
20 vironmental emergency exists;

21 “(ii) the information is necessary for,
22 or will assist in, emergency or first-aid di-
23 agnosis or treatment; or

24 “(iii) 1 or more individuals being di-
25 agnosed or treated have likely been ex-

1 posed to the chemical substance concerned,
2 or a serious environmental release of or ex-
3 posure to the chemical substance con-
4 cerned has occurred;

5 “(B) if requested by the person submitting
6 the information to the Administrator, the treat-
7 ing physician, nurse, agent, public health or en-
8 vironmental official of a State or a political sub-
9 division of a State, or first responder shall, as
10 described in paragraph (5)—

11 “(i) provide a written statement of
12 need; and

13 “(ii) agree to sign a confidentiality
14 agreement; and

15 “(C) the written confidentiality agreement
16 or statement of need shall be submitted as soon
17 as practicable, but not necessarily before the in-
18 formation is disclosed;

19 “(7) may be disclosed if the Administrator de-
20 termines that disclosure is relevant in a proceeding
21 under this Act, subject to the condition that the dis-
22 closure shall be made in such a manner as to pre-
23 serve confidentiality to the maximum extent prac-
24 ticable without impairing the proceeding;

1 “(8) shall be disclosed if the information is to
2 be disclosed, on written request of any duly author-
3 ized congressional committee, to that committee; or

4 “(9) shall be disclosed if the information is re-
5 quired to be disclosed or otherwise made public
6 under any other provision of Federal law.

7 “(f) DURATION OF PROTECTION FROM DISCLO-
8 SURE.—

9 “(1) IN GENERAL.—

10 “(A) INFORMATION PROTECTED FROM DIS-
11 CLOSURE.—Subject to paragraph (2), the Ad-
12 ministrator shall protect from disclosure infor-
13 mation that meets the requirements of sub-
14 section (d) for a period of 10 years, unless,
15 prior to the expiration of the period—

16 “(i) an affected person notifies the
17 Administrator that the person is with-
18 drawing the confidentiality claim, in which
19 case the Administrator shall promptly
20 make the information available to the pub-
21 lic; or

22 “(ii) the Administrator otherwise be-
23 comes aware that the need for protection
24 from disclosure can no longer be substan-
25 tiated, in which case the Administrator

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1 shall take the actions described in sub-
2 section (g)(2).

3 “(B) EXTENSIONS.—

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

10 “(ii) STATEMENT.—

11 “(I) IN GENERAL.—Not later
12 than the date that is 30 days before
13 the expiration of the period described
14 in subparagraph (A), a person re-
15 asserting the relevant claim shall sub-
16 mit to the Administrator a statement
17 substantiating, in accordance with
18 subsection (d)(2), the need to extend
19 the period.

20 “(II) ACTION BY ADMINIS-
21 TRATOR.—Not later than the date
22 that is 30 days after the date of re-
23 ceipt of a statement under subclause
24 (I), the Administrator shall—

25 “(aa) review the request;

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1 “(bb) make a determination
2 regarding whether the informa-
3 tion for which the request is
4 made continues to meet the rel-
5 evant criteria established under
6 this section; and

7 “(cc)(AA) grant an exten-
8 sion of not more than 10 years;

9 or

10 “(BB) deny the claim.

11 “(C) NO LIMIT ON NUMBER OF EXTEN-
12 SIONS.—There shall be no limit on the number
13 of extensions granted under subparagraph (B),
14 if the Administrator determines that the rel-
15 evant statement under subparagraph
16 (B)(ii)(I)—

17 “(i) establishes the need to extend the
18 period; and

19 “(ii) meets the requirements estab-
20 lished by the Administrator.

21 “(2) REVIEW AND RESUBSTANTIATION.—

22 “(A) DISCRETION OF ADMINISTRATOR.—

23 The Administrator may review, at any time, a
24 claim for protection against disclosure under
25 subsection (a) for information submitted to the

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1 Administrator regarding a chemical substance
2 and require any person that has claimed protec-
3 tion for that information, whether before, on, or
4 after the date of enactment of the Frank R.
5 Lautenberg Chemical Safety for the 21st Cen-
6 tury Act, to withdraw or reassert and substan-
7 tiate or resubstantiate the claim in accordance
8 with this section—

9 “(i) after the chemical substance is
10 identified as a high-priority substance
11 under section 4A;

12 “(ii) for any chemical substance for
13 which the Administrator has made a deter-
14 mination under section 6(c)(1)(C);

15 “(iii) for any inactive chemical sub-
16 stance identified under section 8(b)(5); or

17 “(iv) in limited circumstances, if the
18 Administrator determines that disclosure
19 of certain information currently protected
20 from disclosure would assist the Adminis-
21 trator in conducting safety assessments
22 and safety determinations under sub-
23 sections (b) and (c) of section 6 or promul-
24 gating rules pursuant to section 6(d), sub-
25 ject to the condition that the information

1 shall not be disclosed unless the claimant
2 withdraws the claim or the Administrator
3 determines that the information does not
4 meet the requirements of subsection (d).

5 “(B) REVIEW REQUIRED.—The Adminis-
6 trator shall review a claim for protection from
7 disclosure under subsection (a) for information
8 submitted to the Administrator regarding a
9 chemical substance and require any person that
10 has claimed protection for that information,
11 whether before, on, or after the date of enact-
12 ment of the Frank R. Lautenberg Chemical
13 Safety for the 21st Century Act, to withdraw or
14 reassert and substantiate or resubstantiate the
15 claim in accordance with this section—

16 “(i) as necessary to comply with a re-
17 quest for information received by the Ad-
18 ministrator under section 552 of title 5,
19 United States Code;

20 “(ii) if information available to the
21 Administrator provides a basis that the re-
22 quirements of section 552(b)(4) of title 5,
23 United States Code, are no longer met; or

1 “(iii) for any substance for which the
2 Administrator has made a determination
3 under section 6(c)(1)(B).

4 “(C) ACTION BY RECIPIENT.—If the Ad-
5 ministrator makes a request under subpara-
6 graph (A) or (B), the recipient of the request
7 shall—

8 “(i) reassert and substantiate or re-
9 substantiate the claim; or

10 “(ii) withdraw the claim.

11 “(D) PERIOD OF PROTECTION.—Protec-
12 tion from disclosure of information subject to a
13 claim that is reviewed and approved by the Ad-
14 ministrator under this paragraph shall be ex-
15 tended for a period of 10 years from the date
16 of approval, subject to any subsequent request
17 by the Administrator under this paragraph.

18 “(3) UNIQUE IDENTIFIER.—The Administrator
19 shall—

20 “(A)(i) develop a system to assign a
21 unique identifier to each specific chemical iden-
22 tity for which the Administrator approves a re-
23 quest for protection from disclosure, other than
24 a specific chemical identity or structurally de-
25 scriptive generic term; and

1 “(ii) apply that identifier consistently to all
2 information relevant to the applicable chemical
3 substance;

4 “(B) annually publish and update a list of
5 chemical substances, referred to by unique identifier,
6 for which claims to protect the specific
7 chemical identity from disclosure have been approved,
8 including the expiration date for each
9 such claim;

10 “(C) ensure that any nonconfidential information
11 received by the Administrator with respect to such a
12 chemical substance during the period of protection from
13 disclosure—

14 “(i) is made public; and

15 “(ii) identifies the chemical substance
16 using the unique identifier; and

17 “(D) for each claim for protection of specific
18 chemical identity that has been denied by the Administrator
19 on expiration of the period for appeal under subsection
20 (g)(4), that has expired, or that has been withdrawn by the
21 submitter, provide public access to the specific
22 chemical identity clearly linked to all nonconfidential
23 information received by the Administrator with respect to
24 the chemical substance.
25

1 “(g) DUTIES OF ADMINISTRATOR.—

2 “(1) DETERMINATION.—

3 “(A) IN GENERAL.—Except as provided in
4 subsection (b), the Administrator shall, subject
5 to subparagraph (C), not later than 90 days
6 after the receipt of a claim under subsection
7 (d), and not later than 30 days after the receipt
8 of a request for extension of a claim under sub-
9 section (f), review and approve, modify, or deny
10 the claim or request.

11 “(B) DENIAL OR MODIFICATION.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in subsections (e) and (f), the Ad-
14 ministrator shall deny a claim to protect a
15 chemical identity from disclosure only if
16 the person that has submitted the claim
17 fails to meet the requirements of sub-
18 sections (a) and (d).

19 “(ii) REASONS FOR DENIAL OR MODI-
20 FICATION.—The Administrator shall pro-
21 vide to a person that has submitted a
22 claim described in clause (i) a written
23 statement of the reasons for the denial or
24 modification of the claim.

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1 “(C) SUBSETS.—The Administrator
2 shall—

3 “(i) except for claims described in
4 subsection (b)(7), review all claims under
5 this section for the protection against dis-
6 closure of the specific identity of a chem-
7 ical substance; and

8 “(ii) review a representative subset,
9 comprising at least 25 percent, of all other
10 claims for protection against disclosure.

11 “(D) EFFECT OF FAILURE TO ACT.—The
12 failure of the Administrator to make a decision
13 regarding a claim for protection against dis-
14 closure or extension under this section shall not be
15 the basis for denial or elimination of a claim for
16 protection against disclosure.

17 “(2) NOTIFICATION.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B) and subsections (e), (e), and
20 (f), if the Administrator denies or modifies a
21 claim under paragraph (1), or promulgates a
22 rule under section 6(d) establishing a ban or
23 phase-out of a chemical substance, the Adminis-
24 trator shall notify, in writing and by certified
25 mail, the person that submitted the claim of the

1 intent of the Administrator to release the infor-
2 mation.

3 “(B) RELEASE OF INFORMATION.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii), the Administrator shall
6 not release information under this sub-
7 section until the date that is 30 days after
8 the date on which the person that sub-
9 mitted the request receives notification
10 under subparagraph (A).

11 “(ii) EXCEPTIONS.—

12 “(I) IN GENERAL.—For informa-
13 tion under paragraph (3) or (8) of
14 subsection (e), the Administrator shall
15 not release that information until the
16 date that is 15 days after the date on
17 which the person that submitted the
18 claim receives a notification, unless
19 the Administrator determines that re-
20 lease of the information is necessary
21 to protect against an imminent and
22 substantial harm to health or the en-
23 vironment, in which case no prior no-
24 tification shall be necessary.

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1 “(II) NO NOTIFICATION.—For
2 information under paragraph (1), (2),
3 (6), (7), or (9) of subsection (e), no
4 prior notification shall be necessary.

5 “(3) REBUTTABLE PRESUMPTION.—

6 “(A) IN GENERAL.—With respect to notifi-
7 cations provided by the Administrator pursuant
8 to subsection (e)(5), there shall be a rebuttable
9 presumption that the public interest in dis-
10 closing confidential information related to a
11 chemical substance subject to a rule promul-
12 gated under section 6(d) that establishes a ban
13 or phase-out of the manufacture, processing, or
14 distribution in commerce of the substance out-
15 weighs the proprietary interest in maintaining
16 the protection from disclosure of that informa-
17 tion.

18 “(B) REQUEST FOR NONDISCLOSURE.—A
19 person that receives a notification under para-
20 graph (2) with respect to the information de-
21 scribed in subparagraph (A) may submit to the
22 Administrator, before the date on which the in-
23 formation is to be released, a request with sup-
24 porting documentation describing why the per-

1 son believes some or all of that information
2 should not be disclosed.

3 “(C) DETERMINATION BY ADMINIS-
4 TRATOR.—

5 “(i) IN GENERAL.—Not later than 30
6 days after the Administrator receives a re-
7 quest under subparagraph (B), the Admin-
8 istrator shall determine, at the discretion
9 of the Administrator, whether the docu-
10 mentation provided by the person making
11 the request rebuts or does not rebut the
12 presumption described in subparagraph
13 (A), for all or a portion of the information
14 that the person has requested not be dis-
15 closed.

16 “(ii) OBJECTIVE.—The Administrator
17 shall make the determination with the ob-
18 jective of ensuring that information rel-
19 evant to protection of health and the envi-
20 ronment is disclosed to the maximum ex-
21 tent practicable.

22 “(D) TIMING.—Not later than 30 days
23 after making the determination described in
24 subparagraph (C), the Administrator shall
25 make public the information the Administrator

1 has determined is not to be protected from dis-
2 closure.

3 “(E) NO TIMELY REQUEST RECEIVED.—If
4 the Administrator does not receive, before the
5 date on which the information described in sub-
6 paragraph (A) is to be released, a request pur-
7 suant to subparagraph (B), the Administrator
8 shall promptly make public all of the informa-
9 tion.

10 “(4) APPEALS.—

11 “(A) IN GENERAL.—If a person receives a
12 notification under paragraph (2) and believes
13 disclosure of the information is prohibited
14 under subsection (a), before the date on which
15 the information is to be released, the person
16 may bring an action to restrain disclosure of
17 the information in—

18 “(i) the United States district court of
19 the district in which the complainant re-
20 sides or has the principal place of business;
21 or

22 “(ii) the United States District Court
23 for the District of Columbia.

24 “(B) NO DISCLOSURE.—The Adminis-
25 trator shall not disclose any information that is

1 the subject of an appeal under this section be-
2 fore the date on which the applicable court
3 rules on an action under subparagraph (A).

4 “(5) ADMINISTRATION.—In carrying out this
5 subsection, the Administrator shall use the proce-
6 dures described in part 2 of title 40, Code of Fed-
7 eral Regulations (or successor regulations).

8 “(h) CRIMINAL PENALTY FOR WRONGFUL DISCLO-
9 SURE.—

10 “(1) OFFICERS AND EMPLOYEES OF UNITED
11 STATES.—

12 “(A) IN GENERAL.—Subject to paragraph
13 (2), a current or former officer or employee of
14 the United States described in subparagraph
15 (B) shall be guilty of a misdemeanor and fined
16 under title 18, United States Code, or impris-
17 oned for not more than 1 year, or both.

18 “(B) DESCRIPTION.—A current or former
19 officer or employee of the United States re-
20 ferred to in subparagraph (A) is a current or
21 former officer or employee of the United States
22 who—

23 “(i) by virtue of that employment or
24 official position has obtained possession of,

1 or has access to, material the disclosure of
2 which is prohibited by subsection (a); and

3 “(ii) knowing that disclosure of that
4 material is prohibited by subsection (a),
5 willfully discloses the material in any man-
6 ner to any person not entitled to receive
7 that material.

8 “(2) OTHER LAWS.—Section 1905 of title 18,
9 United States Code, shall not apply with respect to
10 the publishing, divulging, disclosure, making known
11 of, or making available, information reported or oth-
12 erwise obtained under this Act.

13 “(3) CONTRACTORS.—For purposes of this sub-
14 section, any contractor of the United States that is
15 provided information in accordance with subsection
16 (e)(2), including any employee of that contractor,
17 shall be considered to be an employee of the United
18 States.

19 “(i) APPLICABILITY.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this section, section 8, or any other applica-
22 ble Federal law, the Administrator shall have no au-
23 thority—

24 “(A) to require the substantiation or re-
25 substantiation of a claim for the protection

1 from disclosure of information submitted to the
2 Administrator under this Act before the date of
3 enactment of the Frank R. Lautenberg Chem-
4 ical Safety for the 21st Century Act; or

5 “(B) to impose substantiation or re-
6 substantiation requirements under this Act that
7 are more extensive than those required under
8 this section.

9 “(2) PRIOR ACTIONS.—Nothing in this Act pre-
10 vents the Administrator from reviewing, requiring
11 substantiation or resubstantiation for, or approving,
12 modifying or denying any claim for the protection
13 from disclosure of information before the effective
14 date of such rules applicable to those claims as the
15 Administrator may promulgate after the date of en-
16 actment of the Frank R. Lautenberg Chemical Safe-
17 ty for the 21st Century Act.”.

18 **SEC. 15. PROHIBITED ACTS.**

19 Section 15 of the Toxic Substances Control Act (15
20 U.S.C. 2614) is amended by striking paragraph (1) and
21 inserting the following:

22 “(1) fail or refuse to comply with—

23 “(A) any rule promulgated, consent agree-
24 ment entered into, or order issued under section
25 4;

1 “(B) any requirement under section 5 or 6;

2 “(C) any rule promulgated, consent agree-

3 ment entered into, or order issued under section

4 5 or 6; or

5 “(D) any requirement of, or any rule pro-

6 mulgated or order issued pursuant to title II;”.

7 **SEC. 16. PENALTIES.**

8 Section 16 of the Toxic Substances Control Act (15

9 U.S.C. 2615) is amended—

10 (1) in subsection (a)(1)—

11 (A) in the first sentence—

12 (i) by inserting “this Act or a rule or

13 order promulgated or issued pursuant to

14 this Act, including” after “a provision of”;

15 and

16 (ii) by striking “\$25,000” and insert-

17 ing “\$37,500”; and

18 (B) in the second sentence, by striking“

19 violation of section 15 or 409” and inserting

20 “violation of this Act”; and

21 (2) in subsection (b)—

22 (A) by striking “Any person who” and in-

23 serting the following:

24 “(1) IN GENERAL.—Any person that”;

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

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

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

6 “(2) IMMINENT DANGER OF DEATH OR SERIOUS
 7 BODILY INJURY.—

8 “(A) IN GENERAL.—Any person that
 9 knowingly or willfully violates any provision of
 10 this Act, and that knows at the time of the vio-
 11 lation that the violation places an individual in
 12 imminent danger of death or serious bodily in-
 13 jury, shall be subject on conviction to a fine of
 14 not more than \$250,000, or imprisonment for
 15 not more than 15 years, or both.

16 “(B) ORGANIZATIONS.—An organization
 17 that commits a violation described in subpara-
 18 graph (A) shall be subject on conviction to a
 19 fine of not more than \$1,000,000 for each vio-
 20 lation.

21 “(3) KNOWLEDGE OF IMMINENT DANGER OR
 22 INJURY.—For purposes of determining whether a
 23 defendant knew that the violation placed another in-
 24 dividual in imminent danger of death or serious bod-
 25 ily injury—

1 “(A) the defendant shall be responsible
2 only for actual awareness or actual belief pos-
3 sessed; and

4 “(B) knowledge possessed by an individual
5 may not be attributed to the defendant.”.

6 **SEC. 17. STATE-FEDERAL RELATIONSHIP.**

7 Section 18 of the Toxic Substances Control Act (15
8 U.S.C. 2617) is amended by striking subsections (a) and
9 (b) and inserting the following:

10 “(a) IN GENERAL.—

11 “(1) ESTABLISHMENT OR ENFORCEMENT.—Ex-
12 cept as provided in subsections (c), (d), (e), (f), and
13 (g), and subject to paragraph (2), no State or polit-
14 ical subdivision of a State may establish or continue
15 to enforce any of the following:

16 “(A) TESTING AND INFORMATION COLLEC-
17 TION.—A statute or administrative action to re-
18 quire the development of information on a
19 chemical substance or category of substances
20 that is reasonably likely to produce the same in-
21 formation required under section 4, 5, or 6 in—

22 “(i) a rule promulgated by the Admin-
23 istrator;

24 “(ii) a testing consent agreement en-
25 tered into by the Administrator; or

1 “(iii) an order issued by the Adminis-
2 trator.

3 “(B) CHEMICAL SUBSTANCES FOUND TO
4 MEET THE SAFETY STANDARD OR RE-
5 STRICTED.—A statute or administrative action
6 to prohibit or otherwise restrict the manufac-
7 ture, processing, or distribution in commerce or
8 use of a chemical substance—

9 “(i) found to meet the safety standard
10 and consistent with the scope of the deter-
11 mination made under section 6; or

12 “(ii) found not to meet the safety
13 standard, after the effective date of the
14 rule issued under section 6(d) for the sub-
15 stance, consistent with the scope of the de-
16 termination made by the Administrator.

17 “(C) SIGNIFICANT NEW USE.—A statute or
18 administrative action requiring the notification
19 of a use of a chemical substance that the Ad-
20 ministrator has specified as a significant new
21 use and for which the Administrator has re-
22 quired notification pursuant to a rule promul-
23 gated under section 5.

24 “(2) EFFECTIVE DATE OF PREEMPTION.—
25 Under this subsection, Federal preemption of State

1 statutes and administrative actions applicable to spe-
2 cific substances shall not occur until the effective
3 date of the applicable action described in paragraph
4 (1) taken by the Administrator.

5 “(b) NEW STATUTES OR ADMINISTRATIVE ACTIONS
6 CREATING PROHIBITIONS OR OTHER RESTRICTIONS.—

7 “(1) IN GENERAL.—Except as provided in sub-
8 sections (c), (d), and (e), beginning on the date on
9 which the Administrator defines the scope of a safe-
10 ty assessment and safety determination under sec-
11 tion 6(a)(2) and ending on the date on which the
12 Administrator publishes the safety determination, no
13 State or political subdivision of a State may estab-
14 lish a statute or administrative action prohibiting or
15 restricting the manufacture, processing, distribution
16 in commerce or use of a chemical substance that is
17 a high-priority substance designated under section
18 4A.

19 “(2) EFFECT OF SUBSECTION.—

20 “(A) IN GENERAL.—This subsection does
21 not restrict the authority of a State or political
22 subdivision of a State to continue to enforce
23 any State statute enacted, or administrative ac-
24 tion taken, prior to the date on which the Ad-
25 ministrator defines the scope of a safety assess-

1 ment and safety determination under section
2 6(a)(2).

3 “(B) LIMITATION.—Subparagraph (A)
4 does not allow a State or political subdivision of
5 a State to enforce any new prohibition or re-
6 striction under a State statute or administrative
7 action described in that subparagraph, if the
8 prohibition or restriction is established after the
9 date described in that subparagraph.

10 “(c) SCOPE OF PREEMPTION.—Federal preemption
11 under subsections (a) and (b) of State statutes and admin-
12 istrative actions applicable to specific substances shall
13 apply only to—

14 “(1) the chemical substances or category of
15 substances subject to a rule, order, or consent agree-
16 ment under section 4;

17 “(2) the uses or conditions of use of such sub-
18 stances that are identified by the Administrator as
19 subject to review in a safety assessment and in-
20 cluded in the scope of the safety determination made
21 by the Administrator for the substance, or of any
22 rule the Administrator promulgates pursuant to sec-
23 tion 6(d); or

24 “(3) the uses of such substances that the Ad-
25 ministrator has specified as significant new uses and

1 for which the Administrator has required notifica-
2 tion pursuant to a rule promulgated under section 5.

3 “(d) EXCEPTIONS.—

4 “(1) NO PREEMPTION OF STATE STATUTES
5 AND ADMINISTRATIVE ACTIONS.—

6 “(A) IN GENERAL.—Nothing in this Act,
7 nor any amendment made by this Act, nor any
8 rule, standard of performance, safety deter-
9 mination, or scientific assessment implemented
10 pursuant to this Act, shall affect the right of a
11 State or a political subdivision of a State to
12 adopt or enforce any rule, standard of perform-
13 ance, safety determination, scientific assess-
14 ment, or any protection for public health or the
15 environment that—

16 “(i) is adopted or authorized under
17 the authority of any other Federal law or
18 adopted to satisfy or obtain authorization
19 or approval under any other Federal law;

20 “(ii) implements a reporting, moni-
21 toring, disclosure, or other information ob-
22 ligation for the chemical substance not oth-
23 erwise required by the Administrator under
24 this Act or required under any other Fed-
25 eral law;

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1 “(iii) is adopted pursuant to authority
 2 under a law of the State or political sub-
 3 division of the State related to water qual-
 4 ity, air quality, or waste treatment or dis-
 5 posal, except to the extent that the ac-
 6 tion—

7 “(I) imposes a restriction on the
 8 manufacture, processing, distribution
 9 in commerce, or use of a chemical
 10 substance; and

11 “(II)(aa) addresses the same haz-
 12 ards and exposures, with respect to
 13 the same conditions of use as are in-
 14 cluded in the scope of the safety de-
 15 termination pursuant to section 6, but
 16 is inconsistent with the action of the
 17 Administrator; or

18 “(bb) would cause a violation of
 19 the applicable action by the Adminis-
 20 trator under section 5 or 6; or

21 “(iv) subject to subparagraph (B), is
 22 identical to a requirement prescribed by
 23 the Administrator.

24 “(B) IDENTICAL REQUIREMENTS.—

1 “(i) IN GENERAL.—The penalties and
2 other sanctions applicable under State law
3 in the event of noncompliance with the
4 identical requirement shall be no more
5 stringent than the penalties and other
6 sanctions available to the Administrator
7 under section 16 of this Act.

8 “(ii) PENALTIES.—In the case of an
9 identical requirement, no State may assess
10 a penalty for a specific violation for which
11 the Administrator has already assessed a
12 penalty under section 16, and the Adminis-
13 trator may not assess a penalty under sec-
14 tion 16 for a specific violation for which a
15 State has already assessed a penalty.

16 “(2) APPLICABILITY TO CERTAIN RULES OR OR-
17 DERS.—Notwithstanding subsection (e)—

18 “(A) nothing in this section shall be con-
19 strued as modifying the effect under this sec-
20 tion, as in effect on the day before the effective
21 date of the Frank R. Lautenberg Chemical
22 Safety for the 21st Century Act, of any rule or
23 order promulgated or issued under this Act
24 prior to that effective date; and

1 “(B) with respect to a chemical substance
2 or mixture for which any rule or order was pro-
3 mulgated or issued under section 6 prior to the
4 effective date of the Frank R. Lautenberg
5 Chemical Safety for the 21st Century Act with
6 regards to manufacturing, processing, distribu-
7 tion in commerce, use, or disposal of a chemical
8 substance, this section (as in effect on the day
9 before the effective date of the Frank R. Lau-
10 tenberg Chemical Safety for the 21st Century
11 Act) shall govern the preemptive effect of any
12 rule or order that is promulgated or issued re-
13 specting such chemical substance or mixture
14 under section 6 of this Act after that effective
15 date, unless the latter rule or order is with re-
16 spect to a chemical substance or mixture con-
17 taining a chemical substance and follows a des-
18 ignation of that chemical substance as a high-
19 priority substance under subsection (b) or (c) of
20 section 4A or as an additional priority for safe-
21 ty assessment and safety determination under
22 section 4A(d).

23 “(e) PRESERVATION OF CERTAIN STATE LAW.—

24 “(1) IN GENERAL.—Nothing in this Act, sub-
25 ject to subsection (g) of this section, shall—

1 “(A) be construed to preempt or otherwise
2 affect the authority of a State or political sub-
3 division of a State to continue to enforce any
4 action taken before August 1, 2015, under the
5 authority of a State law that prohibits or other-
6 wise restricts manufacturing, processing, dis-
7 tribution in commerce, use, or disposal of a
8 chemical substance; or

9 “(B) be construed to preempt or otherwise
10 affect any action taken pursuant to a State law
11 that was in effect on August 31, 2003.

12 “(2) EFFECT OF SUBSECTION.—This sub-
13 section does not affect, modify, or alter the relation-
14 ship between State and Federal law pursuant to any
15 other Federal law.

16 “(f) STATE WAIVERS.—

17 “(1) DISCRETIONARY EXEMPTIONS.—Upon ap-
18 plication of a State or political subdivision of a
19 State, the Administrator may by rule, exempt from
20 subsection (a), under such conditions as may be pre-
21 scribed in the rule, a statute or administrative action
22 of that State or political subdivision of the State
23 that relates to the effects of, or exposure to, a chem-
24 ical substance under the conditions of use if the Ad-
25 ministrator determines that—

1 “(A) compelling State or local conditions
2 warrant granting the waiver to protect health
3 or the environment;

4 “(B) compliance with the proposed require-
5 ment of the State or political subdivision of the
6 State would not unduly burden interstate com-
7 merce in the manufacture, processing, distribu-
8 tion in commerce, or use of a chemical sub-
9 stance;

10 “(C) compliance with the proposed require-
11 ment of the State or political subdivision of the
12 State would not cause a violation of any appli-
13 cable Federal law, rule, or order; and

14 “(D) based on the judgment of the Admin-
15 istrator, the proposed requirement of the State
16 or political subdivision of the State is consistent
17 with sound objective scientific practices, the
18 weight of the evidence, and the best available
19 science.

20 “(2) REQUIRED EXEMPTIONS.—Upon applica-
21 tion of a State or political subdivision of a State, the
22 Administrator shall exempt from subsection (b) a
23 statute or administrative action of a State or polit-
24 ical subdivision of a State that relates to the effects

1 of exposure to a chemical substance under the condi-
2 tions of use if the Administrator determines that—

3 “(A) compliance with the proposed require-
4 ment of the State will not unduly burden inter-
5 state commerce in the manufacture, processing,
6 distribution in commerce, or use of a chemical
7 substance;

8 “(B) compliance with the proposed require-
9 ment would not cause a violation of any appli-
10 cable Federal law, rule, or order; and

11 “(C) the State or political subdivision of a
12 State has a concern about the chemical sub-
13 stance or use of the chemical substance based
14 in peer-reviewed science.

15 “(3) DETERMINATION OF A STATE WAIVER RE-
16 QUEST.—The duty of the Administrator to grant or
17 deny a waiver application shall be nondelegable and
18 shall be exercised—

19 “(A) not later than 180 days after the date
20 on which an application under paragraph (1) is
21 submitted; and

22 “(B) not later than 90 days after the date
23 on which an application under paragraph (2) is
24 submitted.

1 “(4) FAILURE TO MAKE DETERMINATION.—If
2 the Administrator fails to make a determination
3 under paragraph (3)(B) during the 90-day period
4 beginning on the date on which an application under
5 paragraph (2) is submitted, the State statute or ad-
6 ministrative action that was the subject of the appli-
7 cation shall not be considered to be an existing stat-
8 ute or administrative action for purposes of sub-
9 section (a) by reason of the failure of the Adminis-
10 trator to make a determination.

11 “(5) NOTICE AND COMMENT.—Except in the
12 case of an application approved under paragraph
13 (9), the application of a State or political subdivision
14 of the State shall be subject to public notice and
15 comment.

16 “(6) FINAL AGENCY ACTION.—The decision of
17 the Administrator on the application of a State or
18 political subdivision of the State shall be—

19 “(A) considered to be a final agency ac-
20 tion; and

21 “(B) subject to judicial review.

22 “(7) DURATION OF WAIVERS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), a waiver granted under

1 paragraph (2) or approved under paragraph (9)
 2 shall remain in effect—

3 “(i) until such time as the safety as-
 4 sessment and safety determination is com-
 5 pleted; or

6 “(ii) subject to subparagraph (B),
 7 until judicial review of the failure of the
 8 Administrator to make a determination
 9 under paragraph (3) is sought under para-
 10 graph (8).

11 “(B) REINSTATEMENT OF WAIVER.—A
 12 waiver described in subparagraph (A)(ii) shall
 13 again take effect upon the earlier of—

14 “(i) the date of approval by the Ad-
 15 ministrator of the waiver application;

16 “(ii) the effective date of a court
 17 order directing the Administrator to ap-
 18 prove the waiver application; or

19 “(iii) 90 days after the date on which
 20 judicial review under paragraph (8) is
 21 sought.

22 “(8) JUDICIAL REVIEW OF WAIVERS.—Not later
 23 than 60 days after the date on which the Adminis-
 24 trator makes a determination on an application of a
 25 State or political subdivision of the State under

1 paragraph (1) or (2), or not later than 60 days after
2 the date on which the Administrator fails to make
3 a determination under paragraph (3), any person
4 may file a petition for judicial review in the United
5 States Court of Appeals for the District of Columbia
6 Circuit, which shall have exclusive jurisdiction over
7 the determination.

8 “(9) APPROVAL.—

9 “(A) IN GENERAL.—If the Administrator
10 fails to meet the deadline under section 6(a)(4)
11 (including an extension granted under section
12 6(a)(6)), or the deadline established under
13 paragraph (3)(B), the application of a State or
14 political subdivision of a State under paragraph
15 (2) shall be automatically approved.

16 “(B) REQUIREMENTS.—Notwithstanding
17 paragraph (6), approval of a waiver application
18 under subparagraph (A) for failure to meet the
19 deadlines under section 6(a)(4) (including an
20 extension granted under section 6(a)(6)) shall
21 not be considered final agency action or be sub-
22 ject to judicial review or public notice and com-
23 ment.

24 “(10) JUDICIAL REVIEW OF LOW-PRIORITY DE-
25 CISIONS.—

1 “(A) IN GENERAL.—Not later than 60
2 days after the publication of a designation
3 under section 4A(b)(4), any person may com-
4 mence a civil action to challenge the designa-
5 tion.

6 “(B) JURISDICTION.—The United States
7 Court of Appeals for the District of Columbia
8 Circuit shall have exclusive jurisdiction over a
9 civil action filed under this paragraph.

10 “(g) SAVINGS.—

11 “(1) NO PREEMPTION OF COMMON LAW OR
12 STATUTORY CAUSES OF ACTION FOR CIVIL RELIEF
13 OR CRIMINAL CONDUCT.—

14 “(A) IN GENERAL.—Nothing in this Act,
15 nor any amendment made by this Act, nor any
16 safety standard, rule, requirement, standard of
17 performance, safety determination, or scientific
18 assessment implemented pursuant to this Act,
19 shall be construed to preempt, displace, or sup-
20 plant any state or Federal common law rights
21 or any state or Federal statute creating a reme-
22 dy for civil relief, including those for civil dam-
23 age, or a penalty for a criminal conduct.

24 “(B) CLARIFICATION OF NO PREEMP-
25 TION.—Notwithstanding any other provision of

1 this Act, nothing in this Act, nor any amend-
2 ments made by this Act, shall preempt or pre-
3 clude any cause of action for personal injury,
4 wrongful death, property damage, or other in-
5 jury based on negligence, strict liability, prod-
6 ucts liability, failure to warn, or any other legal
7 theory of liability under any State law, mari-
8 time law, or Federal common law or statutory
9 theory.

10 “(2) NO EFFECT ON PRIVATE REMEDIES.—

11 “(A) IN GENERAL.—Nothing in this Act,
12 nor any amendments made by this Act, nor any
13 rules, regulations, requirements, safety assess-
14 ments, safety determinations, scientific assess-
15 ments, or orders issued pursuant to this Act
16 shall be interpreted as, in either the plaintiff’s
17 or defendant’s favor, dispositive in any civil ac-
18 tion.

19 “(B) AUTHORITY OF COURTS.—This Act
20 does not affect the authority of any court to
21 make a determination in an adjudicatory pro-
22 ceeding under applicable State or Federal law
23 with respect to the admission into evidence or
24 any other use of this Act or rules, regulations,
25 requirements, standards of performance, safety

1 assessments, scientific assessments, or orders
2 issued pursuant to this Act.”.

3 **SEC. 18. JUDICIAL REVIEW.**

4 Section 19 of the Toxic Substances Control Act (15
5 U.S.C. 2618) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (A), by striking
9 “section 4(a), 5(a)(2), 5(b)(4), 6(a), 6(e),
10 or 8, or under title II or IV” and inserting
11 “section 4(a), 5(d), 6(c), 6(d), 6(g), or 8,
12 or title II or IV”; and

13 (ii) in subparagraph (B), by striking
14 “an order issued under subparagraph (A)
15 or (B) of section 6(b)(1)” and inserting
16 “an order issued under this title”; and

17 (B) in paragraph (2), in the first sentence,
18 by striking “paragraph (1)(A)” and inserting
19 “paragraph (1)”; and

20 (C) by striking paragraph (3); and

21 (2) in subsection (c)(1)(B)—

22 (A) in clause (i)—

23 (i) by striking “section 4(a), 5(b)(4),
24 6(a), or 6(e)” and inserting “section 4(a),
25 5(d), 6(d), or 6(g)”; and

1 (ii) by striking “evidence in the rule-
2 making record (as defined in subsection
3 (a)(3)) taken as a whole;” and inserting
4 “evidence (including any matter) in the
5 rulemaking record, taken as a whole; and”;
6 and

7 (B) by striking clauses (ii) and (iii) and
8 the matter following clause (iii) and inserting
9 the following:

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

16 **SEC. 19. CITIZENS’ PETITIONS.**

17 Section 21 of the Toxic Substances Control Act (15
18 U.S.C. 2620) is amended—

19 (1) in subsection (a), by striking “an order
20 under section 5(e) or 6(b)(2)” and inserting “an
21 order under section 4 or 5(d)”;

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “an
24 order under section 5(e), 6(b)(1)(A), or

1 6(b)(1)(B)” and inserting “an order under sec-
2 tion 4 or 5(d)”;

3 (B) in paragraph (4), by striking subpara-
4 graph (B) and inserting the following:

5 “(B) DE NOVO PROCEEDING.—

6 “(i) IN GENERAL.—In an action
7 under subparagraph (A) to initiate a pro-
8 ceeding to promulgate a rule pursuant to
9 section 4, 5, 6, or 8 or an order issued
10 under section 4 or 5, the petitioner shall be
11 provided an opportunity to have the peti-
12 tion considered by the court in a de novo
13 proceeding.

14 “(ii) DEMONSTRATION.—

15 “(I) IN GENERAL.—The court in
16 a de novo proceeding under this sub-
17 paragraph shall order the Adminis-
18 trator to initiate the action requested
19 by the petitioner if the petitioner dem-
20 onstrates to the satisfaction of the
21 court by a preponderance of the evi-
22 dence that—

23 “(aa) in the case of a peti-
24 tion to initiate a proceeding for
25 the issuance of a rule or order

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1 under section 4, the information
2 available to the Administrator is
3 insufficient for the Administrator
4 to perform an action described in
5 section 4, 4A, 5, or 6(d);

6 “(bb) in the case of a peti-
7 tion to issue an order under sec-
8 tion 5(d), there is a reasonable
9 basis to conclude that the chem-
10 ical substance is not likely to
11 meet the safety standard;

12 “(cc) in the case of a peti-
13 tion to initiate a proceeding for
14 the issuance of a rule under sec-
15 tion 6(d), there is a reasonable
16 basis to conclude that the chem-
17 ical substance will not meet the
18 safety standard; or

19 “(dd) in the case of a peti-
20 tion to initiate a proceeding for
21 the issuance of a rule under sec-
22 tion 8, there is a reasonable basis
23 to conclude that the rule is nec-
24 essary to protect health or the
25 environment or ensure that the

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1 chemical substance meets the
2 safety standard.

3 “(II) DEFERMENT.—The court
4 in a de novo proceeding under this
5 subparagraph may permit the Admin-
6 istrator to defer initiating the action
7 requested by the petitioner until such
8 time as the court prescribes, if the
9 court finds that—

10 “(aa) the extent of the risk
11 to health or the environment al-
12 leged by the petitioner is less
13 than the extent of risks to health
14 or the environment with respect
15 to which the Administrator is
16 taking action under this Act; and

17 “(bb) there are insufficient
18 resources available to the Admin-
19 istrator to take the action re-
20 quested by the petitioner.”.

21 **SEC. 20. EMPLOYMENT EFFECTS.**

22 Section 24(b)(2)(B)(ii) of the Toxic Substances Con-
23 trol Act (15 U.S.C. 2623(b)(2)(B)(ii)) is amended by
24 striking “section 6(c)(3),” and inserting “the applicable
25 requirements of this Act;”.

1 **SEC. 21. STUDIES.**

2 Section 25 of the Toxic Substances Control Act (15
3 U.S.C. 2624) is repealed.

4 **SEC. 22. ADMINISTRATION.**

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

7 (1) by striking subsection (b) and inserting the
8 following:

9 “(b) FEES.—

10 “(1) IN GENERAL.—The Administrator shall es-
11 tablish, not later than 1 year after the date of enact-
12 ment of the Frank R. Lautenberg Chemical Safety
13 for the 21st Century Act, by rule—

14 “(A) the payment of 1 or more reasonable
15 fees as a condition of submitting a notice or re-
16 questing an exemption under section 5;

17 “(B) the payment of 1 or more reasonable
18 fees by a manufacturer or processor that—

19 “(i) is required to submit a notice
20 pursuant to the rule promulgated under
21 section 8(b)(4)(A)(i) identifying a chemical
22 substance as active;

23 “(ii) is required to submit a notice
24 pursuant to section 8(b)(5)(B)(i) changing
25 the status of a chemical substance from in-
26 active to active;

1 “(iii) is required to report information
2 pursuant to the rules promulgated under
3 section 8(a)(4); and

4 “(iv) manufactures or processes a
5 chemical substance subject to a safety as-
6 sessment and safety determination pursu-
7 ant to section 6.

8 “(2) UTILIZATION AND COLLECTION OF
9 FEES.—The Administrator shall—

10 “(A) utilize the fees collected under para-
11 graph (1) only to defray costs associated with
12 the actions of the Administrator—

13 “(i) to collect, process, review, provide
14 access to, and protect from disclosure
15 (where appropriate) information on chem-
16 ical substances under this Act;

17 “(ii) to review notices and make de-
18 terminations for chemical substances under
19 paragraphs (1) and (3) of section 5(d) and
20 impose any necessary restrictions under
21 section 5(d)(4);

22 “(iii) to make prioritization decisions
23 under section 4A;

1 “(iv) to conduct and complete safety
2 assessments and determinations under sec-
3 tion 6; and

4 “(v) to conduct any necessary rule-
5 making pursuant to section 6(d);

6 “(B) insofar as possible, collect the fees
7 described in paragraph (1) in advance of con-
8 ducting any fee-supported activity;

9 “(C) deposit the fees in the Fund estab-
10 lished by paragraph (4)(A); and

11 “(D) not collect excess fees or retain a sig-
12 nificant amount of unused fees.

13 “(3) AMOUNT AND ADJUSTMENT OF FEES; RE-
14 FUNDS.—In setting fees under this section, the Ad-
15 ministrator shall—

16 “(A) take into account the cost to the Ad-
17 ministrator of conducting the activities de-
18 scribed in paragraph (2);

19 “(B) prescribe lower fees for small busi-
20 ness concerns, after consultation with the Ad-
21 ministrator of the Small Business Administra-
22 tion;

23 “(C) set the fees established under para-
24 graph (1) at levels such that the fees will, in
25 aggregate, provide a sustainable source of funds

1 to defray approximately 25 percent of the costs
2 of conducting the activities identified in para-
3 graph (2)(A), not to exceed \$18,000,000, not
4 including fees under subparagraph (E) of this
5 paragraph;

6 “(D) reflect an appropriate balance in the
7 assessment of fees between manufacturers and
8 processors, and allow the payment of fees by
9 consortia of manufacturers or processors;

10 “(E) for substances designated as addi-
11 tional priorities pursuant to section 4A(c), es-
12 tablish the fee at a level sufficient to defray the
13 full costs to the Administrator of conducting
14 the safety assessment and safety determination
15 under section 6, except that for substances sub-
16 ject to section 4A(c)(3), the Administrator shall
17 establish the fee at a level sufficient to defray
18 50 percent of those costs;

19 “(F) prior to the establishment or amend-
20 ment of any fees under paragraph (1), consult
21 and meet with parties potentially subject to the
22 fees or their representatives, subject to the con-
23 dition that no obligation under the Federal Ad-
24 visory Committee Act (5 U.S.C. App.) or sub-
25 chapter III of chapter 5 of title 5, United

1 States Code, is applicable with respect to such
2 meetings;

3 “(G) beginning with the fiscal year that is
4 3 years after the date of enactment of the
5 Frank R. Lautenberg Chemical Safety for the
6 21st Century Act, and every 3 years thereafter,
7 after consultation with parties potentially sub-
8 ject to the fees and their representatives, in-
9 crease or decrease the fees established under
10 paragraph (1) as necessary—

11 “(i) to ensure that funds deposited in
12 the Fund are sufficient to conduct the ac-
13 tivities identified in paragraph (2)(A) and
14 the full costs of safety assessments and
15 safety determinations pursuant to subpara-
16 graph (E); and

17 “(ii) to account for inflation;

18 “(H) adjust fees established under para-
19 graph (1) as necessary to vary on account of
20 differing circumstances, including reduced fees
21 or waivers in appropriate circumstances, to re-
22 duce the burden on manufacturing or proc-
23 essing, remove barriers to innovation, or where
24 the costs to the Administrator of collecting the

1 fees exceed the fee revenue anticipated to be
2 collected; and

3 “(I) if a notice submitted under section 5
4 is refused or subsequently withdrawn, refund
5 the fee or a portion of the fee if no substantial
6 work was performed on the notice.

7 “(4) TSCA IMPLEMENTATION FUND.—

8 “(A) ESTABLISHMENT.—There is estab-
9 lished in the Treasury of the United States a
10 fund, to be known as the ‘TSCA Implementa-
11 tion Fund’ (referred to in this subsection as the
12 ‘Fund’), consisting of—

13 “(i) such amounts as are deposited in
14 the Fund under paragraph (2)(C); and

15 “(ii) any interest earned on the in-
16 vestment of amounts in the Fund; and

17 “(iii) any proceeds from the sale or
18 redemption of investments held in the
19 Fund.

20 “(B) CREDITING AND AVAILABILITY OF
21 FEES.—

22 “(i) IN GENERAL.—Fees authorized
23 under this section shall be collected and
24 available for obligation only to the extent
25 and in the amount provided in advance in

1 appropriations Acts, and shall be available
2 without fiscal year limitation.

3 “(ii) REQUIREMENTS.—Fees collected
4 under this section shall not—

5 “(I) be made available or obli-
6 gated for any purpose other than to
7 defray the costs of conducting the ac-
8 tivities identified in paragraph (2)(A);

9 “(II) otherwise be available for
10 any purpose other than implementa-
11 tion of this Act; and

12 “(III) so long as amounts in the
13 Fund remain available, be subject to
14 restrictions on expenditures applicable
15 to the Federal government as a whole.

16 “(C) UNUSED FUNDS.—Amounts in the
17 Fund not currently needed to carry out this
18 subsection shall be—

19 “(i) maintained readily available or on
20 deposit;

21 “(ii) invested in obligations of the
22 United States or guaranteed by the United
23 States; or

24 “(iii) invested in obligations, partici-
25 pations, or other instruments that are law-

1 ful investments for fiduciary, trust, or pub-
2 lic funds.

3 “(D) MINIMUM AMOUNT OF APPROPRIA-
4 TIONS.—Fees may not be assessed for a fiscal
5 year under this section unless the amount of
6 appropriations for salaries, contracts, and ex-
7 penses for the functions (as in existence in fis-
8 cal year 2015) of the Office of Pollution Pre-
9 vention and Toxics of the Environmental Pro-
10 tection Agency for the fiscal year (excluding the
11 amount of any fees appropriated for the fiscal
12 year) are equal to or greater than the amount
13 of appropriations for covered functions for fiscal
14 year 2015 (excluding the amount of any fees
15 appropriated for the fiscal year).

16 “(5) AUDITING.—

17 “(A) FINANCIAL STATEMENTS OF AGEN-
18 CIES.—For the purpose of section 3515(e) of
19 title 31, United States Code, the Fund shall be
20 considered a component of an executive agency.

21 “(B) COMPONENTS.—The annual audit re-
22 quired under sections 3515(b) and 3521 of that
23 title of the financial statements of activities
24 under this subsection shall include an analysis
25 of—

1 “(i) the fees collected under para-
2 graph (1) and disbursed;

3 “(ii) compliance with the deadlines es-
4 tablished in section 6 of this Act;

5 “(iii) the amounts budgeted, appro-
6 priated, collected from fees, and disbursed
7 to meet the requirements of sections 4, 4A,
8 5, 6, 8, and 14, including the allocation of
9 full time equivalent employees to each such
10 section or activity; and

11 “(iv) the reasonableness of the alloca-
12 tion of the overhead associated with the
13 conduct of the activities described in para-
14 graph (2)(A).

15 “(C) INSPECTOR GENERAL.—The Inspec-
16 tor General of the Environmental Protection
17 Agency shall—

18 “(i) conduct the annual audit required
19 under this subsection; and

20 “(ii) report the findings and rec-
21 ommendations of the audit to the Adminis-
22 trator and to the appropriate committees
23 of Congress.

24 “(6) TERMINATION.—The authority provided by
25 this section shall terminate at the conclusion of the

1 fiscal year that is 10 years after the date of enact-
2 ment of the Frank R. Lautenberg Chemical Safety
3 for the 21st Century Act, unless otherwise reauthor-
4 ized or modified by Congress.”;

5 (2) in subsection (e), by striking “Health, Edu-
6 cation, and Welfare” each place it appears and in-
7 serting “Health and Human Services”; and

8 (3) adding at the end the following:

9 “(h) PRIOR ACTIONS.—Nothing in this Act elimi-
10 nates, modifies, or withdraws any rule promulgated, order
11 issued, or exemption established pursuant to this Act be-
12 fore the date of enactment of the Frank R. Lautenberg
13 Chemical Safety for the 21st Century Act.”.

14 **SEC. 23. DEVELOPMENT AND EVALUATION OF TEST METH-**
15 **ODS AND SUSTAINABLE CHEMISTRY.**

16 Section 27 of the Toxic Substances Control Act (15
17 U.S.C. 2626) is amended—

18 (1) in subsection (a), in the first sentence by
19 striking “Health, Education, and Welfare” and in-
20 serting “Health and Human Services”; and

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

22 “(e) SUSTAINABLE CHEMISTRY PROGRAM.—The
23 President shall establish an interagency Sustainable
24 Chemistry Program to promote and coordinate Federal
25 sustainable chemistry research, development, demonstra-

1 tion, technology transfer, commercialization, education,
2 and training activities.

3 “(d) PROGRAM ACTIVITIES.—The activities of the
4 Program shall be designed to—

5 “(1) provide sustained support for sustainable
6 chemistry research, development, demonstration,
7 technology transfer, commercialization, education,
8 and training through—

9 “(A) coordination of sustainable chemistry
10 research, development, demonstration, and tech-
11 nology transfer conducted at Federal labora-
12 tories and agencies; and

13 “(B) to the extent practicable, encourage-
14 ment of consideration of sustainable chemistry
15 in, as appropriate—

16 “(i) the conduct of Federal and State
17 science and engineering research and de-
18 velopment; and

19 “(ii) the solicitation and evaluation of
20 applicable proposals for science and engi-
21 neering research and development;

22 “(2) examine methods by which the Federal
23 Government can create incentives for consideration
24 and use of sustainable chemistry processes and prod-
25 ucts, including innovative financing mechanisms;

1 “(3) expand the education and training of un-
2 dergraduate and graduate students and professional
3 scientists and engineers, including through partner-
4 ships with industry, in sustainable chemistry science
5 and engineering;

6 “(4) collect and disseminate information on sus-
7 tainable chemistry research, development, and tech-
8 nology transfer including information on—

9 “(A) incentives and impediments to devel-
10 opment, manufacturing, and commercialization;

11 “(B) accomplishments;

12 “(C) best practices; and

13 “(D) costs and benefits;

14 “(5) support (including through technical as-
15 sistance, participation, financial support, or other
16 forms of support) economic, legal, and other appro-
17 priate social science research to identify barriers to
18 commercialization and methods to advance commer-
19 cialization of sustainable chemistry.

20 “(e) INTERAGENCY WORKING GROUP.—

21 “(1) ESTABLISHMENT.—Not later than 180
22 days after the date of enactment of the Frank R.
23 Lautenberg Chemical Safety for the 21st Century
24 Act, the President, in consultation with the Office of
25 Science and Technology Policy, shall establish an

1 Interagency Working Group that shall include rep-
2 resentatives from the National Science Foundation,
3 the National Institute of Standards and Technology,
4 the Department of Energy, the Environmental Pro-
5 tection Agency, the Department of Agriculture, the
6 Department of Defense, the National Institutes of
7 Health, and any other agency that the President
8 may designate to oversee the planning, management,
9 and coordination of the Program.

10 “(2) GOVERNANCE.—The Director of the Na-
11 tional Science Foundation and the Assistant Admin-
12 istrator for Research and Development of the Envi-
13 ronmental Protection Agency, or their designees,
14 shall serve as co-chairs of the Interagency Working
15 Group.

16 “(3) RESPONSIBILITIES.—In overseeing the
17 planning, management, and coordination of the Pro-
18 gram, the Interagency Working Group shall—

19 “(A) establish goals and priorities for the
20 Program, in consultation with the Advisory
21 Council;

22 “(B) provide for interagency coordination,
23 including budget coordination, of activities
24 under the Program;

1 “(C) meet not later than 90 days from its
2 establishment and periodically thereafter; and

3 “(D) establish and consult with an Advi-
4 sory Council on a regular basis.

5 “(4) MEMBERSHIP.—The Advisory Council
6 members shall not be employees of the Federal Gov-
7 ernment and shall include a diverse representation of
8 knowledgeable individuals from the private sector
9 (including small- and medium-sized enterprises from
10 across the value chain), academia, State and tribal
11 governments, and nongovernmental organizations
12 and others who are in a position to provide exper-
13 tise.

14 “(f) AGENCY BUDGET REQUESTS.—

15 “(1) IN GENERAL.—Each Federal agency and
16 department participating in the Program shall, as
17 part of its annual request for appropriations to the
18 Office of Management and Budget, submit a report
19 to the Office of Management and Budget that—

20 “(A) identifies the activities of the agency
21 or department that contribute directly to the
22 Program; and

23 “(B) states the portion of the agency or
24 department’s request for appropriations that is
25 allocated to those activities.

1 “(2) ANNUAL BUDGET REQUEST TO CON-
2 GRESS.—The President shall include in the annual
3 budget request to Congress a statement of the por-
4 tion of the annual budget request for each agency or
5 department that will be allocated to activities under-
6 taken pursuant to the Program.

7 “(g) REPORT TO CONGRESS.—

8 “(1) IN GENERAL.—Not later than 2 years
9 after the date of enactment of the Frank R. Lauten-
10 berg Chemical Safety for the 21st Century Act, the
11 Interagency Working Group shall submit a report to
12 the Committee on Science, Space, and Technology
13 and Committee on Energy and Commerce of the
14 House of Representatives and the Committee on En-
15 vironment and Public Works and the Committee on
16 Commerce, Science, and Transportation of the Sen-
17 ate that shall include—

18 “(A) a summary of federally funded sus-
19 tainable chemistry research, development, dem-
20 onstration, technology transfer, commercializa-
21 tion, education, and training activities;

22 “(B) a summary of the financial resources
23 allocated to sustainable chemistry initiatives;

24 “(C) an analysis of the progress made to-
25 ward achieving the goals and priorities of this

1 Act, and recommendations for future program
2 activities;

3 “(D) an assessment of the benefits of ex-
4 panding existing, federally-supported regional
5 innovation and manufacturing hubs to include
6 sustainable chemistry and the value of directing
7 the creation of 1 or more dedicated sustainable
8 chemistry centers of excellence or hubs; and

9 “(E) an evaluation of steps taken and fu-
10 ture strategies to avoid duplication of efforts,
11 streamline interagency coordination, facilitate
12 information sharing, and spread best practices
13 between participating agencies in the Program.

14 “(2) SUBMISSION TO GAO.—The Interagency
15 Working Group shall also submit the report de-
16 scribed in paragraph (1) to the Government Ac-
17 countability Office for consideration in future Con-
18 gressional inquiries.”.

19 **SEC. 24. STATE PROGRAMS.**

20 Section 28 of the Toxic Substances Control Act (15
21 U.S.C. 2627) is amended—

22 (1) in subsection (b)(1)—

23 (A) in subparagraphs (A) through (D), by
24 striking the comma at the end of each subpara-
25 graph and inserting a semicolon; and

1 (B) in subparagraph (E), by striking “,
2 and” and inserting “; and”; and
3 (2) by striking subsections (c) and (d).

4 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

5 Section 29 of the Toxic Substances Control Act (15
6 U.S.C. 2628) is repealed.

7 **SEC. 26. ANNUAL REPORT.**

8 Section 30 of the Toxic Substances Control Act (15
9 U.S.C. 2629) is amended by striking paragraph (2) and
10 inserting the following:

11 “(2)(A) the number of notices received during
12 each year under section 5; and

13 “(B) the number of the notices described in
14 subparagraph (A) for chemical substances subject to
15 a rule, testing consent agreement, or order under
16 section 4;”.

17 **SEC. 27. EFFECTIVE DATE.**

18 Section 31 of the Toxic Substances Control Act (15
19 U.S.C. 2601 note; Public Law 94–469) is amended—

20 (1) by striking “Except as provided in section
21 4(f), this” and inserting the following:

22 “(a) IN GENERAL.—This”; and

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

24 “(b) RETROACTIVE APPLICABILITY.—Nothing in this
25 Act shall be interpreted to apply retroactively to any State,

- 1 Federal, or maritime legal action commenced prior to the
- 2 effective date of the Frank R. Lautenberg Chemical Safety
- 3 for the 21st Century Act.”.

Senator INHOFE. I applaud both you and Senator Udall for your hard work. It has been very time consuming. You have had a lot of staff keeping busy late at night. We are finally here.

I am going to ask for members to seek recognition on each amendment that a member may want to call up. We have a long list of possible amendments. We have counsel at the witness table to answer questions concerning the legislation and amendments from committee members. At the conclusion of the members' statements and questions, we will vote on each amendment until finally proceeding to the vote on the bill.

Does any Senator seek recognition? Senator Gillibrand.

Senator GILLIBRAND. Thank you so much, Mr. Chairman, and Ranking Member. I appreciate the tireless work of our colleagues on this bill to craft a bill that is worthy of Frank Lautenberg's legacy and name. A special thanks to Senators Udall and Vitter for coming together with our colleagues, Senators Whitehouse, Merkley and Booker, to begin to strengthen this bill. I believe that everyone here shares the desire to fix our broken toxic substance control system and keep our families and children safe.

A remaining issue that needs to be fixed about this bill, and my amendment that I would call up would address this directly, is the right of individual States to do what they believe is right for their citizens. As currently written, the bill would tie the hands of Governors and State legislators to develop their own safety standards, even when the EPA hasn't yet decided whether a chemical is safe or not. Just thinking about that for a moment, States that are ready, willing and able to protect their families will be forced to sit on the sidelines and wait for EPA to study an issue.

What is more important, the EPA can take years to do its full analysis. And while I do very much appreciate what my colleagues have done to shorten this to 5 years, I still believe that it is only right to allow my State to make its own regulations in the absence of a Federal decision.

Therefore, my amendment very simply would preserve States' rights. It would preserve the right of the individual State to act on the best interest of its people. It would let States make their own decisions about toxic substances while they wait for the EPA.

In our 50 States, we have 50 different perspectives on what and when a chemical is considered dangerous and whether it should be curtailed. But I think we can all agree that no State should be prevented from acting in the best interest of its people. No State should be barred from banning a chemical it considers to be dangerous, simply because EPA is taking time to review the substance.

My proposal is taken straight out of the House draft of the Toxic Substance Control Act, which was recommended by Chairman Shimkus. It would allow State law to be preempted only after the EPA has finished its studies and has determined that a chemical is unsafe.

I want to give you just one example about why this is so important. The flame retardant TRIS is found in many child care products, like bedding and car seat padding. This chemical is classified by the Consumer Product Safety Commission as a probable human carcinogen. And young children can ingest it at dangerous levels, because they tend to put their hands in their mouths.

In 2011, New York was the first State to ban this chemical in children's products. Since then, three other States have followed suit. But the EPA has yet to make its own determination on the chemical.

If this bill was law in 2011, it would have prohibited any of the individual States from taking any action to limit manufacturing, processing, distribution or use of this carcinogen, because they would have had to wait for EPA to make its final assessment. Under this bill, States would be prohibited from doing anything to protect their citizens for 5 years while the EPA slowly studies the issue.

I am all for the EPA being careful and thorough with its research. This country benefits greatly from their work. But I can't support a bill that prohibits States from acting on their own to protect children from chemicals. I urge my colleagues to support this amendment to preserve the rights of individual States to make those decisions.

[The text of the amendment offered by Senator Gillibrand follows:]

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify provisions relating to the State-Federal relationship.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by _____

Viz:

- 1 On page 52, line 12, strike “or section 18(b)”.
- 2 On page 58, line 22, strike “section 18(g)” and insert
- 3 “section 18(f)”.
- 4 On page 62, line 4, strike “section 18(g)” and insert
- 5 “section 18(f)”.
- 6 On page 141, lines 12 and 13, strike “(e), (d), (e),
- 7 (f), and (g)” and insert “(b) through (f)”.

2

- 1 Beginning on page 143, strike line 5 and all that fol-
- 2 lows through page 144, line 9.

- 3 On page 144, line 10, strike “(c)” and insert “(b)”.

- 4 On page 144, line 11, strike “subsections (a) and
- 5 (b)” and insert “subsection (a)”.

- 6 On page 145, line 3, strike “(d)” and insert “(c)”.

- 7 On page 147, line 17, strike “(e)” and insert “(d)”.

- 8 On page 148, line 23, strike “(e)” and insert “(d)”.

- 9 On page 148, line 25, strike “subsection (g) of this
- 10 section” and insert “subsection (f)”.

- 11 On page 149, line 16, strike “(f)” and insert “(e)”.

- 12 On page 155, line 10, strike “(g)” and insert “(f)”.

Senator INHOFE. Thank you, Senator Gillibrand, for clarification. This is Gillibrand No. 1 amendment that you are referring to. It appears to me that the amendment would be harmful to the bipartisan compromise, but I recognize Senator Vitter.

Senator VITTER. Yes, Mr. Chairman. I am going to urge a no vote on this well intended amendment. This would alter the fundamental compromise in this bill. That compromise is to give EPA significant new authority, but also to say when they act and when they take up a chemical, we are going to have one rulebook and not 50 different rulebooks that industry has to follow.

So this would alter that fundamental compromise. I think it could also create a rush for States to get to hasty decisions before a Federal decision and potentially do poor work. Now, EPA doesn't have an unlimited amount of time in any of this. There is significant room for States to take action. But this would alter the important compromise in the bill.

Senator BOXER. Mr. Chairman.

Senator INHOFE. Senator Boxer.

Senator BOXER. Thank you so much.

I appreciate the views of my colleague, Senator Vitter. But I don't see how this amendment undermines a thing. As a matter of fact, Senators Whitehouse, Merkley and Booker made some slight improvements, in my view. They think more, but that is a disagreement, on preemption. So the fact is, your new substitute does in fact make changes on preemption.

All Senator Gillibrand is saying is this. Let the States do what they do best, which is protect their people until the EPA has completed their work on a chemical. Otherwise, you have this horrific death zone in there. That means nobody can do anything about a chemical for a period of more than 5 years. And as she has said, she took her amendment directly from a Republican in the House, Chairman Shimkus, who said the States should be able to act.

So frankly, I know this vote is going to be taken. But anyone who votes no, I would ask them, before they do it, to think about all the speeches they gave about States' rights. This is a States' rights matter. And I think when the States want to protect their folks, they should have a chance to do so.

So I want to thank my colleague and hope that we will pass this. If we pass this, this has taken a giant step forward.

Senator INHOFE. Do others wish to be heard? Senator Sanders.

Senator SANDERS. I find it awkward to be speaking here in the position of being the most conservative member of this committee.

[Laughter.]

Senator SANDERS. And I do not usually have very nice things to say about Republicans in the House.

[Laughter.]

Senator SANDERS. But apparently this time, for whatever reason, they did the right thing and they were consistent with their ideology.

We have a system of federalism, which actually is a very interesting and well thought out theory of government by our founders. And they say we have different States who do things differently. But if the State of Nevada or the State of Oklahoma does some-

thing really good, other States learn from it. If a State does something bad, we learn from that.

So the concept of telling States that they cannot go forward I think is not what conservatives should be supporting. What governments do closest to home is something that I believe makes a lot of sense. The State of Vermont has been a leader on these issues, and I want to see the State of Vermont continue to be a leader, that other States can learn from Vermont, and Vermont can learn from California and so forth and so on. So I think when we have the very conservative U.S. House of Representatives putting a position in there, as I understand it, what Senator Gillibrand has done, it is simply word for word, is that right, Senator?

Senator GILLIBRAND. Yes.

Senator SANDERS. Taken that language, I would hope that we could all support that proposition. Thank you.

Senator INHOFE. Others who want to be heard? Yes, Senator Whitehouse.

Senator WHITEHOUSE. Mr. Chairman, the issue that I was most engaged with in these conversations was the question of preemption generally and specifically, the question of the so called death zone between the initial announcement of EPA interest in regulating and the ultimate EPA rule. Indeed, I coined the term death zone.

As those who were in the negotiations will know, that was a really important issue to me. My belief is that the Vitter amendment gets rid of the death zone. I know that this was an agreement late reached, and colleagues are going to need to take some time to review it themselves. But my view of this is that the restriction on States in regulating during that period first has been narrowed, and second, it has been limited to the principles that exist first, if you look at the three exemptions, first, in the Commerce Clause of the United States Constitution. Second, in the Supremacy Clause of the United States Constitution. And third, in the Due Process Clause of the Constitution as it pertains to administrative agency action.

So those are baselines that we are never going to go beyond. I think we reached a fair compromise. I intend to vote for Senator Gillibrand's amendment because I think it moves us in the right direction. But I want to make sure people are clear that in the view of the person who coined the phrase death zone, the death zone is gone as a result of this. And the regulatory restrictions that remain are those that are consistent with the baseline principles of the United States Constitution in those three amendments, one, two and three in the list in the new statute.

Senator INHOFE. Others who wish to be heard? Yes, sir, Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chair. I will echo Senator Whitehouse's comments.

But I also support this amendment. Here is why. We have a compromise strategy in the bill. But it is much more complex than simply capturing the language from the House side. And I wanted to clarify that I would disagree with our chairman in terms of the 50 different rulebooks. Because essentially, if one State acts on a chemical like fire retardants in our carpets that put poisonous, can-

cer causing chemicals into our children when they are just babies crawling on the rug, it actually creates an incentive for the Federal Government to go ahead and act. We have seen a Federal Government that has been paralyzed over acting on these toxic chemicals. So when one State acts, it strengthens the incentive and puts everybody on the same wavelength, yes, let's address this nationally, so we get that one common rulebook, rather than ending up with 50 different ones. By the way, very few States have acted on very few chemicals over the last four decades. So we have had neither a really functioning Federal system or a functioning State system.

But to the degree that they act, as Senator Gillibrand put out, they are addressing core health and safety issue. It works nicely in terms of incentivizing the Federal Government under this structure to be attentive and to be prompt in addressing substances of significant risk. That is why I will support the Gillibrand amendment.

Senator INHOFE. Are there others who wish to be heard? Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Without question, tremendous progress has been made. But the Gillibrand amendment goes right to the heart of the role which the States have played over these many years. Twelve States have acted to regulate BPA. Seven States have regulated cadmium. Thirty States have regulated mercury. Twelve States have regulated flame retardants.

What Senator Gillibrand's amendment does is to retain the authority—to ensure that the States are there as they have historically been. For example, in Massachusetts, the scientists from MIT and Harvard can help the State of Massachusetts to determine whether or not a particular chemical is something which is too dangerous to be on the market. And without question, and I think history makes this very clear, when the States act, it does tend to have the impact of changing the way in which the entire country has a relationship with one of the chemicals that are being dealt with.

So I think that we should embrace the role that the State scientists have played over the years. I think it is a complementary but very important role. I think that the Gillibrand amendment acts to retain that role in its historic place. And I think it is very important for us to recognize that today in a vote on this amendment.

I thank the gentlelady for her amendment. I yield back the balance of my time.

Senator INHOFE. Do others want to be heard?

Senator BOXER. Mr. Chairman, just very briefly. Senator Whitehouse, who coined the phrase, death zone, it is very reassuring to hear you say you think it is gone. I think that will be the subject of great debate as we move forward. I hope you are right. And I can't tell you how much I hope you are right.

The fact is, my attorney general says there are major problems with, he calls it premature preemption of State authority, combined with unworkable conditions for a waiver of this preemption. So I am going to ask unanimous consent to put into the record my attorney general's view of the compromise. Again, I am very pleased

that it looks like, I think, all of us on our side, I am not sure, will vote for the Gillibrand amendment. I just am prayerful that we will get some help on the other side from the people who say they are for States' rights.

Senator INHOFE. Do others want to be heard?

Senator VITTER. Mr. Chairman.

Senator INHOFE. Senator Vitter.

Senator VITTER. Briefly, Mr. Chairman, three points. First of all, it is a very conservative principle, because it is in the Constitution that things that are fundamentally about interstate commerce can be governed at the Federal level. Again, that is straight from the Constitution. There is not much more than is innately interstate commerce, in fact, it is international commerce, than what we are talking about, which are in products made and distributed around the country and around the world.

Second, because of this, a very similar approach was struck by Senator Feinstein in a bill regarding some cosmetic products reviewed by FDA, an extremely analogous approach in that bill. So this is used and adopted all the time.

Third, with regard to comments about a House bill, that House bill is a much, much narrower measure, not a broad TSCA reform measure. So that is really comparing apples and orangutans.

Senator INHOFE. Thank you, Senator Vitter.

If there are no further statements or questions on the amendment, is there a motion to adopt the Gillibrand amendment?

Senator WHITEHOUSE. So moved.

Senator INHOFE. Is there a second?

Senator BOXER. Second.

Senator INHOFE. All in favor say aye.

[Chorus of ayes.]

Senator INHOFE. Opposed, no.

[Chorus of noes.]

Senator BOXER. I ask for a recorded vote.

Senator INHOFE. A recorded vote is in order. The Clerk will call the roll.

The CLERK. Senator Barrasso.

Senator BARRASSO. No.

The CLERK. Mr. Booker.

Senator BOOKER. Yes.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator INHOFE. No by proxy.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator CARPER. No.

The CLERK. Mr. Crapo.

Senator CRAPO. No.

The CLERK. Mrs. Fischer.

Senator FISCHER. No.

The CLERK. Senator Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Senator Markey.

Senator MARKEY. Aye.

The CLERK. Senator Merkley.

Senator MERKLEY. Aye.

The CLERK. Senator Rounds.

Senator ROUNDS. No.

The CLERK. Senator Sanders.

Senator SANDERS. Aye.

The CLERK. Senator Sessions.

Senator INHOFE. No by proxy.

The CLERK. Senator Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Senator Vitter.

Senator VITTER. No.

The CLERK. Senator Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator WICKER. No.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 8, the nays are 12.

Senator INHOFE. The amendment has failed.

Senator BOXER. Can I offer an amendment or do you want me to defer? Is it all right if I offer my amendment?

Senator INHOFE. Yes, of course.

Senator BOXER. All right. I would call up Boxer-Sanders-Markey No. 1. I ask unanimous consent that Senator Gillibrand be added as a co-sponsor.

Senator INHOFE. First of all, let me clarify, the statement I should have made was that we were going to further amendments. So that particular amendment failed. You are recognized for what amendment?

Senator BOXER. I ask to call up Boxer-Sanders-Markey No. 1 and ask unanimous consent that Senator Gillibrand be added as a co-sponsor.

Senator INHOFE. Without objection. Please proceed.

Senator BOXER. This amendment is named after Alan Reinstein, who sadly lost his life to mesothelioma. His widow, Linda Reinstein, who is the co-founder of the Asbestos Disease Awareness Organization, is here with us today. Linda, I would ask you to stand.

Tragically, Linda should be celebrating her 30th wedding anniversary with her husband, Alan. But instead, she is clutching his burial flag.

Asbestos kills 10,000 people a year. As Linda reminds us, "For every life lost from an asbestos-caused disease, a shattered family is left behind." I have met her daughter, and I know that that is right.

Our amendment would require expedited action on all forms of asbestos. EPA would have to complete a safety assessment and determination within 2 years and promulgate a final rule within 3 years. The Vitter-Udall bill, as introduced, and the Vitter substitute amendment, does not even mention the word asbestos. And

experts say that regulation of asbestos under the Udall-Vitter bill will never happen.

Asbestos, a lethal substance, is still legal in the U.S., even though it has been banned in most developed nations. There is absolutely no reason to delay action any further. This amendment will enable the EPA to once and for all ban asbestos. I urge my colleagues to support the amendment.

[The text of Boxer-Sanders-Markey Amendment No. 1 follows:]

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by _____

Viz:

- 1 On page 84, line 16, strike “and” at the end.

- 2 On page 84, line 21, strike the period at the end and
- 3 insert “; and”.

- 4 On page 84, between lines 21 and 22, insert the fol-
- 5 lowing:
- 6 (5) by adding at the end the following:
- 7 “(i) ASBESTOS.—
- 8 “(1) LISTING.—The Administrator shall include
- 9 all forms of asbestos as 1 high-priority chemical sub-

1 stance under section 4A(a)(2) in accordance with
2 section 4A(a)(4).

3 “(2) SCHEDULE.—Notwithstanding paragraphs
4 (4), (5) and (6) of subsection (a), the Administrator
5 shall—

6 “(A) complete a safety assessment and
7 safety determination of all forms of asbestos
8 not later than 2 years after the date of enact-
9 ment of the Frank R. Lautenberg Chemical
10 Safety for the 21st Century Act; and

11 “(B) promulgate a final rule not later than
12 3 years after the date of enactment of that
13 Act.”.

Senator INHOFE. Others who wish to be heard?

Senator VITTER. Mr. Chairman.

Senator INHOFE. Senator Vitter.

Senator VITTER. Mr. Chairman, I am opposing the amendment. The bill does not mention the word asbestos because the bill doesn't mention any specific chemical or substance. That is not an appropriate regulatory framework to set out. We are not picking and choosing and pointing to specific substances.

Second, the EPA has made perfectly clear that this bill gives them full authority and ability to take up asbestos, among other things, as a high priority chemical. So there is no debate that this bill would not give them full authority to do that. That is extremely clear, including directly from the EPA.

Senator INHOFE. Others who wish to be heard? Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Yes, Senator Boxer and I had a press conference in this room with Linda Reinstein about 6 weeks ago, talking about this issue. It is not just asbestos, it is more than that. But asbestos is the worst of the worse. EPA first tried to ban asbestos in 1989, more than 50 countries have already banned this substance because of the dangers to public health. The safety risks and hazards of asbestos are well known.

Unfortunately, under this bill, despite having decades of information about the hazards of asbestos and the impacts to human health, the EPA is still required to go through a lengthy review process. In the meantime, Americans will be exposed for years to come from this asbestos danger.

This amendment is important because it will direct the EPA to telescope the timeframe of its review and risk management, shaving off years of delay allowed for in this underlying bill that we are now considering. I think it is important to adopt this amendment at this time, and I urge my colleagues to do so.

I thank you, Linda, and I thank all of those in the asbestos community for standing up and raising this issue. From 1989 to today is a quarter of a century. It is time for us to act. I yield back the balance of my time.

Senator INHOFE. Thank you, Senator Markey.

Other Senators? Senator Whitehouse.

Senator WHITEHOUSE. Mr. Chairman, I intend to support this amendment. I think it is a good amendment. But again, in the interest of clarity, I would like to point out what the recent compromise does in this area. That is to take chemicals like asbestos and others like formaldehyde, that have been heavily studied by Federal agencies and by our national institutes, and allow that work and those findings to be taken notice of and adopted by EPA. So it will accelerate the way in which EPA can address these chemicals that have received a lot of attention.

So I just want to make that clear about the way in which we address the issue of asbestos and other well known harmful chemicals in the bill. I appreciate for my colleagues, that is not everything we would want. And again, I support this amendment. But I want to make clear that that is what was accomplished in the recent amendments.

Senator INHOFE. Thank you, Senator Whitehouse.

Other Senators? Senator Boxer.

Senator BOXER. I wanted to address just a couple of points that were raised. To Senator Vitter, I never heard of a situation where because no other chemical is mentioned you can't mention a chemical. The reason you do bills is to take action that you want to take.

If you wanted to take action on asbestos, and as Senator Markey said, this has been an issue since a quarter of a century ago, you put it in the bill. This is a free country. And you write a bill, and you take care of the things that are important.

I also want to make a point that I do so appreciate what Senator Whitehouse has stated. But we have to be clear. In the underlying Vitter amendment, there is no deadline for implementation, even after a chemical is deemed unsafe. There are deadlines to get it to that point, but there is no timeline. That is why in our amendment, we say enough is enough when it comes to a chemical that is killing 10,000 people a year. Some of your constituents, some of my constituents. Just a tiny bit of that gets in the lung, and it is over.

And if we can't at least come together on this and remember, the whole TSCA was really based around—the TSCA case was based around the issue of asbestos. The bill wasn't strong enough at that time. So we want to make this bill strong. This is an opportunity to add to the improvements that Senators Whitehouse, Merkley, and Booker made along with Senators Vitter and Udall. Let's make this bill matter.

And I want to say to the Asbestos Awareness Organization, you are my heroes. You are my heroes. Because you didn't listen to oh, forget it, the bill has a great name, everything is fine. You read the bill, your lawyers looked at the bill, and we saw how weak it was. And we have strengthened it because of the work of my colleagues, Senators Udall and Vitter being willing, because of you and the people out there and the 450 groups.

But let's make this bill better, and let's put asbestos in there. Yes, mention it. You mentioned PBTs, which you didn't do before. Now, happily, you have put that in there. You mentioned, you changed it to mention PBTs. Change it to mention asbestos. I hope we will have a good vote on this, and I would ask that we have a recorded vote on this.

Senator INHOFE. Senator Sanders.

Senator SANDERS. Mr. Chairman, as I understand it, dozens of countries around the world either restrict or ban asbestos.

Senator BOXER. That is right.

Senator SANDERS. The United States should not be behind dozens of other countries. So if we are dealing with a bill addressing toxic chemicals, clearly asbestos should be front and center. I strongly support this amendment.

Senator INHOFE. Thank you.

Senator BOOKER.

Senator BOOKER. Thank you. Just very briefly, I support the amendment. I am grateful for the indefatigable persistence of Senator Boxer and her leadership as well as others of my colleagues. So I support the amendment.

I do have to leave very soon. I have given my proxy votes over. I just want to thank, in general, Senator Boxer and Senator Inhofe for supporting the negotiation process in which Senator

Whitehouse, Senator Merkley and myself have been pushing for and working with Senator Vitter and Senator Udall in improving this legislation. The gains that were made, as have been mentioned multiple times by Democrats and Republicans on this committee, have been significant and have taken it a long way. I support these amendments that we are going through now, because they can make it even better.

But as a new Senator, the experience I have had in working in partnership and trying to improve something has been a very good one, and I am very encouraged by the process. Again, for the record, I want to say I support this amendment that is up right now. I am grateful for Senator Boxer's continued efforts.

Senator INHOFE. Thank you, Senator Booker.

Others who wish to be heard?

Senator BOOKER. Mr. Chairman, I am sorry, may I put my statement, my full statement, into the record?

Senator INHOFE. Yes, your full statement will be in the record.
[The prepared statement of Senator Booker follows:]

U.S. Senator Cory A. Booker

Statement for the Record
Markup, Nomination, Consideration of GSA Resolutions
April 28, 2015

Thank you Chairman Inhofe and Ranking Member Boxer. Last month, this committee held a legislative hearing on S.697, the “Frank R. Lautenberg Chemical Safety for the 21st Century Act”. At that hearing I stated multiple concerns with the bill as it was then drafted.

My concerns included the following: First, the indefinitely long time frame of the preemption for high priority chemicals. Second, the fact that the right for states to co-enforce had been taken away. Third, the fact that judicial review for low priority determinations was very limited. Finally, the fact that the underlying bill included insufficient safeguards to limit testing of chemicals on animals where scientifically reliable alternatives exist.

Since that hearing last month until today, I have worked with my colleagues on this committee and the bill sponsors to try and fix those flaws and make other improvements to this bill. Those improvements are encompassed in the manager’s amendment introduced today by Senator Vitter.

I would like to thank Senator Boxer and Senator Inhofe for supporting our negotiation process, and I would like to specifically thank Senator Udall, Senator Vitter, Senator Whitehouse, and Senator Merkley and their staffs for working with us to ultimately reach a compromise that substantially improves the underlying bill.

First, the open ended, indefinite high priority preemption has been replaced with a limited “pause” during the safety assessment. If the EPA fails to timely complete the safety assessment, then states will automatically receive a waiver if they wish to take action.

Second, the manager’s amendment gives states the right to co-enforce EPA regulations.

Third, any person now has a right to judicially challenge a low priority determination.

And lastly, but certainly not least, the manager’s amendment creates a requirement for industry to first look to scientifically reliable alternatives before conducting new animal testing when submitting information to EPA.

We should make no mistake – this bill is a compromise. This is not the bill I would have written myself any more than it's the bill the Chairman or Ranking Member would ideally want to see, but I think this amendment represents a major step forward in fixing a broken system that is not ensuring that the chemicals Americans are exposed to every day are actually safe.

There are ways this bill could be strengthened. The amendments proposed today by my colleagues would improve the bill, but we cannot let the perfect become the enemy of the good.

With the changes that have been incorporated into the manager’s amendment, we now have a bill that will substantially improve our current law and begin to put protections in place, including protections for the most vulnerable of populations. We now have a bill that is fit to bear Frank

Lautenberg's name, and that is why I am supporting it and voting yes on the manager's amendment.

Senator INHOFE. The Boxer Amendment No. 1 is before us. Is there a motion?

Senator WHITEHOUSE. So moved.

Senator INHOFE. Second?

Senator BOXER. Second.

Senator INHOFE. And a roll call has been requested. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator INHOFE. No by proxy.

The CLERK. Mr. Booker.

Senator BOOKER. Yes.

The CLERK. Mr. Boozman.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator CARPER. Aye.

The CLERK. Mr. Crapo.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Fischer.

Senator FISCHER. No.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sanders.

Senator SANDERS. Aye.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator VITTER. No.

The CLERK. Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator INHOFE. No by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

Senator Boozman, would you like to be personally recorded?

Senator BOOZMAN. Yes, Mr. Chairman, I would like to be personally recorded as a no. Thank you, Mr. Chairman.

The CLERK. Mr. Chairman, the yeas are 9, the nays are 11.

Senator INHOFE. The amendment has failed.

Other amendments? Senator Markey.

Senator MARKEY. Markey No. 1.

Senator INHOFE. Number 1, all right. Senator Markey, please proceed.

Senator MARKEY. Mr. Chairman, thank you very much. This is an alternative way of dealing with the asbestos issue without naming asbestos or any dangerous chemicals. Because there are some chemicals for which we already have decades of data. We already know that they leech out of furniture or plastic, how they get into people's bodies, how they cause disease and even cause deaths.

There are chemicals that have been studied by independent scientists at the National Institutes of Health, the National Academy of Sciences, or the World Health Organization and have been determined to cause cancer or have other serious, chronic health impacts. Some of these chemicals have even been banned by other countries. Yet under the bill, even those chemicals would be subject to further study by the EPA, causing even further delay in protecting the health of American citizens.

A perfect example of such a chemical is asbestos. We have more than 50 years of data on asbestos, and the harms it causes to human health, including lung cancer and mesothelioma. More than 50 countries have already banned asbestos. The International Agency for Research on Cancer has listed it in its highest and most dangerous cancer category. The EPA already attempted to ban asbestos but was challenged by industry, and the ban was struck down by the court.

Under this bill, EPA would have to start at the beginning of a 7-year process to issue a regulation protecting the American public from the dangers of asbestos. Although the manager's amendment does encourage EPA to be more efficient by using work done by the National Academies of Sciences and other Federal agencies, it does not allow EPA to take immediate steps to protect the public.

Under my amendment, chemicals which have already been deemed by EPA to be worthy of further assessment and have also been deemed as a carcinogen by either the National Institutes of Health or the National Academies of Science or the World Health Organization or have been banned by a foreign country would be eligible for fast regulation by the EPA.

This discretionary authority would allow the EPA to step in and protect the public from the chemicals we already know are the worst of the worst without having to go through a lengthy re-review and assessment. Some of these chemicals have already been reviewed, over and over again. To add another 7 years, when we already know what the problem is, to tie the hands of the EPA, really in my opinion is unnecessary. It is why I have made my amendment, and I urge an aye vote from my colleagues.

[The text of the amendment No. 1 offered by Senator Markey follows:]

WE115472

S.L.C.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To include a provision for chemicals requiring expedited action.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. MARKEY

Viz:

- 1 On page 83, line 7, strike “(1)”.
- 2 On page 84, line 12, strike “(1)”.
- 3 On page 84, line 16, strike “and”.
- 4 On page 84, line 21, strike the period at the end and
- 5 insert “; and”.
- 6 On page 84, between lines 21 and 22, insert the fol-
- 7 lowing:

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

2 “(i) EXPEDITED ACTION.—

3 “(1) IN GENERAL.—Notwithstanding section
4 3A, section 4A, and subsections (a), (b), (c), and
5 (d), the Administrator may promulgate a rule under
6 subsection (d) establishing restrictions necessary to
7 ensure that a chemical substance meets the safety
8 standard if—

9 “(A) the chemical substance is listed in the
10 2014 update of the TSCA Work Plan for
11 Chemical Assessments; and

12 “(B) the chemical substance has been—

13 “(i) classified by the International
14 Agency for Research on Cancer as a Group
15 1, 2A, or 2B substance;

16 “(ii) determined by the National
17 Academy of Sciences, in a publicly issued
18 report, to be a known or reasonably antici-
19 pated human carcinogen or to pose a risk
20 to human health;

21 “(iii) evaluated by the National Toxi-
22 cology Program and listed in the Report on
23 Carcinogens as a known or reasonably an-
24 ticipated human carcinogen; or

3

1 “(iv) subject to a restriction or prohi-
2 bition enacted by a foreign country.

3 “(2) CONTRIBUTION TO PROGRESS ON ADDI-
4 TIONAL CHEMICAL REVIEWS.—A chemical substance
5 that is the subject of a final rule promulgated under
6 subsection (d), as authorized by this subsection,
7 shall be added, for purposes of section 4A(a)(2)(C),
8 to the count of high-priority substances that have
9 undergone the process required under subsection (a).

10 “(3) TIMELY RESOLUTION.—Not later than 1
11 year after the date on which the Administrator pro-
12 mulgates a proposed rule under subsection (d), as
13 authorized by this subsection, the Administrator
14 shall take final action on the proposed rule.

15 “(4) AVAILABILITY OF FEES.—The promulga-
16 tion of a rule pursuant to subsection (d), as author-
17 ized by this subsection, shall be considered a nec-
18 essary rulemaking for purposes of section
19 26(b)(2)(A)(v).”.

Senator INHOFE. Thank you, Senator Markey.
Others who want to be heard?

Senator VITTER. Mr. Chairman, I oppose this amendment. With all due respect, I think this is sort of the fire, ready, aim amendment. This bill gives EPA full authority to do its work as quickly as it can but to go through the proper procedure and safety assessments to do that, not to reach conclusions first. Now, if there is a body of evidence, as there may be in certain cases, EPA has full authority to take into account that research, that body of evidence. But this amendment goes way beyond that, and essentially has EPA acting before doing that proper work.

Now, again, if EPA can reach conclusions more quickly in some cases because of that work that is existing, this underlying bill absolutely allows EPA to take that into account, but doesn't let it reach a conclusion first and then look at the evidence. So I oppose this amendment.

Senator INHOFE. Senator Boxer.

Senator BOXER. Yes, thank you.

I just want to say, the National Academy of Science, if you were to stop someone in the street and say, who do you believe more, Senators or the National Academy of Sciences when it comes to protecting the health of the people? We all know it would be 100 to nothing if you asked 100 people.

All Senator Markey is saying, and I just don't understand the reluctance to accept this. It just shows me such a closed mind and where you really stand on this issue. This is simply saying that if the National Academy of Sciences has found that chemicals are particularly harmful and dangerous, why do we need to just reinvent the wheel and tell EPA, well, ignore all that, let's just go? This is such a common sense, taxpayer saving amendment. And that is the point. I really hope we can just break the logjam here and at least accept this very simple amendment.

I thank the Senator for it.

Senator MARKEY. If the gentlelady would yield.

Senator BOXER. I would yield.

Senator MARKEY. I thank the Senator. And again, that is the point.

Senator BOXER. Gentlelady. I haven't heard that since I was in the House a thousand years ago.

[Laughter.]

Senator MARKEY. Why waste time and money when the most renowned scientific bodies in the world have already determined that something causes cancer? Already determined that something causes cancer. Why have another 7-year process? It is pretty common sense here and it will save money. Again, I yield back.

Senator BOXER. Yes, and 85 percent of the budget of the National Academy of Sciences is paid for by, guess by whom? Your taxpaying public. So why not save funds, utilize the National Academy of Sciences on this? As I say, I can understand why you might object to some other amendment. But I do not get why you would object to this amendment.

Senator INHOFE. Is there a motion?

Senator BOXER. I do so move.

Senator INHOFE. Is there a second?

Senator MARKEY. Second. I request a roll call vote, Mr. Chairman.

Senator INHOFE. A roll call vote has been requested on Markey No. 1. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator INHOFE. No by proxy.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Yes.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Mr. Cardin votes aye, and said he wanted to tell you, Mr. Chairman, he wanted to be here but he is managing with Senator Corker the bill on the floor. So we really miss him, but he has to be on the floor.

Senator INHOFE. Thank you.

The CLERK. Mr. Crapo.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Fischer.

Senator FISCHER. No.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sanders.

Senator SANDERS. Aye.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator VITTER. No.

The CLERK. Mr. Whitehouse.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Wicker.

Senator INHOFE. No by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

Senator CARPER. Mr. Chairman, how am I recorded?

The CLERK. You are not.

Senator CARPER. No.

The CLERK. Mr. Chairman, the yeas are 8, the nays are 12.

Senator INHOFE. The Markey Amendment No. 1 fails.

Other amendments?

Senator MARKEY. Mr. Chairman.

Senator INHOFE. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman. Markey Amendment No. 2, please.

Senator INHOFE. Markey Amendment No. 2. Proceed.

Senator MARKEY. Thank you, Mr. Chairman.

This bill sets up a trial process to determine a chemical safety with the EPA serving as the judge and the jury. But this is no ordinary trial, because the chemical that is the perpetrator is not in custody and protected from harming the public while the trial is being conducted and the verdict is being deliberated. Bail is always granted, each and every time, to that chemical.

Under this bill, the EPA has 1 year to come up with a screening process they will use to determine if a chemical is high priority. This is analogous to giving an entire year to determine who will serve on the grand jury. Once the grand jury is assembled, it has 6 months to determine if there is enough evidence to suggest a chemical is dangerous enough to public health to be indicted and listed as a high priority. And only then, after 18 months, can the actual trial begin.

But this is not a normal trial, because under this bill, it could take anywhere from 3 to 5 years before the jury is required to make a decision. We are now as long as 6 and a half years, at this point, into a process. And the perpetrating chemical is still allowed to roam in our homes and on our store shelves, unfettered. If the jury decides that the chemical is indeed guilty of being unsafe, the judge then begins the sentencing process and will have 2 years under this bill to determine what types of restrictions should be placed on the chemical. In some cases, the judge may determine the chemical should be locked up for life, and in others the judge may decide it is enough to make the chemical register as a labeled offender.

But what is alarming is that even after 8 and a half years of trial, the bill has no deadlines when the sentence actually starts. The judge may sentence this chemical to life in prison, but it may decide that sentence doesn't even have to start for another 20 years.

All this time, all the way until the final sentence is started, all the rules implemented, the public's health remains in danger, and not even the States, not even the States can step in to act.

My amendment simply requires that a time limit be placed on when an implementation or sentencing would begin. Under my amendment, after the final regulation is issued by the EPA, industry will have a minimum of 3 years to comply with the ability to extend for an additional 2 years if there is some technological reason that prevents earlier compliance.

This would bring TSCA in line with other environmental statutes, like the Clean Air Act and the Clean Water Act, which also contain statutory deadlines for regulation, implementation or compliance. I urge my colleagues to support this simple, straightforward and incredibly important amendment. It says yes, this chemical has a right to due process, but it does not allow it to be open-ended. There have to be some deadlines, there have to be some limits. That I think is what is missing from this bill at this time. I urge an aye vote from my colleagues.

[The text of the amendment No. 2 offered by Senator Markey follows:]

AMENDMENT NO. _____ Calendar No. _____

Purpose: To allow additional time to comply with certain restrictions in cases of technological infeasibility.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. MARKEY

Viz:

1 On page 74, lines 12 and 13, strike “practicable;
2 and” and insert “practicable, but not later than 3 years
3 after the date of promulgation of the rule; and”.

4 On page 74, line 21, strike “and”.

5 On page 75, line 3, strike “and”.

6 On page 75, line 11, strike the period at the end and
7 insert “; and”.

2

1 On page 75, between lines 11 and 12, insert the fol-
2 lowing:

3 “(v) following a determination by the
4 Administrator that it is technologically in-
5 feasible to comply with the timeframe in
6 clause (ii)(I), may provide up to an addi-
7 tional 2 years for compliance.

Senator INHOFE. Thank you, Senator Markey.
Are there others who wish to be heard?

Senator VITTER. Mr. Chairman.

Senator INHOFE. Senator Vitter.

Senator VITTER. Mr. Chairman, I oppose this amendment. The bill already has clear language that phase-outs, for instance, of chemical substances shall be implemented in "as short a period as practicable" and dates by which compliance is mandatory "shall be as soon as practicable." EPA wants the flexibility to deal with a lot of different situations that will be posed, thousands of different situations and different degrees of implementation. So this gives that to them but certainly mandates that they get about that as quickly as possible.

Senator INHOFE. Other Senators?

Senator BOXER. Mr. Chairman.

Senator INHOFE. Senator Boxer.

Senator BOXER. If I could thank Ed for this, and also, Senator Markey, your, as Senator Carper said, extremely interesting way of explaining the criminal chemical at stake. Let's just be clear. When all the dust settles and everyone has a chance to read this bill, without this amendment, there are no deadlines to act on a chemical that is dangerous. You heard it, 20 years, maybe that is good enough for some of your grandkids, but it ain't good enough for mine. This is outrageous. This compromise, which moves forward in four or five areas, has not moved forward on deadlines for action.

So you don't have to be all that cynical to understand that with all the pages and with all the descriptions, nothing really has to happen at any time in the universe. And that is why we offered action on asbestos in a certain timeframe.

And by the way, I got a note from one of the groups sitting out there, very interesting, that PCBs were the only chemicals mentioned in the last TSCA, which was so unsuccessful. But that was the only example of where there was protective action. So this idea that you can't mention a chemical and you shouldn't have deadlines, that is coming, in my opinion, straight from the hearts and minds of chemical companies. Of course they don't want it. They don't want to have to act. So they come to the table and they agree to something, and at the end of the day, there is no deadline for them to have to act. So what is the use of it?

And I think the fact that Republicans have so far in group voted against every single perfecting amendment says reams about this bill. I hope that we can pass this. Because it is a 3-year deadline for the manufacturer to comply. And the deadline could be extended for 2 years.

If you said to somebody in the street, again, there is a dangerous chemical, when do you think it ought to be taken out of your products? You know what they would say? Yesterday. Take it out of my products. And it gives them 5 years, and that is not good enough for Senator Vitter. Again, I am perplexed at the fact that we are not taking some of these perfecting amendments.

Senator INHOFE. Is there a motion? Oh, Senator Sanders.

Senator SANDERS. Just a word. I am so delighted to hear the great confidence that my Republican colleagues now have in the EPA.

[Laughter.]

Senator SANDERS. It is really nice to hear all these converts. I remember when Gina McCarthy was up here, we didn't quite hear those words. And we don't hear them in the budget, where the goal of many Republicans is to decimate the funding of the EPA. So I hope that you will remember what you are saying today and the great confidence you have in that agency, they will be well funded, and you will treat the administrators with respect.

Senator INHOFE. Is there a motion?

Senator BOXER. Yes, I move the Markey amendment.

Senator INHOFE. Is there a second?

Senator MARKEY. Second.

Senator INHOFE. The vote is on the Markey Amendment 2. All those in favor, say aye.

[Chorus of ayes.]

Senator INHOFE. Opposed, no.

Senator BOXER. Recorded vote.

Senator INHOFE. Recorded vote is requested. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator BARRASSO. No.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator CARPER. Aye.

The CLERK. Mr. Crapo.

Senator CRAPO. No.

The CLERK. Mrs. Fischer.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator ROUNDS. No.

The CLERK. Mr. Sanders.

Senator SANDERS. Aye.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator VITTER. No.

The CLERK. Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator INHOFE. No by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 9, the nays are 11.

Senator INHOFE. And the amendment fails.

Other amendments?

Senator BOXER. Yes, Mr. Chairman.

Senator INHOFE. First of all, let me thank Senator Boxer, because she had a long list of amendments, and she has agreed to just pare them down to three. That is very respectful of everyone's time. Thank you.

Senator BOXER. Absolutely. And should this get to the floor, you will hear all of them.

[Laughter.]

Senator BOXER. I am so fond of you, Mr. Chairman, I just didn't want to ruin your morning completely.

So I have Boxer-Carper Amendment No. 3, please.

Senator INHOFE. You are recognized.

Senator BOXER. This amendment will protect contamination of drinking water supplies from chemical spills, such as the Freedom Industry spill in West Virginia. This amendment requires consideration of whether a chemical substance is stored near drinking water sources when prioritizing chemicals for assessments.

Communities need to know that the chemicals stored near streams and rivers supplying their drinking water have been assessed and that the potential for a spill is taken into account. And if, God forbid, a spill happens, they know what chemical it is, and they know what steps to take. I remember the West Virginia spill, going through with my colleagues from West Virginia, the most frightening part was at first no one knew what was in there. So we need to know what is stored near drinking water supplies.

The people of Charleston, West Virginia, found out the hard way that the chemical that was spilled from the Freedom Industries facility had not been assessed. No one knew what effect the chemical would have on human health from using their water for drinking, cooking or bathing. It is just simple, common sense that EPA should place a priority on assessing those chemicals that pose a risk to our drinking water. I urge my colleagues to support this amendment.

[The text of the Boxer-Carper Amendment No. 3 follows:]

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the criteria for prioritizing existing chemical substances to include consideration of the potential threat the chemical substance poses to drinking water supplies, based on hazard, exposure, or exposure potential (including whether the chemical substance is stored near sources of drinking water).

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

- 1 On page 43, strike lines 18 and 19 and insert the
- 2 following:
- 3 high priority substance;
- 4 “(H) the potential threat the chemical sub-
- 5 stance poses to drinking water supplies, based
- 6 on hazard, exposure, or exposure potential (in-
- 7 cluding whether the chemical substance is
- 8 stored near sources of drinking water); and
- 9 “(I) the extent of Federal or State regula-

Senator INHOFE. Others wanting to be heard?

Senator CARPER. Mr. Chairman.

Senator INHOFE. Senator Carper.

Senator CARPER. Mr. Chairman, there is an old saying that where we stand on a particular issue depends on where we sit. I sit here with all of you in the Senate, I spend a lot of time in Delaware. But when I was a kid, I started my life in West Virginia. Never lived in Charleston, I was from Beckley. Lived there about 6 years until we moved on to Virginia.

This is an issue that is important to me on a personal level and to my family, I have a lot of family still living, as Senator Capito knows, a lot of family still living in West Virginia. This is an issue that is very much on their minds. They would want me to join Senator Boxer not only in supporting this amendment, but in co-sponsoring it. And I am pleased to do so.

I am going to take this moment, I may not have the time later on, just to say how grateful I am to you, Mr. Chairman, to you, Senator Vitter, to Senator Udall, to Senator Merkley, to Senator Whitehouse, to Senator Booker, Senator Boxer and all who have worked to make this bill better. We started off with legislation offered by Senator Lautenberg, whom we all revere. And I will be honest with you, as much as I loved Frank, it wasn't the best bill that he ever introduced. The collective efforts of a lot of people on both sides of the bill have taken this legislation so much farther down the road where it needs to go.

The people came to me, Mr. Chairman, after the election of last November 1, people want us to work together, they want us to get things done, they want us to find ways to strengthen the economic recovery. This legislation provides certainty and predictability for the chemical industry, which they want, and which they need. But at the same time, it speaks to the need for protecting our public health and protecting our environment in ways that the original legislation did not do. So I just want to thank each of you for that terrific bipartisan effort to get us to a much better place.

I want to thank Collin Peppard, a member of my staff who has worked so hard with Democrat and Republican staff in this regard. I would thank the staff members of both sides that have worked tirelessly for days, weeks, months now, years to get us to a better place. Thank you.

Senator INHOFE. Thank you, Senator Carper.

Senator Vitter.

Senator VITTER. Mr. Chairman, I oppose this amendment. Section 4(a) of the underlying bill already addresses the hazard and exposure potential of the chemical substances being directly taken into account. EPA can absolutely and should and will take into account that sort of factor. So that is already in section 4(a) of the bill. So I oppose the amendment.

Finally, Mr. Chairman, let me say, the reason we are defeating these amendments is not because we are not open-minded, it is because we are and have been open-minded, have been working with all folks who have come to the table for a serious work effort for months and months and months. All sorts of changes have been happily taken and incorporated into the bill. Senator Boxer was not

an active part of that process; that is her right. But that is what has been going on for months.

So now we face a choice, to adopt a lot of things that are going to disrupt the balance of the bill, in which case we will have the status quo, the present TSCA, unreformed, unimproved for the foreseeable future. Or to move forward with the first major bipartisan piece of environmental legislation in years. I strongly urge us to do the latter.

Senator BOXER. Mr. Chairman.

Senator INHOFE. Senator Boxer.

Senator BOXER. I want to respond to this, my colleague said I wasn't part of the process. Well, maybe I wasn't in secret negotiations, that is true. But I was part of the process, because I was being briefed on what was happening. And working with everyone to get to the place we got.

I had several press conferences, because I knew that you were working to try and move this bill forward, and you did. So it doesn't mean because a lot of us weren't in that room, and I had asked my colleagues to go and negotiate, because I think someone who is a good chairman or a good ranking member knows the personalities, knows how it can get done. This is what you do.

And maybe Senator Inhofe wasn't in that room, but I know he trusted you, David, to do what you did. And I trusted my colleagues. And they checked in with me. And when it was going down a bad path, David, I told them it was going down a bad path.

So here is where we stand. Not all genius resides in a quiet room in the Capitol. That is the point of this. And what I see here is a complete disinterest, because people weren't in that room, in that secret room, a disinterest in working together on the Republican side. Now, maybe it will change, maybe we will get a couple of Republican votes on some of these amendments. But I just don't understand that kind of a process.

And I don't think the people out there want that kind of a process. They want bills to continue to be improved. When they get out of a secret room and a back room which sometimes is necessary to move something forward, they want to see us continue to work. They don't want to see it shut down and have all Republicans vote no, every single time. It doesn't give a good feeling that this is on the level.

So you are right, I wasn't in the room. But I was very much a part of what was happening. And it is not just me, it is a lot of other members here who I also talked to who weren't in the room, if I might say. And they all were involved in this. So the bill is better in three or four areas, much better. And we can make this bill a bill we can be proud of.

I believe if these amendments had passed this would be on the way to being one heck of a bill. But we couldn't get Republicans to support what I think are very, very reasonable, reasonable amendments. Now, we got the substitute yesterday. OK, let's be clear. And we have put all of our energy into analyzing the substitute, because we knew the parameters, but we hadn't seen the language. And we will continue to critique the language, to embrace the language where we feel it is good.

But this is a moving process. And just to say that you will never pass an amendment just because there was an agreement in a private room, that is not the kind of legislation that I think is right. You need to constantly improve. And I am hopeful now, maybe, maybe, maybe, we can get support for the Boxer-Carper legislation to say, and that is what is pending here, that we ought to make a priority, make it a priority to know what chemicals are stored near drinking water supplies. And if you vote no on this, I would say you need to answer to your constituents who say, Senator, why wouldn't you want to know what chemical is stored near my drinking water supply? Because we saw it happen in West Virginia. It was so upsetting because people didn't know what was in there. And the company that was storing, they then went out of business. It was a nightmare, they went bankrupt. It was very, very chaotic.

This is simple. Just simple. And I beg you to think about it. All we are saying is to the EPA, make it a priority if a chemical is stored near a drinking water supply that you know what the chemical is and what to do if, God forbid, there is a spill. And I urge an aye vote, and I would move that amendment.

Senator INHOFE. Is there a second?

Senator CARPER. Second.

Senator BOXER. I would like a roll call.

Senator INHOFE. A roll call has been requested. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator BARRASSO. No.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. Aye.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator CARPER. Aye.

The CLERK. Mr. Crapo.

Senator CRAPO. No.

The CLERK. Mrs. Fischer.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator ROUNDS. No.

The CLERK. Mr. Sanders.

Senator SANDERS. Aye.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator VITTER. No.

The CLERK. Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator INHOFE. No by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 10, the nays are 10.

Senator INHOFE. The Boxer Amendment No. 3 failed to get a majority. It has failed.

Other amendments?

Senator BOXER. Yes.

Senator INHOFE. Senator Boxer.

Senator BOXER. Mr. Chairman, I call up Boxer Amendment No. 5. It is Boxer-Markey-Sanders Amendment No. 5.

Senator INHOFE. You are recognized.

Senator BOXER. This amendment is identical to legislation I previously introduced with Senator Crapo, who is also a co-sponsor of this amendment, to help communities determine whether there is a connection between clusters of cancer, birth defects and other diseases and contaminants in the surrounding environment. When the same disease impacts a family, neighborhood or community, people have a right to know if there is a common factor related to this cancer. This legislation will help our communities investigate and address devastating disease clusters as quickly as possible.

Here is what the amendment does. It will strengthen Federal agency coordination and accountability when investigating potential disease clusters. It will increase assistance to areas impacted by potential disease clusters. It will authorized Federal agencies to form partnerships with States and academic institutions to investigate and help address disease clusters.

And I want to add that it doesn't even occur unless a local community asks for this assistance. So if you believe in local government, and I started out as a county supervisor, and if you believe that local government should protect its people and they find that there is a cancer cluster in a local county or city, they just don't have the resources. This amendment would allow them to call on the Federal Government to help them assess why this cancer cluster is occurring.

Again, when you see kids with cancer, you ought to think that they got it for a reason. Senator Crapo knows what that is like. He has worked with the young people in Idaho on this. And these disease clusters should get the help and attention they deserve. I hope we can do this now. If not, there is going to be a long debate on the floor about kids with cancer and why on earth this committee didn't do the right thing. So I am hoping maybe on this one we will pass this amendment.

Senator INHOFE. Other Senators?

Senator VITTER. Mr. Chairman.

Senator INHOFE. Senator Vitter.

Senator VITTER. Mr. Chairman, I oppose this amendment. This is, of all the ones we have discussed today, this is probably the most significant in terms of altering the bill, because it adds two entirely new titles to the bill, which are presently completely outside the scope of EPA's authority. EPA, through TSCA, addresses chemical risk assessment and management. It was never intended to address public health disease investigation and response. We do have agencies that do that. That is the Centers for Disease Control and Prevention, the CDC, and an agency within the CDC, its Agency for Toxic Substances and Disease Registry. That is what those specific Federal agencies are all about.

This amendment would duplicate that work and would be a major power grab by EPA and a major change to put into their jurisdiction something which is completely outside their scope, and they have no proven expertise in terms of public health. So this is a big, big change to all sorts of present law, which I would oppose.

Senator INHOFE. Other Senators? Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

First, I would like to thank Senators Merkley and Whitehouse and Booker. But to thank Senator Udall, working through Senator Vitter, on two provisions which are now in this underlying draft, which I very much was advocating to be included. I am very gratified that they are.

The first is that the States have a new workable way to request permission from the EPA to protect their citizens from particular chemicals before EPA has finished studying them. I particularly appreciate the efforts to include that language, which I thought would make it easier for States to get their requests approved.

I am also very gratified that my request to change or remove the so called unreasonable risk language in TSCA that was used by industry to argue that EPA hasn't properly considered the cost to industry when it sued to overturn EPA's asbestos ban was also included. So in both of those instances, I thank all the members for their help in getting that language into the bill that we are now debating. I think that is very helpful progress, and I thank Senators Udall and Vitter for their openness on having that included and the other Senators I mentioned for their help as well.

On the amendment which the Senator from California is making, back in Woburn, Massachusetts, in the late 1970s, there was a mother, Ann Anderson, who had a little boy, Jimmy, who had contracted leukemia, cancer. And she found, just by accident initially and then by her own work, other young children in that same neighborhood who also had cancer, leukemia. It was her work and then ultimately work which was brought to the attention of the EPA and the Federal Government that led to the book, *A Civil Action*, which helped to highlight the problems that existed with these cancer clusters that were being identified across the United States. And it was very helpful in ensuring that there was a strengthened Superfund law, which would be able to ensure that there was quicker attention which was paid to these sites as they were identified across the country.

What Senator Boxer's amendment does is to say that these disease clusters must be more quickly identified and investigated so that they are dealt with. They pose really serious issues that clear-

ly could help families, ordinary families across the country in a much more expedited fashion. I think this is a very important amendment to be adopted. I thank the Senator for making it, and I urge an aye vote.

Senator INHOFE. Other Senators?

Senator SANDERS. Very briefly, Mr. Chairman. Epidemiology is one of the most important tools that science has. It tells us why people in a certain part of the country or people who do certain types of work come down with certain types of illness. And it is a remarkable tool. I think we should do everything that we can to encourage science based on the evidence that takes place in looking at clusters. And I hope very much that we could pass this amendment.

Senator INHOFE. Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chair.

Sometimes when you think about a disease cluster, you may be thinking about issues of vaccinations or lack thereof, or a whole series of issues related to viruses or bacterial infections and so forth. But in this case, this amendment is targeted at something that is very relevant to EPA, and that is cancers and the possibility that that cancer cluster is being caused by some toxic substance.

And in that sense, establishing a couple of response teams that would go out and look at a cancer cluster and try to determine if there is a toxic source is a sort of rapid response that makes a tremendous amount of sense. If they discover that there is toxic contamination driving this, then it will lead to measures that will protect many citizens from being the next victims of that toxic substance, the next victims of that cancer. So bringing the toxic chemical expertise of the EPA to bear is just the right type of partnership embedded in this amendment. Thank you.

Senator INHOFE. Thank you.

Other Senators? Senator Boxer.

Senator BOXER. Mr. Chairman, one more plea to my colleagues on this. I think most of us know who Erin Brockovich is. She has stood by my side and by the side of Senators Markey, Whitehouse and others and various press conferences to point out the fact that these cancer clusters are occurring more and more across our Nation, particularly among children. And local communities, whether they are in Idaho or in California or West Virginia or Massachusetts or Oregon or wherever they may be, people are desperate to seek answers.

Our bill doesn't add one penny, our amendment doesn't add one penny. We are using existing resources. Now, the last, my memory tells me, and my staff says my memory is correct, we voted this bill out of this committee without a problem. And the argument I hear from Senator Vitter is, this might add a new title to the bill. Who cares? You are writing a bill so you add another title to it if you make the bill better, and you make the bill stronger, who cares? This is a once in a lifetime thing. We are rewriting the toxic laws.

If we can add a section that addresses asbestos that is killing people, 10,000 a year, if we can add a section that says, without any further costs, we can look at these cancer clusters, if we can add a section that says, we need deadlines to act on dangerous chemicals, and if we can add a section that says the States should

have the ability to act, we are improving a bill that many still oppose. Many still oppose. And I will read that list when we get to final passage.

We still have huge opposition to this bill. We have tried in good faith, both in the negotiating room with the door closed and now out front so everyone can see how we can make this bill better. This is the simplest thing. It has been voted out of this committee before without a dissenting vote. As far as I know, there is literally, even among the chemical association, very little objection to this that I have ever heard.

Why don't we help local communities deal with cancer clusters? And so this is an opportunity to add that to this bill. And I hope we will say yes to that.

Senator BOOZMAN. Mr. Chairman.

Senator INHOFE. Yes, Senator Boozman.

Senator BOOZMAN. I agree with Senator Sanders in the sense that epidemiology really is a remarkable tool. I also agree with Senator Boxer in the sense that this is a discussion that needs to be had.

I guess my problem with the amendment is that we have an agency, the CDC, that that is really what they do. And within the agency, the Agency for Toxic Substances and Disease Registry, again, that is what they do. So the EPA is struggling to do the mission that they have. Again, I am going to vote against it. I am quite willing to have the discussion and see what we need to do.

But logically, the place that this needs to go is within the CDC. That is what these individuals are trained for. And then also, beefing up the registry, doing whatever we need to do, again, in this regard. Thanks.

Senator BOXER. May I respond to Senator Boozman? First, of all, thank you for your kind words about the intent of this amendment. And I really want to work with you on this. The bottom part of it, the bottom line is, this is a team effort to respond to cancer clusters. It includes the CDC. They are in the group. But they want more support. So hopefully, Senator, you and I can work on this and perfect it, so you feel comfortable.

To me, if CDC is part of the leading part of the team, I don't really—it doesn't bother me who is the lead. What is important is taxpayers spend a lot of money on the CDC, on the chemical agencies we have, on EPA, on all of these organizations, National Academy of Sciences. Why not have them together come into Arkansas or into California or into West Virginia or Idaho or Louisiana when there is a problem? So I hope that that, my friend's comments, would be an open invitation to maybe work together as we get this down on the floor.

Senator BOOZMAN. I would be glad to work on it. Again, the essence is, though, that the CDC needs to be the primary whatever.

Senator BOXER. Well, we don't have a problem with that.

Senator BOOZMAN. I am again concerned, right now, we have finite dollars. It does make a difference in the sense that the EPA is working hard to do the mission that they currently have. So I think you dilute things, and it probably needs to—

Senator BOXER. This doesn't add one dollar, so don't make like it does. This is taking the existing expertise in all the agencies to

help. If you think CDC has the ability alone to send their teams out to 100 places in the country, you are mistaken. They don't. And this would say, and I think it is very fiscally sound, all the agencies that have a piece of this work together.

So you can vote no and explain it however you want. But we are not adding one dime. We are just saying, let the taxpayer funds be used wisely. And when there is a cluster of children's cancer, and children are dying, send a team out there. Send a team out there. You want to argue, oh, it should be this person who is the head of it, OK. I will have that argument, I don't care.

But there is so much bureaucratic stuff coming out here as to why we can't do what we are supposed to do to protect the health and safety of the American people, which to me is our fundamental responsibility. Our fundamental responsibility is to them. It is not to the chemical companies, and it is not to special interests. It is to the people of the United States of America. And some of them are suffering mightily. And if we had the ability to help them, so you add another little one page to your bill which you actually now have a brand new bill, you threw out the other one, thank God. So you have a new bill. Add another section to it. Let's protect the people.

Senator INHOFE. Senator Vitter.

Senator VITTER. Mr. Chairman, three comments in closing. First of all, just to correct the record, this proposal has always in the past had strong Republican opposition. No. 2, I would be happy to partner and look at improvements that may be necessary to make it the Centers for Disease Control and Prevention and its Agency for Toxic Substances and Disease Registry, if they don't have some authority they need, I will be eager to look at that in conjunction with anyone.

No. 3, Senator Boxer and others have been arguing that EPA isn't going to act quickly enough in terms of the meat of this bill, and yet she wants to add a whole new area of endeavor, a brand new area of endeavor for EPA, which is epidemiology that they don't have expertise in. I do think this would set us back in terms of their focus, which is chemical risk assessment and management. Thanks, Mr. Chairman. I am opposing the amendment.

Senator INHOFE. Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chair. I would like to ask unanimous consent to put into the record an article, Is There a Cancer Cluster in West Salem?

Senator INHOFE. Without objection.

[The referenced article follows:]

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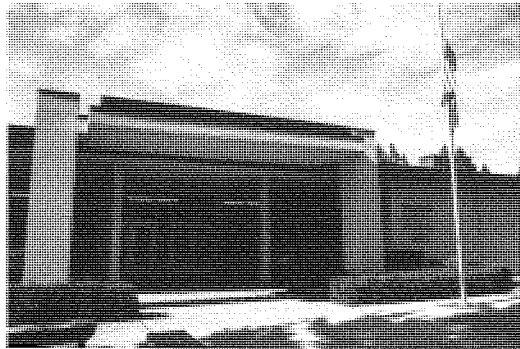


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Is There A Cancer Cluster In West Salem?

by **Cassandra Proffitt** ([/contributor/cassandra-proffitt/](#)) Ecotrope | March 1, 2013 8:22 a.m. | Updated: Feb. 18, 2015 8:13 a.m.



Walker Middle School is one site that cancer victims in West Salem shared in common. The Environmental Protection Agency will be assessing this site and several others for carcinogenic contamination that might have made people sick.

West Salem Neighborhood Association

This week, the Environmental Protection Agency outlined its plans to assess at least four sites in West Salem for hazardous contamination.

Hundreds of West Salem residents signed petitions asking the EPA to find out if environmental toxins are causing a sudden rise in osteosarcoma among young people in the community.

Officials have confirmed five cases of the rare bone cancer in the West Salem area in the past several years. Three people have died from the disease and two more cases have been reported.

At two public meetings the EPA held on the issue this week, some community members were clearly frustrated: Why can't officials confirm a cancer cluster and find a cause?

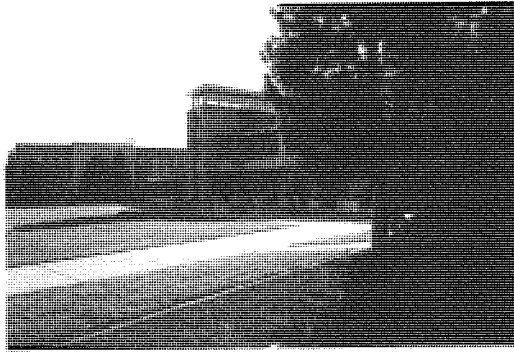
The answer is complicated.

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West Salem High School is another site the EPA will be assessing for possible contamination in responding to concerns about several cases of a rare bone cancer among students at the school.

West Salem Neighborhood Association

State epidemiologist Katrina Hedberg explained that the statistics the Oregon Health Authority uses to measure cancer rates across Oregon don't offer much help in this case.

According to the Centers for Disease Control, a cancer cluster is a greater than expected number of cancer cases among a group of people in a geographic area over a period of time. The parameters you set for the group of people, the geographic area and the period of time are all really important to confirming a cancer cluster, Hedberg said.

And if you try to apply them to a relatively small community such as West Salem, the "expected number" of cancer cases becomes statistically unreliable.


"We're not saying it isn't a cancer cluster," said Hedberg. "The data can't tell you whether this is a cancer cluster or not. This is not a place where the numbers and statistics are all that helpful. It's not hard to crunch the numbers, but it's hard to make sure our numbers are meaningful."


But regardless of whether they can confirm a cancer cluster, the result is effectively the same: The EPA is going to take a close look at the parts of the community cancer patients had in common: Walker Middle School, West Salem High School, Orchard Heights Park and a local ball field at 7th and Patterson.




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The EPA will start with a paper trail – property records, land use history and any reports of contamination at the four sites.

Tony Barber is the director of the Oregon operations office for the Environmental Protection Agency

The agency will be looking for a wide array of contaminants that could be making people sick, said Tony Barber, director of the Oregon office for the EPA. And if there's evidence of possible toxins, they will start testing.

“We can talk about numbers, but we're very focused on finding anything out there in your community that might hurt anybody,” Barber told the community Tuesday. “If it's one person and that person is in your family it's a big deal. We don't want people to get sick if they don't have to.”

West Salem residents have lots of questions: Could it be radon? Have the homes of the cancer patients been tested? Could the local machine shop have spread some kind of toxin? What about flooding from the Willamette River? Is fluoride in the city's water to blame? Shouldn't the city shut down the local parks until they've been tested?

Research hasn't confirmed many links between environmental contaminants and osteosarcoma, health officials say. A high dose of radiation among patients who have been previously treated for cancer has shown to increase the risk of getting the disease, and exposure to radioactive elements has been linked to increased risk. Some research suggests a connection between fluoride and osteosarcoma, but some does not.

“What chemical might it be? We have very little to go on,” said Jae Douglas, an environmental health and research manager at OHA. “Radon is in lots of communities and we're not seeing osteosarcoma in lots of communities.”

Kenji Sugahara, chair of the West Salem Neighborhood Association, said he has a young daughter and wants to make sure it's safe to take her to the local parks. He said it may be a difficult to find the answers the community wants, but getting the EPA to take action is a start.

“We have the right people in the room who can move this forward,” he said.

Environmental Protection Agency (/news/blog/ecotrope/tag/Environmental%20Protection%20Agency/)

More From Ecotrope (/news/blog/ecotrope/)

◀ (/news/blog/ecotrope/epa-responds-to-cancer-cluster-concerns/) EPA Responds To Salem 'Cancer Cluster' Concerns

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Senator MERKLEY. And if I might just comment on it, this is a case where there was a rare bone cancer with multiple folk being affected in a very small area. And indeed, the EPA went out and investigated. Now, so this is not something the EPA, what these cancers, when there is a cluster, there is suspicion that a toxin is involved, this has been a key role. This is not the role of the CDC, this is the role of the EPA. And they held hearings, they held investigations.

But to create these response teams with the expertise to respond in not such an ad hoc fashion would greatly increase the efficiency and coordination between the EPA and the CDC and the ability to have a team that is oriented to look at how this is developing in different places across the country and take the lessons learned from one place to another. It is simply a smart, more efficient way of doing what EPA is already involved in.

Thank you, Mr. Chair.

Senator INHOFE. Senator Sanders.

Senator SANDERS. Mr. Chairman, when I was first elected to Congress in the 1990s, I worked very hard and successfully to establish what is called a cancer registry, and that is to give the CDC the tools that it needs to try to figure out why certain types of illnesses in West Virginia or in Wyoming are different than in Vermont and what did we learn from all of that.

We know today, for example, breast cancer rates are different in the United States than they are in Japan. Why? What did we learn from that? We know that farmers, farmers who deal with a whole lot of fertilizer and chemicals, have high rates of certain types of cancer. We know that workers who are employed in certain types of factories, working with certain types of products, get higher rates of cancer. Why is that?

We can learn an enormous amount. We learned from over in Massachusetts that certain types of chemicals put into drinking water caused disastrous results. So this is an area fertile for enormous scientific gains. I think we should encourage the EPA to be involved in this area. So I very strongly support this amendment.

Senator INHOFE. Senator Carper.

Senator CARPER. Mr. Chairman, I will be honest with you, this is one I am torn on. And I think Senator Boxer is onto something here. I think the concerns pointed by Senator Vitter are not without substance. There is a role here for EPA, I think maybe for OSHA too. I am inclined to say that the Centers for Disease Control, maybe the Department of Health and Human Services should lead on this. But there is a role for EPA.

Every now and then, on some of the other committees I serve on, someone will offer an amendment, and we know there is genuine interest, maybe bipartisan interest in trying to work and get something done on that. I don't know that this amendment is going to pass today, but I sure believe that when we report this bill out of committee, and I hope we will today, either with or without this amendment, if we do it without, my hope is we will come back and see if we can't find some way to come together on this issue.

Thank you.

Senator INHOFE. That is good. Is there a motion?

Senator BOXER. So moved.

Senator INHOFE. Second?
 Senator SANDERS. Second.
 Senator INHOFE. The vote is on the Boxer Amendment No. 5.
 Senator BOXER. Recorded vote.
 Senator INHOFE. Recorded vote is requested. The Clerk will call
 the roll.

The CLERK. Mr. Barrasso.
 Senator BARRASSO. No.
 The CLERK. Mr. Booker.
 Senator BOXER. Aye by proxy.
 The CLERK. Mr. Boozman.
 Senator INHOFE. No by proxy.
 The CLERK. Mrs. Boxer.
 Senator BOXER. Yes.
 The CLERK. Mrs. Capito.
 Senator CAPITO. No.
 The CLERK. Mr. Cardin.
 Senator BOXER. Aye by proxy.
 The CLERK. Mr. Carper.
 Senator CARPER. Aye.
 The CLERK. Mr. Crapo.
 Senator CRAPO. Aye.
 The CLERK. Mrs. Fischer.
 Senator INHOFE. No by proxy.
 The CLERK. Mrs. Gillibrand.
 Senator GILLIBRAND. Aye.
 The CLERK. Mr. Markey.
 Senator MARKEY. Aye.
 The CLERK. Mr. Merkley.
 Senator MERKLEY. Aye.
 The CLERK. Mr. Rounds.
 Senator ROUNDS. No.
 The CLERK. Mr. Sanders.
 Senator SANDERS. Aye.
 The CLERK. Mr. Sessions.
 Senator INHOFE. No by proxy.
 The CLERK. Mr. Sullivan.
 Senator SULLIVAN. No.
 The CLERK. Mr. Vitter.
 Senator VITTER. No.
 The CLERK. Mr. Whitehouse.
 Senator BOXER. Aye by proxy.
 The CLERK. Mr. Wicker.
 Senator INHOFE. No by proxy.
 The CLERK. Mr. Chairman.
 Senator INHOFE. No.
 Senator BOOZMAN. Mr. Boozman would like to be recorded as no.
 The CLERK. Mr. Chairman, the yeas are 10, the nays are 10.
 Senator INHOFE. Having failed to receive a majority, the amend-
 ment is not agreed to.
 Other amendments?
 OK. I was going to advise that we are going to stay with our
 agenda here until it is finished. There won't be any breaks.

Seeing no further members wishing to seek recognition or offer amendments, I move to accept Substitute Amendment to S. 697. Is there a second?

Senator VITTER. Second.

Senator INHOFE. The Clerk will call the roll.

Senator BOXER. Wait one moment. Is this the final passage vote?

Senator INHOFE. This is the final passage of 697.

[The amendment summary and text of the amendment to S. 697 offered by Senators Boxer, Markey, and Sanders follow:]

**Amendment Summary – Boxer, Markey, Sanders 5, S.
697**

This amendment would strengthen protections for children and communities by authorizing EPA to use the best available science to conduct investigations, undertake actions, and coordinate with other federal, state and local agencies in investigating and helping to address cancer and other disease clusters, environmental pollutants or toxic substances associated with such disease clusters, or potential causes of such disease clusters. The amendment authorizes EPA to make technical assistance grants to any group of individuals that may be affected by such disease clusters.

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AMENDMENT NO. _____ Calendar No. _____

Purpose: To strengthen protections for children and communities from disease clusters and provide community disease cluster technical assistance grants.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 697

To amend the Toxic Substances Control Act to reauthorize and modernize that Act, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the end, add the following:

2 **TITLE II—STRENGTHENING PRO-**
3 **TECTIONS FOR CHILDREN**
4 **AND COMMUNITIES FROM**
5 **DISEASE CLUSTERS**

6 **SEC. 201. PURPOSES.**

7 The purposes of this title are—

- 8 (1) to provide to the Administrator the author-
- 9 ity to help conduct investigations into the potential
- 10 for environmental pollutants or toxic substances to
- 11 cause disease clusters;

2

1 (2) to ensure that the Administrator has the
2 authority to undertake actions to help address exist-
3 ing and potential environmental pollution and toxic
4 substances that may contribute to the creation of
5 disease clusters; and

6 (3) to enable the Administrator to integrate and
7 work in conjunction with other Federal, State, and
8 local agencies, institutions of higher education, and
9 the public in investigating and helping to address
10 the possible causes of disease clusters.

11 **SEC. 202. DEFINITIONS.**

12 In this title:

13 (1) **ADMINISTRATOR.**—The term “Adminis-
14 trator” means the Administrator of the Environ-
15 mental Protection Agency.

16 (2) **AGENCY.**—The term “Agency” means the
17 Environmental Protection Agency.

18 (3) **DIRECTOR.**—The term “Director” means
19 the Director of the National Institute of Environ-
20 mental Health Sciences.

21 (4) **DISEASE CLUSTER.**—The term “disease
22 cluster” means—

23 (A) the occurrence of a greater-than-ex-
24 pected number of cases of a particular disease

3

1 within a group of individuals, a geographical
2 area, or a period of time; or

3 (B) the occurrence of a particular disease
4 in such number of cases, or meeting such other
5 criteria, as the Administrator, in consultation
6 with the Administrator of the Agency for Toxic
7 Substances and Disease Registry and the Direc-
8 tor, may determine.

9 (5) ENVIRONMENTAL POLLUTANTS OR TOXIC
10 SUBSTANCES.—The term “environmental pollutants
11 or toxic substances” includes the substances de-
12 scribed in paragraph (7).

13 (6) FEDERAL AGENCY.—The term “Federal
14 agency” means—

15 (A) any department, agency, or other in-
16 strumentality of the Federal Government;

17 (B) any independent agency or establish-
18 ment of the Federal Government (including any
19 Government corporation); and

20 (C) the Government Publishing Office.

21 (7) POTENTIAL CAUSES OF A DISEASE CLUS-
22 TER.—The term “potential causes of a disease clus-
23 ter” includes environmental and public health fac-
24 tors that could increase the possibility of disease
25 clusters, including environmental pollutants or toxic

4

1 substances and sources of those pollutants and sub-
2 stances, including—

3 (A) emissions of air pollutants that are
4 regulated under the Clean Air Act (42 U.S.C.
5 7401 et seq.);

6 (B) water pollutants that are regulated
7 under the Federal Water Pollution Control Act
8 (33 U.S.C. 1251 et seq.);

9 (C) a contaminant, as that term is defined
10 in section 1401 of the Safe Drinking Water Act
11 (42 U.S.C. 300f);

12 (D) a hazardous substance, as that term is
13 defined in section 101 of the Comprehensive
14 Environmental Response, Compensation, and
15 Liability Act (42 U.S.C. 9601);

16 (E) solid waste and hazardous waste, as
17 those terms are defined in section 1004 of the
18 Solid Waste Disposal Act (42 U.S.C. 6903);

19 (F) a chemical substance, as that term is
20 defined in section 3 of the Toxic Substances
21 Control Act (15 U.S.C. 2602);

22 (G) a substance that is regulated under
23 the Emergency Planning and Community
24 Right-To-Know Act of 1986 (42 U.S.C. 11001
25 et seq.); and

5

1 (H) any other form of environmental pollu-
2 tion or toxic substance that is a known or po-
3 tential cause of an adverse health effect, includ-
4 ing a developmental, reproductive, neurotoxic,
5 or carcinogenic effect.

6 (8) REGIONAL RESPONSE CENTER.—The term
7 “Regional Response Center” means a Regional Dis-
8 ease Cluster Information and Response Center es-
9 tablished under section 204.

10 (9) RESPONSE TEAM.—The term “Response
11 Team” means a Regional Disease Cluster Informa-
12 tion and Response Team established under section
13 204.

14 (10) SECRETARY.—The term “Secretary”
15 means the Secretary of Health and Human Services.

16 **SEC. 208. GUIDELINES FOR ENVIRONMENTAL INVESTIGA-**
17 **TIONS OF DISEASE CLUSTERS.**

18 (a) ESTABLISHMENT.—

19 (1) IN GENERAL.—The Administrator, in con-
20 sultation with the Administrator of the Agency for
21 Toxic Substances and Disease Registry, the Sec-
22 retary, and the Director, shall develop, publish, and
23 periodically update guidelines that describe a sys-
24 tematic, integrated approach that uses the best
25 available science to investigate—

6

1 (A) 1 or more suspected or potential dis-
2 case clusters;

3 (B) environmental pollutants or toxic sub-
4 stances associated with 1 or more suspected or
5 potential disease clusters; or

6 (C) potential causes of 1 or more disease
7 clusters.

8 (2) COORDINATION.—The Administrator shall
9 ensure that the Office of Children’s Health Protec-
10 tion, in consultation with appropriate advisory com-
11 mittees, such as the Children’s Health Protection
12 Advisory Committee, has a prominent role on behalf
13 of the Agency in developing and updating guidelines
14 under paragraph (1).

15 (b) REQUIREMENTS.—Guidelines developed under
16 this section shall include—

17 (1) definitions of key concepts and actions;

18 (2) disease cluster identification and reporting
19 protocols;

20 (3) standardized methods of reviewing and cat-
21 egorizing data, including from health surveillance
22 systems and disease cluster reports;

23 (4) guidance for using, in a health-protective
24 way, an appropriate epidemiological, statistical, or

1 other approach for the circumstances of an inves-
2 tigation;

3 (5) procedures for peer review of key documents
4 by individuals who have no direct or indirect conflict
5 of interest; and

6 (6) a description of roles and responsibilities of
7 the Administrator and the Administrator of the
8 Agency for Toxic Substances and Disease Registry
9 in conducting investigations described in those
10 guidelines, in accordance with this title.

11 (c) TIMING.—

12 (1) IN GENERAL.—Draft guidelines developed
13 under this section shall be available for public review
14 and comment for a period of not less than 60 days.

15 (2) FINAL GUIDELINES.—Not later than 1 year
16 after the date of enactment of this Act, the Adminis-
17 trator, in consultation with the Administrator of the
18 Agency for Toxic Substances and Disease Registry,
19 the Secretary, and the Director, shall publish in the
20 Federal Register final guidelines under this section.

21 **SEC. 204. ENHANCED SUPPORT FOR ENVIRONMENTAL IN-**
22 **VESTIGATIONS OF DISEASE CLUSTERS.**

23 (a) ESTABLISHMENT OF REGIONAL DISEASE CLUS-
24 TER INFORMATION AND RESPONSE CENTERS AND
25 TEAMS.—

8

1 (1) ESTABLISHMENT.—

2 (A) IN GENERAL.—The Administrator, in
3 consultation with the Administrator of the
4 Agency for Toxic Substances and Disease Reg-
5 istry, the Secretary, and the Director, and other
6 appropriate Federal agencies, shall establish
7 and operate Regional Disease Cluster Informa-
8 tion and Response Centers and Regional Dis-
9 ease Cluster Information and Response Teams.

10 (B) PRINCIPAL RESPONSIBILITY.—The Ad-
11 ministrator shall be principally responsible for
12 directing, coordinating, and approving Federal
13 efforts and assistance authorized under this
14 section.

15 (2) COORDINATION.—

16 (A) IN GENERAL.—The Administrator
17 shall ensure that the Office of Children's
18 Health Protection, in consultation with appro-
19 priate advisory committees, such as the Chil-
20 dren's Health Protection Advisory Committee,
21 has a prominent role on behalf of the Agency
22 in establishing and operating the Regional Re-
23 sponse Centers and the Response Teams.

24 (B) GRANTS AND COOPERATIVE AGREE-
25 MENTS.—

9

1 (i) IN GENERAL.—The Administrator
2 shall provide support (including research,
3 program implementation, and operational
4 support activities) to individuals on Re-
5 sponse Teams described in subsection (b)
6 and Community Disease Cluster Advisory
7 Committees described in subsection (c)
8 through grants and cooperative agreements
9 with institutions of higher education that
10 have programs or individuals with dem-
11 onstrated expertise in research, training,
12 studies, and technical assistance.

13 (ii) AUTHORIZATION OF APPROPRIA-
14 TIONS.—There are authorized to be appro-
15 priated to carry out this subparagraph
16 such sums as are necessary.

17 (3) TIMING.—Not later than 1 year after the
18 date of enactment of this Act, the Administrator
19 shall establish at least—

20 (A) 2 Regional Response Centers; and

21 (B) 2 Response Teams.

22 (b) RESPONSE TEAMS.—

23 (1) MEMBERSHIP.—Each Response Team shall
24 include individuals who—

10

1 (A) have expertise in epidemiology,
2 toxicogenomics, molecular biology, toxicology,
3 pollution control requirements, data analysis,
4 environmental health and disease surveillance,
5 exposure assessment, pediatric health, commu-
6 nity outreach and involvement, and other rel-
7 evant fields; and

8 (B) have no direct or indirect conflict of
9 interest.

10 (2) LEADERSHIP.—Each Response Team shall
11 have—

12 (A) an individual who is the leader of the
13 Response Team and who reports to the Admin-
14 istrator, the Administrator of the Agency for
15 Toxic Substances and Disease Registry, and the
16 Director; and

17 (B) an individual who has the skills or ex-
18 perience necessary to carry out community out-
19 reach and involvement activities, including—

20 (i) the establishment of Community
21 Disease Cluster Advisory Committees
22 under subsection (c); and

23 (ii) the facilitation of activities of
24 those Committees.

25 (3) ACTIVITIES.—

11

1 (A) IN GENERAL.—The Administrator, in
2 consultation with the Administrator of the
3 Agency for Toxic Substances and Disease Reg-
4 istry and the Director, shall establish the scope
5 of activities for Response Teams to ensure that
6 the activities are consistent with achieving the
7 purposes of this title.

8 (B) REQUIREMENTS.—The activities of the
9 Response Teams shall include—

10 (i) making guidelines, protocols, data,
11 and other relevant information and exper-
12 tise available to State and local officials
13 and the public to assist in efforts—

14 (I) to investigate suspected or po-
15 tential disease clusters, environmental
16 pollutants or toxic substances associ-
17 ated with those disease clusters, and
18 potential causes of disease clusters;
19 and

20 (II) to address potential causes
21 of disease clusters;

22 (ii) responding rapidly to a petition
23 described in subparagraph (C) from any
24 person, including a State or local official,
25 regarding the need—

12

1 (I) to investigate suspected or po-
2 tential disease clusters, environmental
3 pollutants or toxic substances associ-
4 ated with those disease clusters, and
5 potential causes of disease clusters;
6 and

7 (II) to address the potential
8 causes of disease clusters;

9 (iii) providing the best available envi-
10 ronmental sampling and laboratory equip-
11 ment to collect, analyze, and interpret
12 monitoring, health surveillance, and other
13 relevant information at scales and time-
14 lines appropriate to an action;

15 (iv) involving community members, in
16 accordance with established scientific
17 methods and norms (including the preser-
18 vation of the confidentiality of individuals),
19 in—

20 (I) investigations of suspected or
21 potential disease clusters, environ-
22 mental pollutants or toxic substances
23 associated with those disease clusters,
24 or potential causes of disease clusters,
25 including through—

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1 (aa) environmental exposure
2 assessments;

3 (bb) biomonitoring activities;
4 and

5 (cc) community-based par-
6 ticipatory research initiatives;
7 and

8 (II) other efforts to address the
9 potential causes of disease clusters;

10 (v) working with State and local agen-
11 cies—

12 (I) to help make the use and
13 management of integrated environ-
14 mental health data consistent and
15 timely; and

16 (II) to fill data gaps; and

17 (vi) investigating suspected or poten-
18 tial disease clusters, environmental pollut-
19 ants or toxic substances associated with
20 those disease clusters, and potential causes
21 of disease clusters, and addressing the po-
22 tential causes of disease clusters that the
23 Administrator determines State and local
24 officials need assistance in investigating or
25 addressing, or that the Administrator de-

14

1 termines should be investigated or ad-
2 dressed.

3 (C) PETITION.—

4 (i) IN GENERAL.—Any person, includ-
5 ing a State or local official, may submit a
6 petition referred to in subparagraph (B)(ii)
7 to the Administrator, the Administrator of
8 the Agency for Toxic Substances and Dis-
9 ease Registry, and the Director that re-
10 quests that a Response Team conduct an
11 investigation or take other action to ad-
12 dress the potential causes of disease clus-
13 ters in accordance with this title.

14 (ii) REQUIREMENTS.—Each petition
15 submitted under clause (i) shall clearly de-
16 scribe the basis for the requested investiga-
17 tion or action, including any data sup-
18 porting the request.

19 (iii) CONSIDERATION.—The Adminis-
20 trator, in consultation with the Adminis-
21 trator of the Agency for Toxic Substances
22 and Disease Registry and the Director,
23 shall establish criteria for the consideration
24 of petitions submitted under this section
25 using health-protective factors, including—

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(I) evidence of the release of environmental pollutants or toxic substances;

(II) the locations in which there appear to be potentially significant health threats from the potential causes of disease clusters;

(III) cases in which existing data appear to be inadequate to fully assess the potential risks to public health; and

(IV) such other factors as the Administrator determines are necessary.

(iv) RESPONSE.—Not later than 60 days after the date of receipt of a petition under clause (iii), the Administrator, in consultation with the Administrator of the Agency for Toxic Substances and Disease Registry and the Director, shall provide a written response that describes—

(I) the investigation or actions that will be undertaken in response to the petition, including the timeline

16

1 and basis for the investigation or ac-
2 tions; and

3 (II) the reasons for any denial or
4 deferral in providing such a response.

5 (v) TIMING OF ISSUANCE OF CRI-
6 TERIA.—

7 (I) IN GENERAL.—The Adminis-
8 trator, in consultation with the Ad-
9 ministrator of the Agency for Toxic
10 Substances and Disease Registry and
11 the Director, shall provide for public
12 notice of draft criteria established
13 under this subparagraph for a period
14 of not less than 60 days.

15 (II) FINAL CRITERIA.—Not later
16 than 1 year after the date of enact-
17 ment of this Act, the Administrator,
18 in consultation with the Administrator
19 of the Agency for Toxic Substances
20 and Disease Registry and the Direc-
21 tor, shall publish in the Federal Reg-
22 ister final criteria required under this
23 subparagraph.

24 (4) USE OF PUBLICLY AVAILABLE REPORTS.—
25 Response Team investigations and actions shall—

17

1 (A) include publicly available reports pre-
2 pared by the Response Team that contain state-
3 ments of facts, findings, and recommendations
4 for actions, to the extent appropriate; and

5 (B) be prepared in a manner that pre-
6 serves the confidentiality of individuals.

7 (5) TRANSPARENCY AND ACCOUNTABILITY.—
8 Response Team activities shall include measures to
9 ensure—

10 (A) transparency and accountability to po-
11 tentially affected individuals, State and local of-
12 ficials, the public, and other persons and agen-
13 cies, while preserving the confidentiality of indi-
14 viduals;

15 (B) that consistent, accurate, and mean-
16 ingful information is provided to potentially af-
17 fected individuals, State and local officials, the
18 public, and other persons and agencies through
19 the use of comprehensive, community-based
20 communications plans; and

21 (C) accountability to meeting goals and
22 timetables.

23 (6) DATABASE.—

24 (A) IN GENERAL.—The Administrator, in
25 consultation with the Administrator of the

18

1 Agency for Toxic Substances and Disease Reg-
2 istry, the Secretary, and the Director, shall
3 compile and regularly update information in a
4 comprehensive electronic database that—

5 (i) is publicly accessible through the
6 Internet;

7 (ii) provides a centralized location for
8 information relating to—

9 (I) disease cluster reports and in-
10 vestigations;

11 (II) environmental pollutants or
12 toxic substances that are associated
13 with suspected or potential disease
14 clusters;

15 (III) illnesses associated with
16 suspected or potential disease clusters,
17 including locally generated informa-
18 tion;

19 (IV) systematic tracking of envi-
20 ronmental pollutants or toxic sub-
21 stances and illnesses associated with
22 suspected or potential disease clusters;

23 (V) actions to help address the
24 potential causes of disease clusters;
25 and

19

1 (VI) any other information that
2 the Administrator determines to be
3 necessary; and

4 (iii) facilitates the rapid reporting and
5 analysis of information described in clause
6 (ii).

7 (B) CONFIDENTIALITY.—A database de-
8 scribed in subparagraph (A) shall be main-
9 tained in a manner that preserves the confiden-
10 tiality of individuals.

11 (c) COMMUNITY DISEASE CLUSTER ADVISORY COM-
12 MITTEES.—

13 (1) IN GENERAL.—The Administrator shall es-
14 tablish Community Disease Cluster Advisory Com-
15 mittees to provide oversight, guidance, and advice
16 relating to—

17 (A) the investigation of suspected and po-
18 tential disease clusters;

19 (B) the investigation of environmental pol-
20 lutants or toxic substances associated with sus-
21 pected or potential disease clusters;

22 (C) the investigation of potential causes of
23 disease clusters;

24 (D) efforts to address the potential causes
25 of disease clusters; and

20

1 (E) the most effective means of ensuring
2 outreach to and involvement of community
3 members.

4 (2) MEMBERSHIP.—Membership on Community
5 Disease Cluster Advisory Committees shall be com-
6 prised of representatives that include—

7 (A) individuals who are or may be im-
8 pacted by a suspected or potential disease clus-
9 ter, and the designee of such an individual who
10 may participate with or in the place of such an
11 individual;

12 (B) State or local government health or
13 environmental agencies;

14 (C) at least 2 individuals, appointed by the
15 Administrator in consultation with the Adminis-
16 trator of the Agency for Toxic Substances and
17 Disease Registry and the Director, with dem-
18 onstrated knowledge of the activities described
19 in paragraph (1); and

20 (D) other appropriate individuals, as deter-
21 mined by the Administrator, in consultation
22 with the Administrator of the Agency for Toxic
23 Substances and Disease Registry and the Direc-
24 tor.

21

1 (3) PROHIBITION.—No member of a Committee
2 may have any direct or indirect conflict of interest.

3 (4) TECHNICAL ASSISTANCE.—

4 (A) IN GENERAL.—The Administrator, in
5 consultation with the Administrator of the
6 Agency for Toxic Substances and Disease Reg-
7 istry and the Director, may make grants avail-
8 able to any group of individuals that may be af-
9 fected by a suspected or potential disease clus-
10 ter.

11 (B) USE OF FUNDS.—Grants made avail-
12 able under subparagraph (A) may be used to
13 facilitate active involvement in all aspects of
14 Committee activities and to assist Committee
15 members in obtaining technical assistance in in-
16 terpreting information with regard to—

17 (i) the investigation of—

18 (I) suspected or potential disease
19 clusters;

20 (II) environmental pollutants or
21 toxic substances that are associated
22 with suspected or potential disease
23 clusters; and

24 (III) the potential causes of dis-
25 ease clusters;

22

1 (ii) addressing the potential causes of
2 disease clusters;

3 (iii) understanding the health con-
4 cerns associated with suspected or poten-
5 tial disease clusters; and

6 (iv) understanding other scientific and
7 technical issues relating to the activities of
8 a Regional Response Team and Commu-
9 nity Disease Cluster Advisory Committee,
10 including the potential need for and inter-
11 pretation of any biomonitoring of individ-
12 uals in the area.

13 (d) ENVIRONMENTAL RESEARCH AND ANALYSIS.—

14 The Administrator, in consultation with the Administrator
15 of the Agency for Toxic Substances and Disease Registry,
16 the Secretary, and the Director, shall use available au-
17 thorities and programs to compile, research, and analyze
18 information generated by actions authorized under this
19 section, including by—

20 (1) using those authorities to test environ-
21 mental pollutants or toxic substances identified
22 under subsection (b)(6); and

23 (2) incorporating environmental pollutants or
24 toxic substances identified under subsection (b)(6) in
25 appropriate national biomonitoring initiatives.

1 **SEC. 205. FEDERAL REPORTS TO CONGRESS.**

2 (a) **IN GENERAL.**—Not later than 1 year after the
3 date of enactment of this Act and annually thereafter, the
4 Administrator, in consultation with the Administrator of
5 the Agency for Toxic Substances and Disease Registry,
6 the Secretary, and the Director, shall prepare a report
7 that describes—

8 (1) the status of activities under this title to in-
9 vestigate and address the suspected and potential
10 causes of disease clusters;

11 (2) environmental pollutants or toxic substances
12 that are associated with suspected or potential dis-
13 ease clusters;

14 (3) the potential causes of disease clusters; and

15 (4) ways to address the potential causes of
16 those disease clusters.

17 (b) **REQUIREMENTS.**—The report shall include a de-
18 scription of—

19 (1) outreach activities to State and local offi-
20 cials and communities;

21 (2) actions that the Administrator has taken to
22 prioritize the testing of environmental pollutants or
23 toxic substances;

24 (3) actions that the Administrator has taken to
25 include environmental pollutants or toxic substances

24

1 identified under section 204(b)(7) in appropriate na-
2 tional biomonitoring initiatives;

3 (4) actions that the Administrator is taking or
4 plans to take to address problems in implementing
5 this title;

6 (5) actions that the Secretary is taking or plans
7 to take to address problems in implementing this
8 title;

9 (6) actions that the Administrator of the Agen-
10 cy for Toxic Substances and Disease Registry has
11 undertaken or is considering taking with respect to
12 any disease clusters under subparagraphs (D) and
13 (E) of section 104(i)(1) of Comprehensive Environ-
14 mental Response, Compensation, and Liability Act
15 (42 U.S.C. 9604(i)(1)) and other provisions of that
16 section;

17 (7) actions that the Director is taking or plans
18 to take to address problems in implementing this
19 title; and

20 (8) other relevant information.

21 (c) SUBMISSION AND AVAILABILITY.—The Adminis-
22 trator shall—

23 (1) submit the report under this subsection
24 to—

25

1 (A) the Committees on Environment and
 2 Public Works and Health, Education, Labor,
 3 and Pensions of the Senate; and

4 (B) the Committee on Energy and Com-
 5 merce of the House of Representatives; and

6 (2) make the report available to the public.

7 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums
 9 as are necessary to carry out this title.

10 **SEC. 207. EFFECT ON OTHER LAW.**

11 Nothing in this title modifies, limits, or otherwise af-
 12 fects the application of, or obligation to comply with, any
 13 law, including any environmental or public health law.

14 **TITLE III—COMMUNITY DISEASE**
 15 **CLUSTER TECHNICAL ASSIST-**
 16 **ANCE GRANTS**

17 **SEC. 301. COMMUNITY DISEASE CLUSTER TECHNICAL AS-**
 18 **SISTANCE GRANTS.**

19 (a) IN GENERAL.—The Administrator of the Envi-
 20 ronmental Protection Agency (referred to in this title as
 21 the “Administrator”), in coordination with the Secretary
 22 of Health and Human Services (referred to in this title
 23 as the “Secretary”) may award grants in accordance with
 24 this title to any individual or group of individuals that may

26

1 be affected by a reported community-based disease clus-
2 ter—

3 (1) to pay the Federal share of the technical as-
4 sistance described in subsection (d);

5 (2) to protect public health and the environ-
6 ment;

7 (3) to promote healthy and safe environments;
8 and

9 (4) to prevent and address harmful exposures
10 to hazardous substances.

11 (b) APPLICATION.—

12 (1) IN GENERAL.—To be eligible for a grant
13 under this title, an individual or group of individuals
14 shall submit to the Administrator and the Secretary
15 an application that contains a description of the—

16 (A) need for technical assistance, including
17 the need to procure independent technical advi-
18 sors to help grant recipients interpret the infor-
19 mation described in subsection (d);

20 (B) expected outputs, including results, ef-
21 fects, or consequences that will occur from the
22 technical assistance; and

23 (C) expected outcomes, including activity,
24 effort, or associated work products that will be

27

1 produced or provided over a period of time or
2 by a specific date.

3 (2) RESPONSE.—Not later than 120 days after
4 the date on which an application is submitted under
5 paragraph (1), the Administrator and the Secretary
6 shall respond to each applicant in writing and de-
7 scribe whether the application is approved, denied,
8 or will be considered after the applicant modifies the
9 application.

10 (3) CRITERIA.—The Administrator, in coordi-
11 nation with the Secretary, shall develop criteria that,
12 if satisfied, would result in the Administrator and
13 the Secretary accepting an application submitted
14 under paragraph (1).

15 (c) AMOUNT.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), each grant awarded under this title shall
18 not exceed \$50,000.

19 (2) WAIVER.—The Administrator, in coordina-
20 tion with the Secretary, may waive the limitation de-
21 scribed in paragraph (1) if the waiver is necessary
22 to provide the technical assistance described in sub-
23 section (d).

1 (d) USE OF FUNDS.—Grants awarded under this title
2 shall be used to obtain technical assistance in interpreting
3 information regarding—

4 (1) investigating reported community-based dis-
5 ease clusters associated with 1 or more hazardous
6 chemicals;

7 (2) the potential hazardous chemicals associated
8 with a reported community-based disease cluster;

9 (3) providing individuals or groups of individ-
10 uals with community-based tools to educate the indi-
11 viduals on the mitigation of hazardous chemicals as-
12 sociated with reported community-based disease
13 clusters; or

14 (4) other scientific and technical issues related
15 to reported community-based disease clusters.

16 (e) NUMBER OF GRANTS.—No individual or group of
17 individuals shall be awarded more than 1 grant under this
18 title.

19 (f) NON-FEDERAL SHARE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the non-Federal share for each grant
22 awarded under this title is 20 percent.

23 (2) WAIVER.—The Administrator, in coordina-
24 tion with the Secretary, may waive the non-Federal
25 share described in paragraph (1) if—

1 (A) the recipient of the grant demonstrates
2 financial need; and

3 (B) the waiver is necessary to provide the
4 technical assistance described in subsection (d).

5 (g) RENEWAL OF GRANT.—

6 (1) IN GENERAL.—Any grant awarded under
7 this title may be renewed to facilitate technical as-
8 sistance to any group of individuals that may be af-
9 fected by a reported community-based disease clus-
10 ter.

11 (2) CONDITIONS.—Each renewal of a grant
12 awarded under this title is subject to the same con-
13 ditions that apply to an initial grant.

14 (h) REPORTS.—Any recipient of a grant awarded
15 under this title shall submit to the Administrator and the
16 Secretary a report that describes the progress in address-
17 ing the needs and achieving the outputs and outcomes de-
18 scribed in subsection (b).

19 **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

20 For each of fiscal years 2016 through 2021, there
21 are authorized to be appropriated to the Administrator
22 and the Secretary from any funds made available to the
23 Administrator and the Secretary for the purpose of pro-
24 viding community members with technical assistance and
25 engagement on environmental health issues from the Haz-

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1 ardous Substance Superfund established under section
2 9507 of the Internal Revenue Code of 1986 such sums
3 as are necessary to carry out section 301.

Senator BOXER. I have a statement to make before I vote, if you don't mind.

Senator INHOFE. That will be fine, if you want to be recognized for a statement, you can be recognized.

Senator BOXER. I surely do, after all that.

Let me say, Senators, the fact of the matter is that the original bill that we had hearings on is gone, it is away, it is dead and gone. I am very appreciative of that. The bill that is before us in the form of a Vitter substitute was subjected to a lot of negotiations. And I thank my colleagues who were in on those for making it better.

I particularly thank the groups out there, the public health organizations, who were so strong that it forced the negotiations into a much better place than a lot of us thought they would go.

Having said that, I will be specific again about what is so much better about this bill. There is no more preemption of State air and water laws. There is co-enforcement, that has been fixed. And a harmful provision that would have stopped the importation of dangerous chemicals, that has been fixed. These are fixes.

The preemption question is still not fixed. We had a chance to vote on the Shimkus preemption which would have stopped the Federal Government from preempting the State until the EPA actually banned a chemical, and it was voted down by the Republicans. Let's be clear; Republicans voted almost unanimously against anything with one or two exceptions.

And so there is no secret than when and if this bill comes to the floor or in a conference or wherever it goes from here, it will face a tremendous number of amendments. I have 27; I only offered 3. And I will be bringing those out. And I will stand on my feet until I can't stand on my feet anymore, because I refuse to bend in the face of serious problems in a bill that is said to fix a broken law.

Now, I ask unanimous consent to place into the record letters and statements from organizations that oppose this Vitter substitute. They include: Safer Chemicals; Healthy Families Coalition, which represents 450 environmental, labor and public health groups; the Asbestos Disease Awareness Organization; the AFL-CIO; the Environmental Working Group; the Breast Cancer Fund; the Center for Environmental Health. So if anybody thinks this fight is over, it is just beginning. Because once we bring this to the floor, we will have a number of us and others not on this committee who are going to file perfecting amendments.

But I do say, again, to everybody, we got rid of a horrible bill. It is gone. We have a bill that makes progress. And we will continue to work on it until it really protects the people who are hurting, who are losing family members, 10,000 a year, who are losing children with bone cancer and everything else.

You know, one time in my career, people said, Barbara Boxer, you are just too emotional. And you know what I said to them? You know what I said to them? If you don't feel emotional when faced with a widow, there is something wrong with you. I urge a no vote.

Senator SANDERS. Mr. Chairman.

Senator INHOFE. Yes, Senator Sanders.

Senator SANDERS. Let me concur with Senator Boxer and thank her very much for something that she obviously feels correctly very, very strongly about.

Bottom line is that what we are voting on now is a much better bill than what we started with, and I applaud all those on both sides of the aisle who have made it a much better bill. But when you are dealing with an issue of toxins killing our children and causing massive health issues in our country, we have to go further than that. We have to have the courage to stand up to the chemical industry and do right by our people.

So we have made progress. We still have a long way to go. And I look forward to working with Senator Boxer and others as we get to the floor. Thank you.

Senator INHOFE. Senator Vitter.

Senator VITTER. Mr. Chairman, first of all, I want to commend Senator Boxer for her emotion and say that I think we all share it. We don't show it the same way, perhaps, but we share it. We are focused on those situations. That is why I am going to be voting yes to do what is long overdue to come together and actually pass a strong, necessary updating of TSCA, one that will empower the EPA to protect public health and safety and also keep America as an innovation leader in ways that further and enhance all of our lives.

I want to thank everybody involved in this process, including Senator Udall on the Democratic side who has been a great lead and all of his colleagues on the Democratic side, including the three who have just joined us yesterday. I very much look forward to going to the floor and getting this done.

Thank you, Mr. Chairman.

[The prepared statement of Senator Cardin follows:]

U.S. Senator Benjamin L. Cardin
Statement on S. 697
Senate Environment and Public Works Committee
Tuesday, April 28, 2015

I would like to take a moment to thank Senators Udall and Vitter for reaching across the aisle to try to come to an agreement and improve our nation's toxics law.

The Toxic Substances Control Act, or TSCA, is our nation's preeminent toxics law, and it is badly broken. TSCA is the law which ostensibly allows the EPA to test and regulate chemicals to protect public health. Except it that it simply doesn't. In fact, the current law makes it nearly impossible for the EPA to protect people from chemicals that they know to be harmful, even cancer causing.

In 1976 when TSCA was first enacted, there were 62,000 chemicals on the market. Those chemicals were all simply deemed safe and grandfathered in--and allowed to be in our homes and schools and workplaces and cars and clothes and toys and pacifiers and the containers from which we eat and drink and in which we microwave our food--without testing by either the EPA or the manufacturers themselves. Since then, 22,000 chemicals have been introduced to the market and EPA has tested only 200, and has only partially regulated--not banned--only 5: PCBs, CFCs, dioxin, asbestos, and hexavalent chromium.

Clearly, TSCA needs to be reformed, but any changes must be both meaningful and robust.

I therefor want to thank Senators Whitehouse, Merkley, and Booker for their tireless work over the last two months to make the original bill more protective of the public's health. I commend them for their work, and I very much support the improvements made in the Manager's Amendment before us today. I am happy for the inclusion of a state coenforcement provision in the manager's amendment, meaning that states will be able to enforce any chemical restrictions that the EPA sets under TSCA. This is something I spoke about in the last hearing and I'm glad to see it was included in their agreement.

I would also like to thank Senator Boxer, for her leadership on this issue and for recognizing that we can do better. While I am pleased with the state coenforcement provision, the bill we are taking up today does not allow the states to go past the regulations set in place by the EPA. I'm concerned about hamstringing the states when it comes to protecting their citizens. As Brian Frosh, Attorney General of the State of Maryland testified in last month's hearing, this is an important power for the states to have and this bill represents the "near evisceration of state authority to regulate toxic chemicals." As Maryland is a leader in protecting our citizens from the harms of chemicals we know to be toxics but that the EPA has failed to regulate, any bill must include a strong role for the states.

I am also still very concerned with the safety standard as set forth in the bill today. The Manager's Amendment clarifies that EPA may not consider cost when it decides which chemicals they would like to review. I would still prefer the standard of "reasonable certainty of no harm." This is the standard applied to pesticides and we have a judicial track record of what this standard means. As Jim Jones, Assistant Administrator in the Office of Chemical Safety and Pollution Prevention at the EPA testified in the hearing in March, we have no solid record for the "unreasonable risk" standard. I don't want to guess what the courts will do when this law is challenged, as it certainly will be challenged.

Finally, I am concerned with how this bill treats so-called Low Priority chemicals. These are chemicals that the EPA has deemed without any testing as "likely to meet the safety standard." Given a low priority designation, these chemicals may never be revisited again. While the Manager's Amendment before us today allows citizens the ability to challenge a low priority designation in the courts, it is simply not enough.

Because of these reasons, I hope this bill will be further improved as it proceeds through the legislative process.

Senator INHOFE. There is a motion and a second to accept the substitute amendment and report it favorably to the floor. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator BARRASSO. Aye.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. Aye.

The CLERK. Mrs. Boxer.

Senator BOXER. No.

The CLERK. Mrs. Capito.

Senator CAPITO. Aye.

The CLERK. Mr. Cardin.

Senator BOXER. No by proxy.

The CLERK. Mr. Carper.

Senator CARPER. Aye.

The CLERK. Mr. Crapo.

Senator CRAPO. Aye.

The CLERK. Mrs. Fischer.

Senator INHOFE. Aye by proxy.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. No.

The CLERK. Mr. Markey.

Senator MARKEY. No.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator ROUNDS. Aye.

The CLERK. Mr. Sanders.

Senator SANDERS. No.

The CLERK. Mr. Sessions.

Senator INHOFE. Aye by proxy.

The CLERK. Mr. Sullivan.

Senator SULLIVAN. Aye.

The CLERK. Mr. Vitter.

Senator VITTER. Aye.

The CLERK. Mr. Whitehouse.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Wicker.

Senator INHOFE. Aye by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. Aye.

The CLERK. Mr. Chairman, the yeas are 15, the nays are 5.

Senator INHOFE. The legislation is reported favorably to the Senate.

Let me make one comment. I haven't made many comments. But I think we are witnessing now why sometimes things don't get done. There is not a person in this room who doesn't think that the old 40-year-old legislation needs to be changed. We have been working on this bill for 2 years. Senator Lautenberg was working on it for about 10 years before that. Everyone agreed it should be done, but it wasn't because it is complicated. You can always find objections to anything that is complicated.

So I am thankful that that is behind us, and we will now proceed to consideration of S. 544 and recognize the Senator from Wyoming, Senator BARRASSO.

Senator BARRASSO. Thank you very much, Mr. Chairman. I appreciate that S. 544, the Secret Science Reform Act, has been placed on this markup. As you know, the House Science Committee has held extensive hearings on the House version of this bill. The bill has passed on the House floor with bipartisan support. I am pleased that we are now considering this legislation here today.

I also want to thank the members of this committee who are original co-sponsors of the bill, namely, Senator Vitter, yourself, Mr. Chairman, as well as Senator Crapo and Senator Fischer. What this bill is trying to accomplish is to ensure that we strengthen the scientific information the EPA uses to make regulations, guidance and assessments. The EPA has a long history of relying on science that was not created by the agency itself. This often means that the science is not available to the public and therefore cannot be reproduced and verified.

As a doctor, I know that the better data and research is the kind that is transparent, publicly available and reproducible. This legislation accomplishes all of these points, and it gives the EPA the gold standard set by modern scientific journals and even by the Obama administration's stated policy. In fact, Dr. John Holdren, the President's own science advisor, stated in June 2012 that "Absolutely, the data on which regulatory decisions and other decisions are based should be made public. Once enacted, the EPA will benefit from a better process to strengthen the research and data that is the basis of their regulations, their guidance and their assessments. By improving their scientific process, the EPA will enhance the confidence that the public and policymakers will have in the agency. The agency's policies must provide the environmental and public health benefits that the EPA has promised."

Under this legislation, the EPA can propose, finalize or disseminate regulations, guidance or assessments based only upon science that is transparent, publicly available and reproducible.

Critics have claimed that the bill would allow for personal and confidential health information to be released to the public. This bill ensures that there will be no public dissemination of information that is prohibited by law, such as personal health information. As a matter of fact, the Congressional Research Service stated in March of this year that "Certain statutes, such as the Freedom of Information Act and the Privacy Act, address what information the Federal Government is required or permitted to disclose." The Congressional Research service went on to say that the Secret Science bill "would be implemented in the context of these statutes."

In addition, once again, as a doctor, I know that medical researchers code personal health information to protect patient confidentiality.

Finally, let me say that this bill is not a burden on the EPA. It does not apply retroactively to past EPA actions. It only applies to new actions. Many scientific experts and former EPA officials have stated the EPA can accomplish these requirements without imposing burdens. This bill does not require EPA to collect or dissemi-

nate information. It simply tells the agency to rely only on the best publicly available science.

So I encourage my colleagues to support strengthening the EPA's regulatory process so that the public can have the assurance that the EPA's regulations, guidances and assessments will provide the environmental and health benefits that they have been promised.

Thank you, Mr. Chairman.

[The text of S. 544 follows:]



114TH CONGRESS
1ST SESSION

S. 544

To prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2015

Mr. BARRASSO (for himself, Mr. VITTER, Mr. INHOFE, Mr. CRAPO, Mrs. FISCHER, Mr. RISCH, Mr. ENZI, and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secret Science Reform
5 Act of 2015”.

1 **SEC. 2. DATA TRANSPARENCY.**

2 Section 6(b) of the Environmental Research, Devel-
3 opment, and Demonstration Authorization Act of 1978
4 (42 U.S.C. 4363 note) is amended to read as follows:

5 “(b)(1) The Administrator shall not propose, finalize,
6 or disseminate a covered action unless all scientific and
7 technical information relied on to support such covered ac-
8 tion is—

9 “(A) the best available science;

10 “(B) specifically identified; and

11 “(C) publicly available online in a manner that
12 is sufficient for independent analysis and substantial
13 reproduction of research results.

14 “(2) Nothing in the subsection shall be construed
15 as—

16 “(A) requiring the Administrator to disseminate
17 scientific and technical information; or

18 “(B) superseding any nondiscretionary statu-
19 tory requirement.

20 “(3) In this subsection—

21 “(A) the term ‘covered action’ means a risk, ex-
22 posure, or hazard assessment, criteria document,
23 standard, limitation, regulation, regulatory impact
24 analysis, or guidance; and

25 “(B) the term ‘scientific and technical informa-
26 tion’ includes—

1 “(i) materials, data, and associated proto-
2 cols necessary to understand, assess, and ex-
3 tend conclusions;

4 “(ii) computer codes and models involved
5 in the creation and analysis of such informa-
6 tion;

7 “(iii) recorded factual materials; and

8 “(iv) detailed descriptions of how to access
9 and use such information.

10 “(4) The Administrator shall carry out this sub-
11 section in a manner that does not exceed \$1,000,000 per
12 fiscal year, to be derived from amounts otherwise author-
13 ized to be appropriated.”.

○

Senator BOXER. Mr. Chairman.

Senator INHOFE. Thank you, Senator Barrasso. I am going to comment also that this bill is essentially the same as the House bill that passed by an overwhelming bipartisan majority. One of my close friends, Lamar Smith, who is the author of that bill, it is one that is very, very meaningful to most of us.

Senator Boxer.

Senator BOXER. Yes, I am going to yield most of my time to Senator Markey. I want to make a point, though. We just voted a bill that everyone on the Republican side says, oh, we are going to give the EPA all this authority, take authority away from the States, and at the same time now, we take away the ability for the EPA to use science. This is insane. It is just a joke. And it costs a billion dollars.

This is the deal. My friends who are so fiscally responsible, according to the CBO, complying with the requirements of this bill will cost a billion just over the next 4 years. But the bill provides only a million a year for EPA. This is a joke. And I know I speak for every single Democrat on this side. We are appalled at this bill, and we are going to really make it hard to you to get this on the floor.

But move forward. And I would yield the rest of my time to Ed Markey.

Senator MARKEY. I thank you. I thank the Ranking Member.

Senator INHOFE. Senator Sanders is seeking recognition.

Senator SANDERS. Thank you, Mr. Chairman. Let me quote from the letter from the president of the American Association for the Advancement of Science. She writes, "I am writing on behalf of the American Association for the Advancement of Science, the world's largest general scientific society, to express deep concerns about the impact of this legislation." We have another letter from the Allergy and Asthma Network, the American College of Preventive Medicine, the American Lung Association, the American Public Health Association, the American Thoracic Society, Health Care Without Harm, National Association of County and City Health Officials, National Association for the Medical Direction of Respiratory Care, Trust for America's Health. They urge a no vote on this legislation.

Now, with all due respect to my good friend, Senator Barrasso, and Senator Inhofe, both are good friends, you represent a political party which overwhelmingly rejects what the vast majority of scientists are telling us about the most important environmental crisis facing humanity, and that is climate change. And in fact, all over this country and all over the world, the Republican party is perceived to be an anti-science party. And now you are coming before this committee and saying, we should tell the leading scientists of the world how they should do science based on the fact that we, Republicans, most, not all, have rejected the overwhelming amount of scientific evidence on a key scientific issue, which is global warming.

So I would quote what Senator Boxer said. This is kind of laughable, and I would urge a strong no on this vote.

Senator INHOFE. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman. I have a number of concerns about the Secret Science Reform Act of 2015. First, it is obviously ironic that a bill that claims to reform science allegedly done in secret would not get the benefit of a hearing in the U.S. Senate before we would be marking it up. Just as science benefits from transparency, so does legislating. And that is why the Democratic members of the committee joined with Senator Boxer and me in sending the chairman a letter requesting that this controversial bill have a hearing before we mark it up.

Good legislative process is similar to the scientific method every elementary school student learns. You ask a question, then you gather data to investigate a possible answer, and finally you reach a conclusion. But now we are considering a legislative conclusion before we have done the legislative investigation.

And even while we are considering this conclusion today, I am told that this committee is planning to hold a hearing on EPA science next month taking this bill up now before there is a hearing does not make any sense. Without a hearing we are left to grapple with deciphering bill language that appears to dramatically change what data and scientific research the EPA can use in fulfilling its mission to protect public health and welfare. The Congressional Budget Office estimated that the effect of this bill would be to cut in half the number of studies EPA would use to inform its actions.

Our Nation's environmental laws have succeeded over the years because EPA is required to use the best available science. This bill would force them to use whatever science was available after legal challenges generated from the broad language of this legislation.

Instead of enabling the EPA to keep improving the clean air and water protections that benefit all of us, this bill protects polluters by effectively limiting what information EPA can use to inform its work. For example, the requirement that information be publicly available online will preclude confidential industry data from being used to inform EPA's actions. It would also keep most health studies which use personal health data from being used.

Health studies would face another challenge on the language on reproduction of research results. Many health studies involve information from a large number of people gathered over years and even decades. Waiting for a decade to reproduce results about the health impacts of air pollution would just mean more kids with asthma and more illnesses that could have been avoided.

EPA would also lose the ability to use information that was developed from one-time events like toxic air pollution releases and oil spills. We should want EPA to learn from the results of using dispersants during the BPA oil spill in the Gulf of Mexico. This bill would prevent that.

Science should be at the foundation of health and environmental policymaking. Transparency and reproducibility are fundamental to good science and the peer review process and deserve our attention.

I have been working for years to create and improve the public registry of clinical trials that is now maintained by the National Institutes of Health, for example. It provides an additional way for researchers and the public to review health research while protecting the individual participants of those studies.

We should be working to strengthen the scientific information EPA uses to protect public health and improve air and water quality, not limiting it as this bill does. To paraphrase my Republican colleagues, this is something that absolutely does not require not science, not silence that will in fact inhibit legitimate intellectual and scientific inquiry, but in fact, in my opinion, this debate should be about how we have more openness, how we ensure that this process is aired out so that the decisions which we are about to make would be those based upon the information which we need.

And I will have two appropriate amendments to make in order to correct that at the appropriate time in this process. And I yield back.

Senator INHOFE. And I would advise the Senator, the appropriate time is here. Do you seek recognition for an amendment?

Senator MARKEY. I do seek recognition, and I would like to offer Markey Amendment No. 1.

Senator INHOFE. Markey Amendment No. 1. You are recognized.

Senator MARKEY. I thank you, and I would like to, I am offering this with Senator Boxer, and co-sponsored by Senator Whitehouse.

This amendment would change the criteria for scientific and technical information by striking the language that effectively limits what information EPA can use to inform its work and replaces it with a requirement that the funding sources of the information be made publicly available. The language my amendment strikes would restrict the information EPA could use in a number of ways, as I outlined in my earlier statement.

My amendment would replace this problematic language with a requirement that the funding sources of the information the EPA uses be made publicly available. Disclosure of funding relationships leads to the open debate that is necessary for responsible rule-making. For example, the Journal of the American Medical Association, the American Meteorological Society, and the American Geophysical Union require the disclosure of funding sources and potential conflicts of interest.

Companies and organizations funding legitimate intellectual and scientific inquiry to use the term Republican colleagues have used previously should have no trouble in disclosing their financial support. This is a common sense amendment that would fix major problems in the underlying bill and add additional requirements that would improve transparency of information that EPA uses to make its decisions.

I urge an aye vote.

[The text of Markey-Boxer Amendment No. 1 follows:]

1 Purpose: To require the disclosure of funding sources for scientific and technical information
2 submitted to the Environmental Protection Agency.
3
4

5 S. 544
6

7 To prohibit the Environmental Protection Agency from
8 proposing, finalizing, or disseminating regulations or
9 assessments based upon science that is not transparent or
10 reproducible.
11

12 Referred to the Committee on Environment and Public Works
13 and ordered to be printed

14 Ordered to lie on the table and to be printed

15 AMENDMENT INTENDED TO BE PROPOSED BY MR. MARKEY AND
16 MRS. BOXER

17 Viz:

18 On page 2, strike lines 11 through 13 and insert the following:

19 "(C) funded by sources that are made publicly available.

Senator INHOFE. Thank you.

Senator BARRASSO.

Senator BARRASSO. Thank you very much, Mr. Chairman. I oppose the Markey Amendment No. 1. This amendment would strike the most important provision of the bill, the provision that requires the EPA to rely on scientific and technical information that is publicly available online in a manner that is sufficient for independent analysis and insert a requirement that EPA rely on information that is "funded by sources that are made publicly available."

This amendment completely defeats the purpose of the bill, which is to ensure that EPA actions are based on the best publicly available science that can be verified by independent experts. I strongly recommend a no vote.

Mr. Chairman, it is interesting, because the distinguished Senator from Massachusetts talked about wanting to clear the air. But virtually all the Clean Air regulations under the Obama administration have been justified by data collected over 30 years ago, over 30 years ago, which has been withheld from the public and cannot be replicated. That is the problem here, Mr. Chairman, so I would recommend a no vote.

Senator INHOFE. Is there a motion on the Markey Amendment No. 1?

Senator BOXER. So moved.

Senator INHOFE. Is there a second?

Senator GILLIBRAND. Second.

Senator INHOFE. Is a roll call required? The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator BARRASSO. No.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Crapo.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Fischer.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator ROUNDS. No.

The CLERK. Mr. Sanders.

Senator SANDERS. Aye.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator SULLIVAN. No.

The CLERK. Mr. Vitter.

Senator INHOFE. No by proxy.

The CLERK. Mr. Whitehouse.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Wicker.

Senator WICKER. No.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 9, the nays are 11.

Senator INHOFE. Having failed to receive a majority, the amendment is not agreed to.

Other amendments? Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman. Amendment No. 2.

Senator INHOFE. Senator Markey, Amendment No. 2. You are recognized.

Senator MARKEY. I thank you, Mr. Chairman, very much. And I offer this amendment as well with Senator Boxer and Senator Whitehouse. This amendment is simple. It adds a new section to the bill to ensure that the Administrator of the Environmental Protection Agency can continue to consider and rely upon peer reviewed scientific publications. Peer review is the foundation of modern science. It is a self-correcting process that has helped to advance science, technology and public health in America and around the world.

As Republican colleagues wrote in February, "The credibility of a scientific finding, research paper, report of advancement should be weighed on its compliance with the scientific method and ability to meet the principles of sound science. In short, it should be weighed on the merits."

I agree with that. That is why the EPA Administrator should be encouraged to rely on peer-reviewed science, which by definition has been weighed on its merits. The EPA Administrator should be able to continue using the best and most current peer-reviewed science to inform the critical role for the EPA. I urge a yes vote on my amendment.

[The text of Markey-Boxer Amendment No. 2 follows:]

1 Purpose: To ensure the use of best available science.

2

3

4 S. 544

5

6 To prohibit the Environmental Protection Agency from
7 proposing, finalizing, or disseminating regulations or
8 assessments based upon science that is not transparent or
9 reproducible.

10

11 Referred to the Committee on Environment and Public Works
12 and ordered to be printed

13 Ordered to lie on the table and to be printed

14 AMENDMENT INTENDED TO BE PROPOSED BY MR. MARKEY AND
15 MRS. BOXER

16 Viz:

17 On page 3, after line 13, add the following:

18 **SEC. 3. ENSURING THE USE OF THE BEST AVAILABLE**
19 **SCIENCE.**

20 Nothing in this Act or the amendments made by this Act shall prevent the Administrator of the
21 Environmental Protection Agency from considering or relying on any peer-reviewed scientific
22 publication, even if the publication is based on data that is prohibited from public disclosure.

Senator INHOFE. Senator Barrasso.

Senator BARRASSO. Thank you, Mr. Chairman.

Mr. Chairman, I will speak in opposition to Markey Amendment No. 2. This amendment would add a provision to the bill allowing the EPA to use information in peer-reviewed literature, even if publication is based on data that is prohibited from public disclosure. This amendment completely defeats the purpose of the bill, which is to ensure that EPA actions are based on the best publicly available science that can be verified by independent experts.

But by stating that nothing in the Act prevents the EPA from considering or relying on any peer-reviewed science, the amendment seems to imply that the underlying bill would otherwise do so. EPA, through its implementation of the Information Quality Act, is already required to rely on peer-reviewed information. Nothing in this bill changes that.

What the bill would accomplish and what this amendment would undermine is to ensure that the science the EPA relies on is transparent and verifiable to a much greater degree than peer review allows. Peer review alone is not a sufficient check. One of the problems leading to this bill is the EPA relies on peer-reviewed studies where the peer reviewer did not even have access to the underlying data.

The simple premise behind the bill is that public policy should be based on information that is public. You take a look at peer review alone, it doesn't provide the necessary level of transparency or opportunity to allow independent scientists to verify the work that the EPA relies on.

For this reason, I urge a no vote on the amendment.

Senator INHOFE. Is there a motion?

Senator MARKEY. I so move. Will you call the yeas and nays, please?

Senator INHOFE. Is there a second?

Senator BOXER. Yes, second.

Senator MARKEY. And I ask for a recorded vote.

Senator INHOFE. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator BARRASSO. No.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Crapo.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Fischer.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.
 The CLERK. Mr. Markey.
 Senator MARKEY. Aye.
 The CLERK. Mr. Merkley.
 Senator BOXER. Aye by proxy.
 The CLERK. Mr. Rounds.
 Senator ROUNDS. No.
 The CLERK. Mr. Sanders.
 Senator BOXER. Aye by proxy.
 The CLERK. Mr. Sessions.
 Senator INHOFE. No by proxy.
 The CLERK. Mr. Sullivan.
 Senator SULLIVAN. No.
 The CLERK. Mr. Vitter.
 Senator INHOFE. No by proxy.
 The CLERK. Mr. Whitehouse.
 Senator BOXER. Aye by proxy.
 The CLERK. Mr. Wicker.
 Senator WICKER. No.
 The CLERK. Mr. Chairman.
 Senator CARPER. Mr. Chairman, I would like to vote yes in person. Aye.
 Senator INHOFE. You are so recorded.
 The CLERK. Mr. Chairman.
 Senator INHOFE. No.
 The CLERK. Mr. Chairman, the yeas are 9, the nays are 11.
 Senator INHOFE. The amendment failed to receive a majority.
 Markey Amendment No. 2 is defeated.
 Other amendments?
 Senator BOXER. Yes, if I might.
 Senator INHOFE. Senator Boxer.
 Senator BOXER. I would call up Boxer-Markey Amendment No. 2, which would add a new section to the bill to ensure that EPA and others are not censored from using terms commonly found in peer-reviewed scientific literature in official documents and presentations.
 [The text of Boxer-Markey Amendment No. 2 follows:]

EDW15373

S.L.C.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prevent censorship of publicly funded science.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.**S. 544**

To prohibit the Environmental Protection Agency from proposing, finalizing, or disseminating regulations or assessments based upon science that is not transparent or reproducible.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

- 1 On page 3, after line 13, add the following:
- 2 **SEC. 3. PREVENTING CENSORSHIP OF PUBLICLY FUNDED**
- 3 **SCIENCE.**
- 4 Nothing in this Act or the amendments made by this
- 5 Act limits the ability of the Administrator of the Environ-
- 6 mental Protection Agency, any Federal official or em-
- 7 ployee, or any Federal agency to use in official documents
- 8 or presentations terms common in peer-reviewed scientific
- 9 literature describing scientific processes, including terms
- 10 relevant to—
- 11 (1) the impacts of climate change;

EDW15373

S.L.C.

2

- 1 (2) air and water pollution;
- 2 (3) exposure to toxic substances; and
- 3 (4) other risks to human health, the environ-
- 4 ment, and the economy.

Senator BOXER. We have seen some Governors around the country saying that their teams cannot, in their organization, can't use the term global warming or climate change or other phrases. I am hopeful that you will accept this by voice vote. I would take it by voice vote.

Senator INHOFE. I believe we would accept it by voice vote.

Senator BOXER. OK.

Senator INHOFE. All those in favor of the Boxer Amendment No. 2 say aye.

[Chorus of ayes.]

Senator INHOFE. Opposed, no.

[No audible response].

Senator INHOFE. The ayes clearly have it. The amendment is adopted.

Senator BOXER. Thank you.

Senator INHOFE. Other amendments?

Senator MARKEY. Mr. Chairman.

Senator INHOFE. Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman.

I was concerned about the issue that was raised earlier about the fact that we haven't had a hearing. These issues over the use of science would benefit greatly from having experts in the use of science explain to us the pros and cons of this approach, or enlighten us. The fact that we are doing this without any sort of hearing, I would just request, if it is possible, to have a unanimous consent that we set this bill aside until we have actually had testimony from experts, so that the use of science is placed into the appropriate understanding of those who know what they are talking about.

Senator INHOFE. The Chair objects.

Senator MARKEY. Thank you, Mr. Chair.

Senator INHOFE. Other amendments? If not, is there a motion?

Senator BARRASSO. Mr. Chairman, yes, I would move approval and adoption of S. 544.

Senator INHOFE. Is there a second?

Senator ROUNDS. Second.

Senator BOXER. May I be heard on this?

Senator INHOFE. You may be heard.

Senator BOXER. You know, it is rare that I say this, but this bill, I look forward to it coming to the floor, because it is going to pass, and I look forward to having debate with the Republican party on science. I think that is a definite debate that needs to be had.

Senator INHOFE. And I agree.

Senator BOXER. And I want to have a recorded vote on this. And I look forward to that debate very, very much.

[The prepared statement of Senator Cardin follows:]

U.S. Senator Benjamin L. Cardin
Statement on S. 544 the Secret Science Reform Act
Senate Environment and Public Works Committee
Tuesday, April 28, 2015

Before I discuss the troubling policy of this legislative proposal, I want express my sincere disappointment in the decision to subvert the regular order process to bring this bill before the committee for a vote at this time. It is a longstanding tradition of the Environment and Public Works Committee, which I have had the distinct privilege of serving on for the duration of my Senate career, to hold legislative hearings on legislation, particularly legislation of significant consequence or controversial subject matters, before it comes to vote in Committee. Today's vote, sadly, breaks this tradition and sets a troubling precedent for how the committee may proceed with legislation in the future.

This bill was introduced in late February. Since then the committee has held several oversight hearings, and two legislative hearings – but neither of those legislative hearings examined this bill.

Relative to the substance of the bill, the scientific study that served, at least in part, as motivation for this legislation, contained sensitive, private and confidential patient information. A researcher's commitment to protecting patient privacy in no way reasonably justifies prescribing such sweeping reforms that would exclude the use of broad swaths of important public health data from informing important public health protections.

A couple years ago EPA testified before this committee that it used data compiled by Harvard Researchers on the impacts power plants were having on public health. While the results of the study were peer reviewed and published, the researchers at Harvard refused to release the raw data because it contained private medical records of individuals affected by air pollution, and to release this data would potentially run afoul of HIPPA.

A large swath of the medical community shares my concerns about the policy implications of this bill. The American Association for the Advancement of Science, American Lung Association, American Thoracic Society, American Statistical Association, American Association for Justice, American Public Health Association, Union of Concerned Scientists, National Physicians Alliance and the International Society for Environmental Epidemiology all oppose this legislation.

S. 544 prohibits EPA from using public health studies that is based on actual patient medical records, thus making EPA's regulatory process so difficult, cumbersome and full of potential pitfalls. Let's be plain about what this bill does: it increases the administrative burden of regulation, to the tune of \$250 million annually (according to CBO estimates), as a means of preventing EPA to fulfill its legal obligation to regulate pollution. It also creates such a vast legal and operational minefield for EPA's regulatory

process that it almost guarantees legal victories for polluting industries who would challenge regulations on the basis that EPA is not complying with the complicated data qualification and disclosure process this bill prescribes.

Needless to say I don't support this measure, and given how it aims to undermine public health protection. I urge my colleagues to vote no on this measure to undermine the quality of the science informing our public health policies.

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Senator INHOFE. The Clerk will call the roll.
 The CLERK. Mr. Barrasso.
 Senator BARRASSO. Aye.
 The CLERK. Mr. Booker.
 Senator BOXER. No by proxy.
 The CLERK. Mr. Boozman.
 Senator INHOFE. Aye by proxy.
 The CLERK. Mrs. Boxer.
 Senator BOXER. No.
 The CLERK. Mrs. Capito.
 Senator CAPITO. Aye.
 The CLERK. Mr. Cardin.
 Senator BOXER. No by proxy.
 The CLERK. Mr. Carper.
 Senator CARPER. No.
 The CLERK. Mr. Crapo.
 Senator INHOFE. Aye by proxy.
 The CLERK. Mrs. Fischer.
 Senator INHOFE. Aye by proxy.
 The CLERK. Mrs. Gillibrand.
 Senator GILLIBRAND. No.
 The CLERK. Mr. Markey.
 Senator MARKEY. No.
 The CLERK. Mr. Merkley.
 Senator MERKLEY. No.
 The CLERK. Mr. Rounds.
 Senator ROUNDS. Aye.
 The CLERK. Mr. Sanders.
 Senator BOXER. No by proxy.
 The CLERK. Mr. Sessions.
 Senator INHOFE. Aye by proxy.
 The CLERK. Mr. Sullivan.
 Senator SULLIVAN. Aye.
 The CLERK. Mr. Vitter.
 Senator INHOFE. Aye by proxy.
 The CLERK. Mr. Whitehouse.
 Senator BOXER. No by proxy.
 The CLERK. Mr. Wicker.
 Senator WICKER. Aye.
 The CLERK. Mr. Chairman.
 Senator INHOFE. Aye.
 The CLERK. Mr. Chairman, the yeas are 11, the nays are 9.
 Senator INHOFE. That is a majority; S. 544 is reported favorably to the Senate.
 Now we move to the remaining legislation, the Scarano nomination and resolutions to be reported favorably to the Senate en bloc. However, before I do, does any member seek recognition on the remaining agenda items?
 Senator BOOZMAN. Mr. Chairman.
 Senator INHOFE. Senator Boozman.
 Senator BOOZMAN. Is now the time to talk about the Cardin-Boozman bill?
 Senator INHOFE. Yes.

Senator BOOZMAN. Well, first of all, I would like to thank Senator Cardin for his work on the Water Resources Research Amendment Act. Senator Cardin and I introduced this legislation last Congress. I am glad that we are working to advance it here today.

Our bill reauthorizes a program that grants to 54 established water resources research institutes in each State, territory and the District of Columbia for applied water supply research. Although this is a very small grant program, it allows Arkansas and other States to solve serious problems related to our water needs.

For example, in Arkansas, the program allows researchers at the Arkansas Water Resources Center to study how we can grow crops while using less water and lowering costs. Each Federal dollar spent must be matched with \$2 non-Federal. This is the highest match requirement of any Federal research program. As a result, this program is a cost-effective way of solving water quality and quantity problems.

Again, I appreciate Senator Cardin's work, and I am glad to join him. I also thank you, Chairman Inhofe and Ranking Member Boxer, for accommodating this bill in today's agenda. I thank you.

[The text of the Cardin-Boozman legislation follows:]



II

114TH CONGRESS
1ST SESSION

S. 653

To amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

IN THE SENATE OF THE UNITED STATES

MARCH 4, 2015

Mr. CARDIN (for himself and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Resources Re-
5 search Amendments Act of 2015”.

1 **SEC. 2. WATER RESOURCES RESEARCH ACT AMENDMENTS.**

2 (a) CONGRESSIONAL FINDINGS AND DECLARA-
3 TIONS.—Section 102 of the Water Resources Research
4 Act of 1984 (42 U.S.C. 10301) is amended—

5 (1) by redesignating paragraphs (7) through
6 (9) as paragraphs (8) through (10), respectively;

7 (2) in paragraph (8) (as so redesignated), by
8 striking “and” at the end; and

9 (3) by inserting after paragraph (6) the fol-
10 lowing:

11 “(7) additional research is required into in-
12 creasing the effectiveness and efficiency of new and
13 existing treatment works through alternative ap-
14 proaches, including—

15 “(A) nonstructural alternatives;

16 “(B) decentralized approaches;

17 “(C) energy use efficiency;

18 “(D) water use efficiency; and

19 “(E) actions to extract energy from waste-
20 water;”.

21 (b) CLARIFICATION OF RESEARCH ACTIVITIES.—Sec-
22 tion 104(b)(1) of the Water Resources Research Act of
23 1984 (42 U.S.C. 10303(b)(1)) is amended—

24 (1) in subparagraph (B)(ii), by striking “water-
25 related phenomena” and inserting “water re-
26 sources”; and

1 (2) in subparagraph (D), by striking the period
2 at the end and inserting “; and”.

3 (c) COMPLIANCE REPORT.—Section 104(c) of the
4 Water Resources Research Act of 1984 (42 U.S.C.
5 10303(c)) is amended—

6 (1) by striking “(c) From the” and inserting
7 the following:

8 “(c) GRANTS.—

9 “(1) IN GENERAL.—From the”; and

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

11 “(2) REPORT.—Not later than December 31 of
12 each fiscal year, the Secretary shall submit to the
13 Committee on Environment and Public Works of the
14 Senate, the Committee on the Budget of the Senate,
15 the Committee on Transportation and Infrastructure
16 of the House of Representatives, and the Committee
17 on the Budget of the House of Representatives a re-
18 port regarding the compliance of each funding re-
19 cipient with this subsection for the immediately pre-
20 ceding fiscal year.”.

21 (d) EVALUATION OF WATER RESOURCES RESEARCH
22 PROGRAM.—Section 104 of the Water Resources Research
23 Act of 1984 (42 U.S.C. 10303) is amended by striking
24 subsection (e) and inserting the following:

1 “(e) EVALUATION OF WATER RESOURCES RESEARCH
2 PROGRAM.—

3 “(1) IN GENERAL.—The Secretary shall con-
4 duct a careful and detailed evaluation of each insti-
5 tute at least once every 3 years to determine—

6 “(A) the quality and relevance of the water
7 resources research of the institute;

8 “(B) the effectiveness of the institute at
9 producing measured results and applied water
10 supply research; and

11 “(C) whether the effectiveness of the insti-
12 tute as an institution for planning, conducting,
13 and arranging for research warrants continued
14 support under this section.

15 “(2) PROHIBITION ON FURTHER SUPPORT.—If,
16 as a result of an evaluation under paragraph (1), the
17 Secretary determines that an institute does not qual-
18 ify for further support under this section, no further
19 grants to the institute may be provided until the
20 qualifications of the institute are reestablished to the
21 satisfaction of the Secretary.”.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—Section
23 104(f)(1) of the Water Resources Research Act of 1984
24 (42 U.S.C. 10303(f)(1)) is amended by striking
25 “\$12,000,000 for each of fiscal years 2007 through 2011”

1 and inserting “\$7,500,000 for each of fiscal years 2015
2 through 2020”.

3 (f) ADDITIONAL APPROPRIATIONS WHERE RE-
4 SEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE
5 NATURE.—Section 104(g)(1) of the Water Resources Re-
6 search Act of 1984 (42 U.S.C. 10303(g)(1)) is amended
7 in the first sentence by striking “\$6,000,000 for each of
8 fiscal years 2007 through 2011” and inserting
9 “\$1,500,000 for each of fiscal years 2015 through 2020”.

○

[The prepared statement of Senator Cardin follows:]

U.S. Senator Benjamin L. Cardin
Statement on S. 653, Water Resources Research Amendments Act
Senate Environment and Public Works Committee
Tuesday, April 28, 2015

I want to thank the Chair for his leadership and agreeing to bring the Water Resources Research Act (S. 653) that Sen. Boozman and I have reintroduced in the 114th Congress. This is the third consecutive congress that he and I have come together to work on this legislation and it is a cause that I always enjoy working on with him.

This bill is a commonsense measure to support successful and ongoing research programs in all fifty states. The bill has enjoyed strong bi-partisan, and unanimous, support in the committee. I appreciate the committee leadership's willingness to report the measure by voice vote. In past Congresses, this same bill was cosponsored by a bi-partisan group of Senators on this committee including Chairman Inhofe and Ranking Member Boxer, and Senator Sessions.

Nothing has remarkably changed with this bill since 112th Congress. The bill reauthorizes the grant program for the next five years and would add a program focused on the research and development of alternative approaches to water infrastructure. The research funded through the Water Resources Research Act has had lasting impacts on our nation's waters. In fact, some of the tools we use today for restoration of the Chesapeake Bay were a product of these research grants.

WRRRA researchers across the Mid-Atlantic States have developed ways to keep the Chesapeake waters clean through urban stormwater treatment, improved roadway design, and eco-friendly poultry farming practices. Moreover, WRRRA-funded projects develop innovative and cost-effective solutions for similar water resources issues across the country. The Lake Pontchartrain Program, for example, receives funding and support from the Water Resources Research Institute in Louisiana.

WRRRA is also a cost-effective investment. The funded institutes leverage their federal dollars by as much as 5 to 1. In 2011, the National Taxpayers Union Foundation awarded this bill the "Least Expensive Bill of the Week" with an estimated savings of \$8 million in the first year. Undoubtedly, funding WRRRA is an intelligent and necessary investment in the future of our water resources.

I urge my colleagues to support this bill.

###

Senator BOXER. Mr. Chairman, I'd like to report this in the rest of the agenda just for the record.

Senator INHOFE. We are going to have to have one more show up here to have the quorum. While we are looking, let me mention one of the things in the final things to be considered is the naming of a courthouse in Oklahoma City, the William J. Holloway United States Courthouse. I have been very familiar with this individual. He was supported by all the judges, current and past. President Lyndon Johnson nominated Judge Holloway to the Tenth Circuit in August 1968, where he served as Chief Justice from all the way to 1991. He passed away in 2014.

Judge Holloway was the longest-serving judge in the Tenth Circuit. During his service, he authored over 900 opinions. As new Tenth Circuit Judge Robert Bacharach described Judge Holloway, "He simply decided cases by asking what does the statute say, what does the Constitution say, what are the facts of the case." And I can talk about him as long as I need to until our eleventh person gets here.

[Laughter.]

Senator WICKER. Mr. Chairman, I also would say a remark or two about the bipartisan legislation, S. 611, but would also assure members that I will quit talking at such point as the eleventh committee member arrives.

Senator INHOFE. Keep talking.

[Laughter.]

Senator WICKER. Let me just say, let me thank the members of the committee for their indication of support for S. 611, the Grass Roots and Small Community Water Systems Assistance Act. It reauthorizes the Safe Drinking Water Act's technical Assistance and Training provisions for the same \$15 million per year that it was previously authorized. The authorization—the last authorization expired in 2004.

There is one small change, specifically under this new legislation the EPA would have the authority to direct the funding to non-profit organizations to also provide onsite assistance, regional training and assistance with implementation, monitoring, plans, rules, regulations and water security enhancements to ensure compliance with the Safe Drinking Water Act. And of course, what this whole program is designed to do is to assist the small communities who would very much like to comply with Federal law with regard to safe drinking water but simply don't have the resources for the technical assistance and training.

So I thank Senator Heitkamp for introducing this bipartisan bill with me. And I thank the 17 co-sponsors, including 10 Republicans and 7 Democrats, for co-sponsoring the legislation, many of whom are on this committee. I urge a yes vote, and believe we will get a yes vote on S. 611.

Senator INHOFE. That will be considered en bloc.

Senator WICKER. Right.

Senator INHOFE. During my opening statement, Senator Wicker, I commented that Oklahoma is enough like Mississippi that we have an equal interest, and I would say the same thing about South Dakota and Arkansas, there are a lot of small communities who will be very pleased with the passage of your legislation.

Senator WICKER. Thank you, sir.

Now, in addition, I assume that we have an indication that that eleventh vote is on the way.

Senator INHOFE. Yes.

Senator WICKER. With regard to another piece of legislation—

Senator INHOFE. Every time I hear that, I think they are probably on the 14th Street Bridge right now.

Senator WICKER. Unfortunately, some were right here and left, I think, not realizing that would cause a quorum to evaporate.

Let me just state with regard to S. 1034, Mr. Chairman, a bill to designate the United States Courthouse at 501 East Court Street in Jackson as the Charles Clark United States Courthouse, the most preeminent Mississippi jurist ever to live was L.Q.C. Lamar, a Supreme Court justice who was mentioned in President Kennedy's Profiles in Courage. He has received his own recognition.

The second most prominent Mississippi jurist in history is Charles Clark, native of Memphis, Tennessee, commissioned in the Navy and nominated, confirmed in 1969 to the Fifth Circuit. He served as Chief Judge of the Fifth Circuit from 1981 until 1992, wrote over 2,000 opinions of the court and served as chairman of the finance and executive committees of the Judicial Conference of the United States.

So having taken care of L.Q.C. Lamar, this properly recognizes, I think, the second most prominent jurist in the history of our State. I thank the leadership of the committee also for their indicated support of this legislation. Thank you, sir.

Senator INHOFE. Well, let's see. We do have six Republicans and four Democrats. Do you have one coming?

Senator BOXER. I don't know.

Senator INHOFE. I would prefer to go ahead and do this if we could. However, if somebody else leaves, it will have to be that way.

We have lots of activity out there.

Senator BOXER. I can stay 6 minutes.

Senator INHOFE. I think we already have a motion and a second.

Senator BOXER. Mr. Chairman, I have a little bit of business. Can I ask unanimous consent that all of Senator Cardin's statements on all the amendments and final be placed in the record in the appropriate places?

Senator INHOFE. Without objection.

Senator BOXER. Thank you.

Senator INHOFE. I understand that Senator Sessions is almost here.

Senator CARPER. I think we have a jurisdictional battle, because the Homeland Security Committee claims post office.

[Laughter.]

Senator INHOFE. OK. We are going to recess to the call of the Chair. Unfortunately, there are no scheduled votes.

Senator BOXER. We can do the GSA ones.

Senator INHOFE. That is right, we only need seven for those. We will break out from the en bloc the GSA resolutions. Is there a motion to accept them en bloc?

Senator BOXER. Move to accept them en bloc.

Senator INHOFE. Second?

[Motion seconded.]

Senator INHOFE. All in favor say aye.

[Chorus of ayes.]

Senator INHOFE. Opposed, no.

[No audible response.]

[The text of the en bloc resolutions follows:]

JAMES M. INHOTE, OKLAHOMA, CHAIRMAN

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOZEMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GALLBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROUNDS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-8175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA PODRER, DEMOCRATIC STAFF DIRECTOR

COMMITTEE RESOLUTION

**ALTERATION
FRANCES PERKINS BUILDING
WASHINGTON, DC
PDC-0116-WA15**

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to replace the fire alarm system at the Frances Perkins Building located at 200 Constitution Avenue NW in Washington, D.C., at a cost not to exceed \$1,500,000 for design and review; \$13,380,000 for construction; and a management and inspection cost of \$1,440,000, for a total cost of \$16,320,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENYARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WALKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROHMEYER, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA PODERN, DEMOCRATIC STAFF DIRECTOR

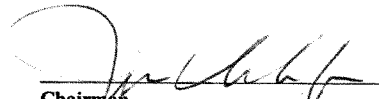
COMMITTEE RESOLUTION

**ALTERATION
 ROBERT C. WEAVER BUILDING
 WASHINGTON, DC
 PDC-0092-WA15**

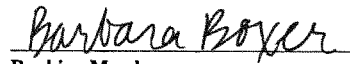
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to replace the fire alarm system at the Robert C. Weaver Building located at 451 7th Street SW, in Washington, D.C., at a cost not to exceed \$1,250,000 for design and review; \$10,940,000 for construction; and a management and inspection cost of \$1,185,000, for a total cost of \$13,375,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHIRLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IOWA	DEROARD BARKER, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROHLINGS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORBER, DEMOCRATIC STAFF DIRECTOR

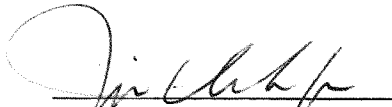
COMMITTEE RESOLUTION

**ALTERATION
 SIDNEY R. YATES FEDERAL BUILDING
 WASHINGTON, DC
 PDC-0501-WA15**


**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to undertake façade repairs and to replace chillers at the Sidney R. Yates Federal Building located at 1400 Independence Avenue SW, in Washington, D.C., at a cost not to exceed \$440,000 for design and review; \$29,480,000 for construction; and a management and inspection cost of \$2,900,000, for a total cost of \$32,820,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	REX TUBMAN, ILLINOIS
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOUZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	COYV A. BOOKER, NEW JERSEY
MIKE PENCE, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
DETTINA POIRIER, DEMOCRATIC STAFF DIRECTOR

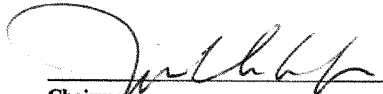
COMMITTEE RESOLUTION

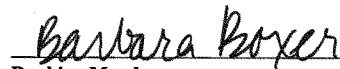
ALTERATION
IRS ANNEX PARKING DECK
CHAMBLEE, GA
PGA-0010-CH15

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to repair the structural deficiencies at the parking deck adjoining the Internal Revenue Service Center Annex located at 2385 Chamblee Tucker Road in Chamblee, Georgia, at a cost not to exceed \$6,619,000 for construction; and a management and inspection cost of \$790,000, for a total cost of \$7,409,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS H. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENJAMIN L. CARDIN, MARYLAND
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE RONLUND, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA KORBER, DEMOCRATIC STAFF DIRECTOR

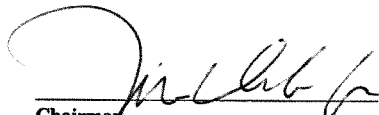
COMMITTEE RESOLUTION


**ALTERATION
536 SOUTH CLARK STREET FEDERAL BUILDING
JOHN C. KLUCZYNSKI FEDERAL BUILDING
U.S. POST OFFICE LOOP STATION
CHICAGO, IL
PIL-0054-CH15**

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to reconfigure and alter currently vacant space at the 536 South Clark Street Federal Building, U.S. Post Office Loop Station, and the John C. Kluczynski Federal Building located in Chicago, Illinois, at a cost not to exceed \$1,230,000 for design; \$14,626,000 for construction; and a management and inspection cost of \$1,260,000, for a total cost of \$17,116,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOF, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA ROXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOGHE, CAPITO, WEST VIRGINIA	BENJAMIN L. CARSON, MARYLAND
MIKE CRAPO, IDAHO	BENJAMIN SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERZLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DER FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE POLIDORO, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, BALTIMORE, STAFF DIRECTOR
 BETTINA POIRIER, DENVER, STAFF DIRECTOR

COMMITTEE RESOLUTION

**ALTERATION
 985 MICHIGAN AVENUE
 DETROIT, MI
 PMI-1951-DE15**

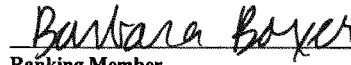
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to consolidate federal agencies into 985 Michigan Avenue in Detroit, Michigan, at a cost not to exceed \$7,834,000 for design; \$61,073,000 for construction; and a management and inspection cost of \$6,006,000, for a total cost of \$74,913,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHIRLEY MOORE CARTER, WEST VIRGINIA	REX TUBER, MARYLAND
MIKE CRAPO, IDAHO	BENYARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE FENDRICH, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BELTINA PORRER, DEMOCRATIC STAFF DIRECTOR

COMMITTEE RESOLUTION

ALTERATION
THEODORE LEVIN U.S. COURTHOUSE
DETROIT, MI
PM1-0029-DE15

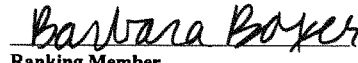
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for Phase II of a multi-phase alteration project to correct serious building deficiencies at the Theodore Levin U.S. Courthouse located at 231 West Lafayette Boulevard in Detroit, Michigan, including replacement of the fire alarm electrical distribution systems, emergency generator, passenger elevators, and the extension of the fire sprinkler system, at a cost for Phase II not to exceed \$37,539,000 for construction; and a management and inspection cost for Phase II of \$2,960,000, for a total cost of \$40,499,000 for Phase II, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOYER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IOWA	DEBRAH SUNDERS, VERMONT
JOHN BOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
RIGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROHRING, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DARI SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-8175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORBES, DEMOCRATE STAFF DIRECTOR

COMMITTEE RESOLUTION

**ALTERATION
 JOHN WELD PECK FEDERAL BUILDING
 CINCINNATI, OH
 POH-0189-C115**

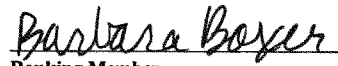
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations that will reconfigure approximately 233,000 usable square feet of space at the John Weld Peck Federal Building in Cincinnati, Ohio to meet the long term housing needs of the Internal Revenue Service, Department of Energy, Occupational Safety and Health Administration, Social Security Administration Office of Disability Adjudication and Review, and the U.S. Trustees, at a cost not to exceed \$2,872,000 for design; \$29,725,000 for construction; and a management and inspection cost of \$2,776,000, for a total cost of \$35,373,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOF, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CARTER, WEST VIRGINIA	BENJAMIN L. CARLINI, MARYLAND
MIKE CRAIG, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILL BRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROLINGS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-5175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA WAMBER, DEMOCRATIC STAFF DIRECTOR

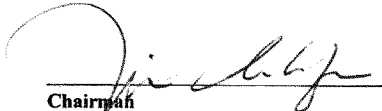
COMMITTEE RESOLUTION


**ALTERATION
BONNEVILLE POWER ADMINISTRATION FEDERAL BUILDING
PORTLAND, OR
POR-0058-PO15**

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to upgrade multiple building systems at the Bonneville Power Administration Federal Building located at 905 NE 11th Avenue in Portland, Oregon, at a cost not to exceed \$817,000 for design; \$7,422,000 for construction; and a management and inspection cost of \$811,000, for a total cost of \$9,050,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOF, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENNARD ZANKER, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
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ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
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MIKE HOUNDS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-8176

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA FORNER, DEMOCRATIC STAFF DIRECTOR

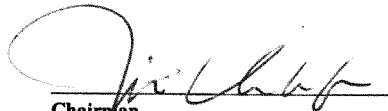
COMMITTEE RESOLUTION

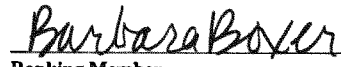
ALTERATION
FRITZ G. LANHAM FEDERAL BUILDING
FORT WORTH, TX
PTX-0224-FW15

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to upgrade and renovate building components and systems to abate hazardous materials at the Fritz G. Lanham Federal Building located at 819 Taylor Street, in Fort Worth, Texas, at a cost not to exceed \$1,737,000 for design; \$14,541,000 for construction; and a management and inspection cost of \$1,766,000, for a total cost of \$18,044,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOF, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IDAHO	DEBRAH SHERIDAN, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
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DEB FISCHER, NEBRASKA	CORY A. BOKER, NEW JERSEY
MIKE ROUNDS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA POIRIER, DEMOCRATIC STAFF DIRECTOR

COMMITTEE RESOLUTION

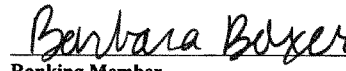
**ALTERATION
 JOHN WESLEY POWELL BUILDING
 RESTON, VA
 PVA-1468-RE15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to replace the fire alarm system at the John Wesley Powell Building located at 12201 Sunrise Highway in Reston, Virginia, at a cost not to exceed \$1,060,000 for design; \$8,970,000 for construction; and a management and inspection cost of \$980,000, for a total cost of \$11,010,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


 Chairman


 Ranking Member

Adopted: April 28, 2015

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS H. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DER FICHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROHRFS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

TYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORBES, DEACONSULTS STAFF DIRECTOR

COMMITTEE RESOLUTION

**ALTERATION
 RICHARD H. POFF FEDERAL BUILDING
 ROANOKE, VA
 PVA-0095-RO15**

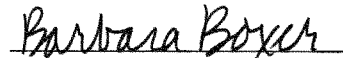
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to replace two exterior brick façade walls and undertake structural and life safety upgrades to the parking garage at the Richard H. Poff Federal Building located at 210 Franklin Road, SW, in Roanoke, Virginia, at a cost not to exceed \$1,076,000 for design; \$12,762,000 for construction; and a management and inspection cost of \$1,290,000, for a total cost of \$15,128,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairperson



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
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MIKE CRAIG, IOWA	BENARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROSEN WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE HONORS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA ROBER, DEMOCRATIC STAFF DIRECTOR

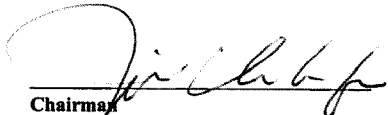
COMMITTEE RESOLUTION

**ALTERATION
FIRE AND LIFE SAFETY REPAIRS
VARIOUS LOCATIONS -- REGION FOUR
PFLS-R4-2015**

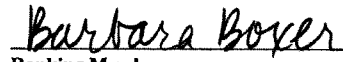
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for critical fire protection and life safety repairs in four separate buildings in Region 4. These buildings are the G. Ross Anderson, Jr. Federal Building and Courthouse located at 315 S. McDuffie Street in Anderson, South Carolina; U.S. Customhouse located at 200 E. Bay Street, Charleston, SC; the J. Roy Rowland Federal Building and Courthouse located at 100 N. Franklin Street in Dublin, Georgia; and the Federal Building located at 423 Frederica Street in Owensboro, Kentucky, at a cost not to exceed \$793,000 for design; \$4,406,000 for construction; and a management and inspection cost of \$632,000, for a total cost of \$5,831,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



Chairman



Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
WHELLEY MOORE, LAMPTU, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE HOLLOMAN, SOUTH DAKOTA	EDWARD J. KERRY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORBES, DEMOCRATIC STAFF DIRECTOR

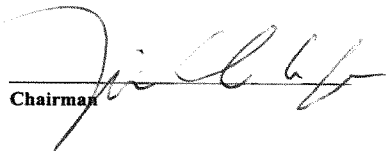
COMMITTEE RESOLUTION

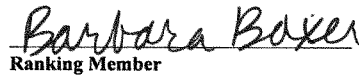
**CONSTRUCTION
 U.S. LAND PORT OF ENTRY
 CALEXICO, CA
 PCA-BSC-CA15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a two-phase construction project, including new pedestrian processing and privately owned vehicle inspection facilities, a new head house to provide supervision and services to the non-commercial vehicle inspection area, new administration offices; and a parking structure, to reconfigure and expand the existing U.S. Land Port of Entry located in Calexico, California, at a cost not to exceed an additional Phase I estimated construction cost of \$12,376,000 and an additional Phase II estimated construction cost of \$72,931,000 for a total additional project cost of \$85,307,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


 Chairman


 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA ROXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS H. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENJAMIN GANDY, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MARK ROUZENS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORRIER, DEMOCRATIC STAFF DIRECTOR

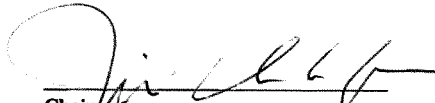
COMMITTEE RESOLUTION

**ALTERATION
 CONSOLIDATION ACTIVITIES PROJECTS
 VARIOUS BUILDINGS
 PCA-0001-MU15**

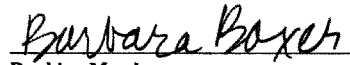
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for the reconfiguration and renovation of space within government owned buildings during fiscal year 2015 to support the General Services Administration's ongoing consolidation efforts to improve space utilization, optimize inventory, decrease reliance on leased space, and reduce the government's environmental footprint, at a total cost not to exceed \$70,000,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA (CHAIRMAN)	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS H. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARLIN, MARYLAND
MIKE CROOK, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELLEEN WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WALKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
NIRE TOLSON, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-8175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
DE TINA POIRIER, DEMOCRATIC STAFF DIRECTOR


COMMITTEE RESOLUTION

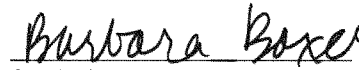
ALTERATION ENERGY AND WATER RETROFIT AND CONSERVATION MEASURES PROGRAM VARIOUS BUILDINGS PEW-0001-MU15

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for repairs and alterations to implement energy and water retrofit and conservation measures, as well as high-performance energy projects, in government-owned buildings during fiscal year 2015, at a cost not to exceed \$5,000,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	REINHOLD SURGERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROYLANDS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA POBBER, DEMOCRATIC STAFF DIRECTOR

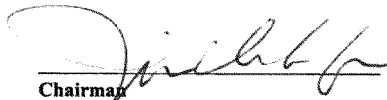
COMMITTEE RESOLUTION

**ALTERATION
FIRE PROTECTION AND LIFE SAFETY PROJECTS
VARIOUS BUILDINGS
PFP-0001-MU15**


RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for alterations to upgrade, replace, and improve fire protection systems and life safety features in government-owned buildings during fiscal year 2015, at a cost not to exceed \$26,000,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



Chairman



Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENYARD JANKELIS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WACZER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE FLYNN, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA FERRELL, DELEGATE STAFF DIRECTOR

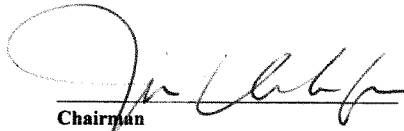
COMMITTEE RESOLUTION

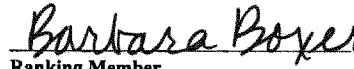
**ALTERATION
JUDICIARY COURT SECURITY PROGRAM
VARIOUS BUILDINGS
PJCS-0001-MU15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for alterations to improve physical security in government-owned buildings occupied by the Judiciary and U.S. Marshals Service during fiscal year 2015, at a cost not to exceed \$20,000,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARIZONA	NIELSON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FUSCHER, NEBRASKA	LOREN A. RIEDELL, NEW JERSEY
MIKE ROZDOLSKI, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510-8175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA POWERS, DEMOCRATIC STAFF DIRECTOR

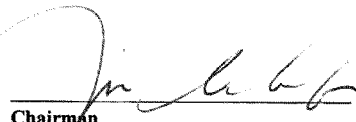
COMMITTEE RESOLUTION


**ALTERATION
PHILLIP BURTON FEDERAL BUILDING & U.S. COURTHOUSE
SAN FRANCISCO, CA
PCA-0154-SF15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a repair and alteration project to upgrade several building systems and reconfigure existing space at the Phillip Burton Federal Building & U.S. Courthouse located in the Civic Center area in San Francisco, California, to replace the roof and associated support structure elements, cold and hot water risers, window film, and the extension of external air-intakes and to build-out and backfill approximately 15,000 square feet of vacant space to move the U.S. Bankruptcy Court from leased space, at a cost not to exceed \$2,000,000 for design; \$25,000,000 for construction; and a management and inspection cost of \$2,000,000, for a total cost of \$29,000,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFÉ, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENJAMIN SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE RONLUND, SOUTH DAKOTA	HOWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA FEDRER, DEMOCRATIC STAFF DIRECTOR

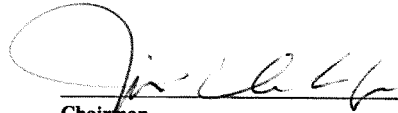
COMMITTEE RESOLUTION

**ALTERATION
HART-DOLE-INOUE FEDERAL CENTER
BATTLE CREEK, MI
PMI-0501-BA15**

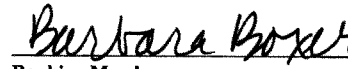
RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a repair and alteration project to upgrade components of the fire and life safety systems at the Hart-Dole-Inouye Federal Center located in Battle Creek, Michigan, to improve the life safety condition of the facility by replacement of components of the fire alarm, at a cost not to exceed \$986,000 for design; \$9,222,000 for construction; and a management and inspection cost of \$989,000, for a total cost of \$11,197,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



Chairman



Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITIER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELVY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IOWA	BRANDY SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MARK RONDIS, SOUTH DAKOTA	LUCIANO J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

RYAN JACKSON, BAUCOMPS STAFF DIRECTOR
 BETTINA FISHER, DEMOCRATIC STAFF DIRECTOR

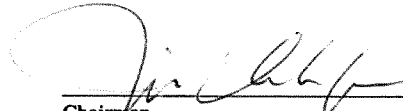
COMMITTEE RESOLUTION

**ALTERATION
 CAPTAIN JOHN FOSTER WILLIAMS U.S. COAST GUARD BUILDING
 BOSTON, MA
 PMA-0011-BO15**

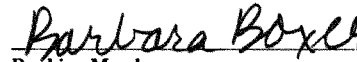
**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a repair and alteration project to provide critical structural foundation and site repairs at the Captain John Foster Williams U.S. Coast Guard Building located in Boston, Massachusetts, at a cost not to exceed \$1,655,000 for design; \$6,252,000 for construction; and a management and inspection cost of \$709,000, for a total cost of \$8,616,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	DORY A. BOKER, NEW JERSEY
MIKE ROUNDS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SUTELIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA FORBES, DEMOCRATIC STAFF DIRECTOR

COMMITTEE RESOLUTION

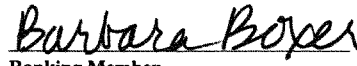
**ALTERATION
THOMAS P. O'NEILL, JR. FEDERAL BUILDING
BOSTON, MA
PMA-0153-BO15**

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a repair and alteration project to replace and upgrade multiple failing and deficient systems at the Thomas P. O'Neill, Jr., Federal Building located at 10 Causeway Street in Boston, Massachusetts, at a cost not to exceed \$1,306,000 for design; \$13,765,000 for construction; and a management and inspection cost of \$1,075,000, for a total cost of \$16,146,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARLIN, MARYLAND
MIKE CRAPO, IDAHO	BENJAMIN L. CARLIN, MARYLAND
JOHN BOOZMAN, ARKANSAS	SHELTON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROYCE, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETINA FERRER, CLERK

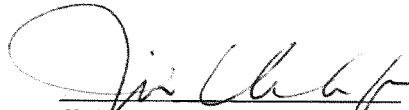
**ALTERATION
TED WEISS FEDERAL BUILDING
NEW YORK, NY
PNY-0350-NY15**


RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF THE UNITED STATES SENATE

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a repair and alteration project to modernize elevators in the Ted Weiss Federal Building located at 290 Broadway in New York, New York, at a cost not to exceed \$1,004,000 for design; \$9,811,000 for construction; and a management and inspection cost of \$918,000, for a total cost of \$11,733,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

This resolution amends amounts authorized in the Committee on Environment and Public Works resolution of July 25, 2012 authorizing prospectus number PEX-00001.

Provided, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2011

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN
 DAVID VITTER, LOUISIANA
 JOHN BARRASSO, WYOMING
 SHREVEY MCGUIRE, CANTELO, WEST VIRGINIA
 MIKE CRAPO, IDAHO
 JOHN BOZEMAN, ARKANSAS
 JEFF SESSIONS, ALABAMA
 ROGER WICKER, MISSISSIPPI
 DEB FISCHER, NEBRASKA
 MIKE ROUNDS, SOUTH DAKOTA
 DAN SULLIVAN, ALASKA

BARBARA BOXER, CALIFORNIA
 THOMAS H. CARPER, DELAWARE
 BENJAMIN L. CARDIN, MARYLAND
 BERNARD SANDERS, VERMONT
 SHIELDS WHITEHOUSE, RHODE ISLAND
 JEFF MERKLEY, OREGON
 KRISTEN GULLIBRAND, NEW YORK
 CORVA A. BUCKNER, NEW JERSEY
 EDWARD J. MARKEY, MASSACHUSETTS

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORBES, DEMOCRATIC STAFF DIRECTOR

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION 20510-0175

**REPLACEMENT LEASE
 DRUG ENFORCEMENT ADMINISTRATION
 SAN DIEGO, CA
 PCA-01-SD15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

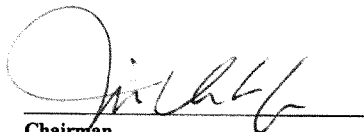
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 105,000 rentable square feet of space, including 245 official structured parking spaces, for the Drug Enforcement Administration currently located at 4560 Viewridge Avenue, San Diego, California, at a maximum proposed rental rate of \$41 per rentable square foot, at a proposed total annual cost of \$4,124,723 for a lease term of up to 15 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

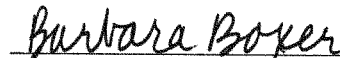
Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


 Chairman


 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. ROCKER, NEW JERSEY
MIKE POLINE, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FORBES, DEMOCRATIC STAFF DIRECTOR

REPLACEMENT LEASE
DEPARTMENT OF JUSTICE, BUREAU OF PRISONS
 Washington, DC
 PDC-01-WA15

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

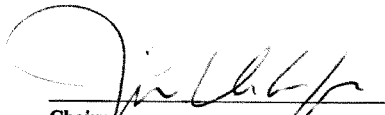
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 114,000 rentable square feet of space, including 14 official parking spaces, for the Department of Justice, Bureau of Prisons currently located at 500 First Street NW in Washington, D.C., at a maximum proposed rental rate of \$50 per rentable square foot, at a proposed total annual cost of \$5,700,000 for a lease term of up to 15 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

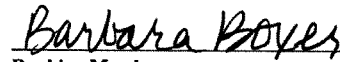
Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IOWA	BERNARD SANDERS, VERMONT
JOHN BOZEMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROYLAND, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA POWERS, DEMOCRATIC STAFF DIRECTOR

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

REPLACEMENT LEASE
DEPARTMENT OF JUSTICE, CIVIL DIVISION
 Washington, DC
 PDC-02-WA15

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

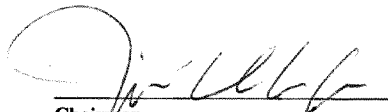
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 217,000 rentable square feet of space, including 2 official parking spaces, for the Department of Justice currently located at 1100 L Street NW and 20 Massachusetts Avenue NW in Washington, D.C., at a maximum proposed rental rate of \$50 per rentable square foot, at a proposed total annual cost of \$10,850,000 for a lease term of up to 15 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.


Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	DELAWARE: CAROL MARYLAND
MIKE CRAIG, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
RUFUS WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROHNDEN, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETINA FORBES, DEMOCRATIC STAFF DIRECTOR

REPLACEMENT LEASE
DEPARTMENT OF JUSTICE
 Washington, DC
 PDC-03-WA15

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

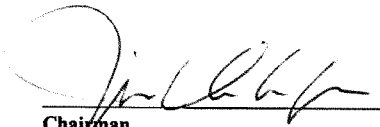
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 382,000 rentable square feet of space, including 15 official parking spaces, for the Department of Justice currently located at 555 4th Street NW and 501 3rd Street NW in Washington, D.C., at a maximum proposed rental rate of \$50 per rentable square foot, at a proposed total annual cost of \$19,100,000 for a lease term of up to 15 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.


Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELLEEN WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
RUSSELL WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
IMB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
KAYE HIRONO, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

RYAN JACKSON, MAJORITY STAFF DIRECTOR
BETTINA FORNER, DEMOCRATIC STAFF DIRECTOR

LEASE
FEDERAL BUREAU OF INVESTIGATION
85 10th AVENUE, NEW YORK, NY
PNY-02-NY15

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
THE UNITED STATES SENATE**

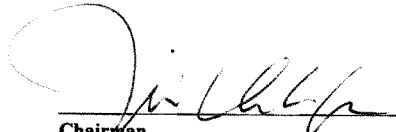
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a lease extensions of up to 168,000 rentable square feet of space, for the Federal Bureau of Investigation Joint Terrorism Task Force currently located at 85 10th Avenue in New York, New York, at a maximum proposed rental rate of \$87 per rentable square foot, at a proposed total annual cost of \$14,616,000 for a lease term of up to 5 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

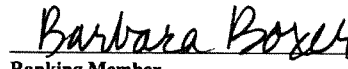
Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
WHELBY MCCOY, WEST VIRGINIA	BENJAMIN L. GARDIN, MARYLAND
MIKE CRAND, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOGZEMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROHRER, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 RETINA FORBES, DEMOCRATIC STAFF DIRECTOR

LEASE
FEDERAL BUREAU OF INVESTIGATION
601 WEST 26th STREET, NEW YORK, NY
PNY-04-NY15

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

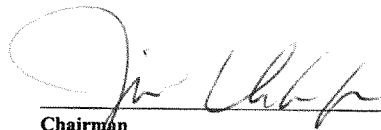
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a lease extension of up to 79,792 rentable square feet of space, including 84 official parking spaces, for the Federal Bureau of Investigation currently located at 601 West 26th Street in New York, New York, at a maximum proposed rental rate of \$67 per rentable square foot, at a proposed total annual cost of \$5,346,064 for a lease term of up to 3 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.


Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHENE, OKLAHOMA, CHAIRMAN
 DAVID VITTER, LOUISIANA
 JOHN BARBARO, WYOMING
 SHELLEY MOORE CAPITO, WEST VIRGINIA
 MIKE CRAIG, IOWA
 JOHN BOOZMAN, ARKANSAS
 JEFF SESSIONS, ALABAMA
 ROGER WICKER, MISSISSIPPI
 DEB FISCHER, NEBRASKA
 MIKE ROYD, SOUTH DAKOTA
 DAN SULLIVAN, ALASKA

BARBARA BOXER, CALIFORNIA
 THOMAS R. CARPER, DELAWARE
 BENJAMIN L. CARLIN, MARYLAND
 BERNARD SANDERS, VERMONT
 SHELDON WHITEHOUSE, RHODE ISLAND
 JEFF MERKLEY, OREGON
 KRISTEN GILLIBRAND, NEW YORK
 DORY A. BOCKER, NEW JERSEY
 EDWARD J. MARKEY, MASSACHUSETTS

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FERRER, DEMOCRATIC STAFF DIRECTOR

LEASE
U.S. PROBATION OFFICE & U.S. PRETRIAL SERVICES OFFICE
233 BROADWAY, NEW YORK, NY
PNY-06-NY15

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

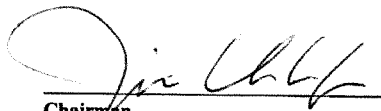
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a lease extension of up to 112,392 rentable square feet of space, for the U.S. Probation Office and the U.S. Pretrial Services Office currently located at 233 Broadway in New York, New York, at a maximum proposed rental rate of \$48 per rentable square foot, at a proposed total annual cost of \$5,394,816 for a lease term of up to 2 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

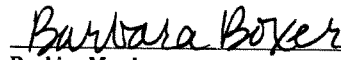
Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


 Chairman


 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA (CHAIRMAN)	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELLEEN WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF PERKINS, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	COBY A. ROOKER, NEW JERSEY
MIKE ROLANDS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

THOM JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA POBIER, DEMOCRATIC STAFF DIRECTOR

**REPLACEMENT LEASE
 INTERNAL REVENUE SERVICE
 GUAYABO, PR
 PPR-02-GU15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

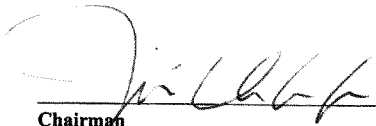
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 92,500 rentable square feet of space, including 21 official parking spaces, for the Internal Revenue Service currently located at the San Patricio Office Center at 7 Tabonuco Street in Guaynabo, Puerto Rico, at a maximum proposed rental rate of \$50 per rentable square foot, at a proposed total annual cost of \$4,625,000 for a lease term of up to 20 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

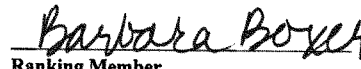
Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

JAMES M. INHOFE, OKLAHOMA (Chairman)	
DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPO, IDAHO	BENIGNO SANDERS, VERMONT
JOHN BOOZMANN, ARKANSAS	SHELLEEN WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN SILLS BRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE ROZDOLNICK, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
COMMITTEE RESOLUTION

RYAN JACKSON, MAJORITY STAFF DIRECTOR
 BETTINA FISHBEIN, DEMOCRATIC STAFF DIRECTOR

**REPLACEMENT LEASE
 ENVIRONMENTAL PROTECTION AGENCY
 DALLAS, TX
 PTX-01-DA15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
 THE UNITED STATES SENATE**

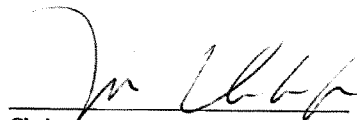
that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 229,000 rentable square feet of space, including 40 official parking spaces, for the U.S. Environmental Protection Agency currently located at 1445 Ross Street in Dallas, Texas, at a maximum proposed rental rate of \$28 per rentable square foot, at a proposed total annual cost of \$6,412,000 for a lease term of up to 20 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.


Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



 Chairman



 Ranking Member

Adopted: April 28, 2015

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS H. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CANTON, MARYLAND
MIKE CRAPO, IDAHO	BEFORD GOODEN, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
WFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KRISTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
MIKE BURNS, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

COMMITTEE RESOLUTION 20510-6175

BY: AN JACKSON, MAJORITY STAFF DIRECTOR FOR
BETTINA POEBER, DEMOCRATIC STAFF DIRECTOR

LEASE
FEDERAL AVIATION ADMINISTRATION
WESTERN-PACIFIC REGIONAL OFFICE
HAWTHORNE, CA
PCA-01-HA15

RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF
THE UNITED STATES SENATE


that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a new lease of up to 154,000 rentable square feet of space, for the Federal Aviation Administration currently located in the Hawthorne Federal Building at 15000 Aviation Boulevard in Hawthorne, California, at a maximum proposed rental rate of \$49 per rentable square foot, at a proposed total annual cost of \$7,546,000 for a lease term of up to 20 years, a description of which is attached hereto and by reference made part of this resolution, is approved.


Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

Provided further, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, except that, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

Provided further, that the Administrator shall not delegate to any other agency the authority granted by this resolution.


Chairman


Ranking Member

Adopted: April 28, 2015

Senator INHOFE. They have been accepted.

Senator BOXER. And we need to meet off the floor.

Senator INHOFE. We are now recessing to the call of the chair.
[Whereupon, at 12:29 p.m., the meeting was recessed, to reconvene at the call of the Chair.]

[Resuming April 29, 2015, 5:30 p.m.]

Senator INHOFE. I call the business meeting back to order. We have an agreement with the minority for a rolling quorum. Additionally, we have two members of the minority, Senators Cardin and Carper. I appreciate the opportunity finish our business meeting on these remaining items.

I ask unanimous consent to call up the following remaining bills and nomination en bloc and report them favorably to the full Senate for consideration.

Those remaining items are the following: S. 653, Water Resources Research Amendments Act of 2015. S. 611, Grassroots Rural and Small Community Water Systems Assistance Act. S. 612, A bill to designate the Federal building and United States courthouse located at 1300 Victoria Street in Laredo, Texas, as the "George P. Kazen Federal Building and United States Courthouse." S. 261, A bill to designate the United States courthouse located at 200 NW 4th Street in Oklahoma City, Oklahoma, as the "William J. Holloway, Jr. United States Courthouse." S. 1034, A bill to designate the United States courthouse located at 501 East Court Street in Jackson, Mississippi, as the "Charles Clark United States Courthouse." Mr. Mark Scarano, nominee to be Federal Co-chairperson of the Northern Border Regional Commission.

Is there a motion?

Is there a second?

Without objection.

The aforementioned bills and nomination are adopted by unanimous consent and reported to the Senate.

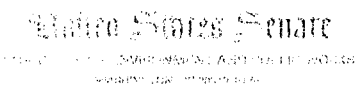
Finally, I ask unanimous consent that staff have authority to make technical and conforming changes to each of the matters approved including the morning of April 28.

Without objection.

I thank the members of the EPW Committee and adjourn.

[Additional material submitted for the record follows:]

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 OFFICE OF THE CHAIRMAN
 400 CONGRESS BUILDING
 WASHINGTON, D.C. 20540
 TEL: 202-512-2400
 FAX: 202-512-2401
 WWW: WWW.SENATE.GOV



NOMINATION REFERENCE AND REPORT

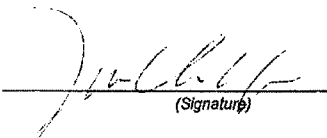
PN44

**AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
January 8, 2015.**

Ordered, That the following nomination be referred to the Committee on Environment and Public Works:

Mark Scarano, of New Hampshire, to be Federal Cochairperson of the Northern Border Regional Commission, vice Sanford Blitz, resigned.

April 30, 2015.
(Date)

Reported by Mr. Inhofe 
(Signature)

with the recommendation that the nomination be confirmed.

The nominee has agreed to respond to requests to appear and testify before any duly constituted committee of the Senate.



**INTERNATIONAL SOCIETY FOR
ENVIRONMENTAL EPIDEMIOLOGY**

Website: www.iseepi.org

Secretariat: JSI Research and Training Institute (contact: Carol Rougvie)
44 Farnsworth Street, Boston, MA 02210
617 482-9485 (voice) 617 482-0617 (fax) iseepi@jsi.com (email)

Francine Laden, Sc.D., *President*
Verónica Vieira, D.Sc., *Secretary-Treasurer*
Manolis Kogevinas, M.D., Ph.D., *President-elect*

February 24, 2015

The Honorable Suzanne Bonamici
Ranking Member, Subcommittee on Environment
Committee on Science, Space and Technology
United States House of Representatives
Washington, DC

Dear Representative Bonamici:

As the 114th Congress gets underway and your Committee considers its work ahead, I am writing on behalf of the International Society for Environmental Epidemiology to respectfully request a reevaluation of previously introduced and House-passed legislation regarding access to research data.

Last November, the House of Representatives passed H.R. 4012, the Secret Science Reform Act of 2014, a bill that our Society strongly opposed. Had it become law, H.R. 4012 would have prevented the EPA from proposing, finalizing, or disseminating regulations or assessments unless all underlying data were reproducible and made publicly available. In so doing, the legislation would have barred EPA from considering much of the best available science investigating the effects of the chemical, physical and microbial environment on human health, because many of the related findings are based on confidential data, such as private medical information. Neither H.R. 4012, nor its companion, S. 2613, were considered in the Senate.

Our members support the sharing of epidemiological data when its purpose is to advance scientific knowledge and when data sharing protects the confidentiality of study subjects. We have participated in some of the largest data sharing efforts to advance scientific knowledge, and our Society has promulgated transparent procedures that protect patient confidentiality for assuring unbiased reanalysis of epidemiological data sets. Moreover, our members are developing and have applied new approaches to data sharing that both increase transparency and protect confidential information, with the objective of promoting rigorous evaluation of study results by other analysts.

We would welcome the opportunity to discuss our work with you and how we are sharing data for reanalysis and the advancement of science, while also protecting subjects' confidentiality. Furthermore, should legislation similar to H.R. 4012 and S. 2613 be introduced in the 114th Congress, we would appreciate the opportunity to share our strong concerns over the bill's likely impact on the privacy of individual study participants and on the scientific enterprise and human health.

The International Society for Environmental Epidemiology is an international organization with members from more than 60 countries. Topics addressed by ISEE members include environmental exposures, health effects, methodology, environment-gene interactions, and ethics and law. We thank you for your time and look forward to working with Congress in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Francine Laden". The signature is fluid and cursive, with the first name "Francine" being more prominent than the last name "Laden".

Francine Laden, Sc.D.
President, International Society for Environmental Epidemiology

cc: The Honorable James Inhofe, United States Senate
The Honorable Barbara Boxer, United States Senate
The Honorable Lamar Smith, United States House of Representatives
The Honorable Jim Bridenstine, United States House of Representatives
The Honorable Eddie Bernice Johnson, United States House of Representatives
Dr. John Holdren, Director, OSTP

June 23, 2014

The Honorable Lamar Smith, Chairman
House Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, D.C 20515

Dear Chairman Smith,

We write in support of the principles contained in H.R. 4012, the Secret Science Reform Act. This legislation supports a basic tenet: the Environmental Protection Agency's regulations should be based on transparent and reproducible science.

Potentially costly regulations should be grounded in data and analyses that are available to academic, government, and independent scientists. Pushing EPA to ensure that the data, models, and methods it relies on are open to public and scientific scrutiny will make the Agency's regulations more accountable, credible, and enforceable.

While we hail from a variety of scientific and academic disciplines, we agree that the provisions of this legislation could be satisfied by EPA without difficulty. The bill is also consistent with recent trends toward access among major scientific journals across these fields. Transparency and reproducibility in EPA regulatory science will encourage more robust analysis of findings by investigators with diverse perspectives while allowing the Agency to base its policy decisions on the best available science. Complying with H.R. 4012 can be accomplished without imposing unnecessary burdens, discouraging research, or raising confidentiality concerns. Across different disciplines, numerous statistical and technical approaches exist to protect any sensitive information.

We support passage of this legislation and thank your Committee for its leadership on this important issue.

Sincerely,

Dr. Charles A. Ager, PhD
Founder and Chairman, Nanominerals Corp

Dr. Ralph B. Alexander, PhD
Former Associate Professor, Physics, Wayne State University

Mr. Robert A. Ashworth
Chemical Engineer

Dr. Charles R. Anderson, PhD
President and Principal Scientist, Anderson Materials Evaluation, Inc.

Dr. J. Scott Armstrong, PhD
Professor, Marketing, Wharton School, University of Pennsylvania

Dr. James R. Barranté, PhD
Professor Emeritus, Physical Chemistry, Southern Connecticut State University

Dr. Charles Battig, M.D.
President, Piedmont Chapter, Virginia Scientists and Engineers for Energy and Environment

Dr. Denis Beller, PhD
Research Professor, Nuclear Engineering, University of Nevada Las Vegas

Dr. David J. Benard, PhD
Physicist (ret.)

Dr. Michael A. Berry, PhD
Former Deputy Director, National Center for Environmental Assessment, USEPA (ret.) and
Research Professor, Environmental Sciences, University of North Carolina at Chapel Hill

Dr. Charles A. Berst, PhD
Emeritus Professor, English, University of California, Los Angeles

Dr. William M. Briggs, PhD
Statistical Consultant and Adjunct Professor of Statistical Science, Cornell University

Dr. Edward Calabrese, PhD
Professor, Environmental Health Sciences, University of Massachusetts Amherst

Dr. Angelo J. Campanella, PhD
Principal, Campanella Acoustics

Dr. Alan Carlin, PhD
Senior Operations Research Analyst, USEPA (ret.)

Dr. Lawrence M. Cathles, PhD
Professor, Geological Sciences, Cornell University

Dr. Charles R. Christensen, PhD
Research Physicist, Retired from Weapon Sciences Directorate, US Army Aviation and Missile Command.

Dr. Dustin Chambers, PhD
Associate Professor, Economics, Salisbury University

Dr. Michael S. Coffman, PhD
President, Environmental Perspectives, Inc.

Dr. Roger Cohen, PhD
Fellow, American Physical Society

Dr. William F. Condon, PhD
Emeritus Professor, Chemistry, Southern Connecticut State University

Dr. Louis Anthony Cox, Jr., PhD
Chief Sciences Officer, Next Health Technologies; Clinical Professor, Biostatistics and Informatics, University of Colorado Health Sciences Center; and President, Cox Associates

Dr. James Crosswell, MD
Physician

Dr. Tim Davis, PhD
Licensed Specialist Clinical Social Worker

Dr. Ulrich Decher, PhD
Adjunct Faculty, University of Hartford

Dr. Arthur Desrosiers, ScD
Environmental Health Physicist

Dr. Pamela C. Dodds, PhD
Registered Professional Geologist

Dr. Harold H. Doiron, PhD
Chairman, The Right Climate Stuff Research Team

Dr. Nicholas Drapela, PhD
Former Professor, Chemistry, Oregon State University

Mr. John Droz, Jr.
Physicist and Executive Director of the Alliance for Wise Energy Decisions

Mr. John Dale Dunn, MD, JD
Consultant Emergency Services/Peer Review, Civilian Faculty, Emergency Medicine Residency,
Carl R. Darnall Army Medical Center, Fort Hood

Dr. James E. Enstrom, PhD
Researcher (ret.), School of Public Health, University of California, Los Angeles and President,
Scientific Integrity Institute

Dr. Dan Ervin, PhD
Professor, Finance, Perdue School of Business, Salisbury University

Dr. Irvin H. Forbing, DDS
Dentist

Dr. Patrick Frank, PhD
Research Chemist

Dr. Gordon J. Fulks, PhD
Astrophysicist

Dr. Laurence I. Gould, PhD
Professor, Physics, University of Hartford

Dr. Shawn Grannell, PhD
Inventor

Dr. William M. Gray, PhD
Professor Emeritus, Department of Atmospheric Science, Colorado State University

Dr. Tim Groseclose, PhD
Professor, American Politics and Public Policy, University of California, Los Angeles

Dr. William Happer, PhD
Professor, Physics, Princeton University

Dr. Victor Davis Hanson, PhD
Senior Fellow, Hoover Institution at Stanford University

Dr. Doug L. Hoffman, PhD
Former Research Professor, Computer Science, University of North Carolina at Chapel Hill

Dr. Albert Kris Huber, PhD
Electrical Engineer

Dr. W. Reed Johnson, PhD
Professor Emeritus, Nuclear Engineering, University of Virginia

Dr. Jason S. Johnston, PhD
Professor of Law, University of Virginia

Mr. Brian T. Kennedy
President, The Claremont Institute

Dr. E. Christian Kopff, PhD
Associate Professor, Classics, University of Colorado, Boulder

Dr. Patricia A. Lapoint, PhD
Professor, Management, McMurry University

Dr. Lubert Leger, PhD
Former Assistant Chief, Materials Division, Engineer Directorate, Johnson Space Center, NASA

Dr. Jay Lehr, PhD
Science Director, The Heartland Institute

Dr. Jonathan A. Lesser, PhD
President, Continental Economics

Dr. Richard E. Lindstrom, PhD
Professor Emeritus, University of Connecticut

Dr. Anthony Lupo, PhD
Professor, Atmospheric Science, University of Missouri

Dr. Matthew A. Malkan, PhD
Professor, Physics and Astronomy, University of California, Los Angeles

Dr. Martin J. Mangino, PhD
Professor, Surgery, Virginia Commonwealth University

Dr. Calvin Luther Martin, PhD
Associate Professor of History (ret.), Rutgers University

Dr. John Martinis, PhD
Professor, Physics, University of California, Santa Barbara

Dr. Robert J. Michaels, PhD
Professor, Economics, California State University, Fullerton

Dr. Henry I. Miller, M.D.
Robert Wesson Fellow in Scientific Philosophy and Public Policy, Hoover Institution at Stanford University

Dr. Ferenc M. Miskolczi, PhD
Former Senior Principal Scientist, NASA Langley Research Center

Dr. Dennis M. Moltz, PhD
Owner, High Desert Nuclear Technologies

Dr. Michael Newton, PhD
Professor Emeritus, Forest Ecology, Oregon State University

Dr. Helen Schwiesow Parker, PhD
Licensed Clinical Psychologist

Dr. Nina Pierpont, MD, PhD
Former Clinical Professor of Pediatrics, College of Physicians and Surgeons, Columbia University; currently a pediatrician in private practice

Dr. Jerry L. Punch, PhD
Professor Emeritus, Department of Communicative Sciences and Disorders, Michigan State University

Dr. Forrest J. Remick, PhD
Emeritus Professor, Nuclear Engineering, and Emeritus Associate Vice President, Research, The Pennsylvania State University; and Commissioner (Retired), US Nuclear Regulatory Commission

Dr. James H. Rust, PhD
Professor of Nuclear Engineering (ret.), Georgia Tech

Mr. Donald F. Shaw, Sr.
Senior Engineering Advisor

Dr. Thomas Sheahen, PhD, PE
Physicist

Dr. S. Fred Singer, PhD
Professor Emeritus, Environmental Science, University of Virginia, and Director, Science and Environmental Policy Project

Dr. Thomas L. Steepy, PhD
Plant Pathologist

Dr. Gary Steinberg, DMD
Dentist

Dr. Glenda Tannahill, PhD
CEO/CFO, Good Samaritan

Dr. George S. Taylor, PhD
Director, Palmetto Energy Institute

Dr. David E. Thompson, PhD
Founder and President, Metric Echo, Inc, and Dean Emeritus, College of Engineering, University of Idaho

Dr. Marc Trachtenberg, PhD
Professor, Political Science, University of California, Los Angeles

Dr. Michael Trigoboff, PhD
Instructor, Computer Science, Portland Community College

Dr. Stanley W. Trimble, PhD
Professor Emeritus, Department of Geography, UCLA

Dr. Kirby Tyndall, PhD
Environmental Toxicologist

Dr. James Wanliss, PhD
Associate Professor, Physics, Presbyterian College

Dr. Robert Whitsett, PhD
Former Staff Scientist, Lawrence Berkeley National Laboratory

Dr. Charles Wolf, Jr., PhD
Distinguished Chair in International Economics, RAND Corporation and Professor, Pardee
RAND Graduate School

Dr. George T. Wolff, PhD
Principal Scientist, Air Improvement Resource, Inc.; Former Chair, EPA Clean Air Scientific
Advisory Committee

Dr. Peter W. Wood, PhD
President, National Association of Scholars

Dr. Steven B. Young, PhD
Former Professor of Biology, Middlebury University

Dr. S. Stanley Young, PhD
Assistant Director for Bioinformatics, National Institute of Statistical Sciences

cc: Eddie Bernice Johnson, Ranking Member, House Committee on Science, Space, and
Technology



April 23, 2015

The Honorable Jim Inhofe
Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510

RE: S. 544, the Secret Science Reform Act of 2015

Dear Chairman Inhofe and Ranking Member Boxer:

On behalf of AAJ, the American Association for Justice, we write in strong opposition to S.544, the Secret Science Reform Act of 2015. AAJ is an advocate for strong chemical safety regulation and healthy environment, in combination with a strong civil justice system to protect the health and wellbeing of all Americans. In this capacity, AAJ robustly objects to the Secret Science Reform Act of 2015.

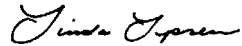
The Secret Science Reform Act of 2015 would severely impact the science that the Environmental Protection Agency (EPA) can consider while implementing public protections; upending numerous environmental statutes and longstanding Agency practices and is severely overbroad. In fact, S.544 may make it impossible for the EPA to regulate at all. The EPA would no longer be able to use most health studies including peer-reviewed research as a result of the limitation on using data that is not "publicly available." Many accurate and reliable health studies contain personal health data that is currently and rightfully protected. Under the Secret Science Act, however, these studies would be erroneously excluded from use by the EPA, substantially narrowing the science the EPA may rely upon when considering public safeguards.

In addition, S.544 will also restrict the use of new and innovative science as well as long-term exposure studies. Oftentimes the newest and most innovative science and data may not be publically available. However, this shouldn't mean that the EPA is precluded from using it. Many of EPA's standards rely on long-term exposure studies that assess the link between diseases and pollutants; or on meta-analyses that combine many different studies. If the Secret Science Act of 2015 becomes law these studies may also be barred from EPA use because they will be unable to be "substantially reproduced". The end result of this legislation is that the EPA will no longer be able to rely on the best science in order to protect American health and the environment.

Finally, the Congressional Budget Office (CBO) has estimated that implementing the Secret Science Reform Act of 2015 would cost \$250 million a year as well as cut the number of studies the EPA uses in half, to 25,000 annually.

In stripping the EPA of its ability to rely on both the latest studies as well as input from the most knowledgeable body of scientists, economists, and other advisors, the Secret Science Reform Act of 2015 dramatically limits the Agency's ability to conduct fulsome and impartial risk assessments and policymaking. We urge you to oppose the Secret Science Reform Act of 2015, as it would seriously inhibit the EPA from protecting human health and the environment through its improper limitations on the use of sound science.

Sincerely,

A handwritten signature in cursive script that reads "Linda Lipsen".

Linda Lipsen
Chief Executive Officer
American Association for Justice



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 3, 2014
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 1030 - Secret Science Reform Act of 2015

(Rep. Smith, R-TX and 28 cosponsors)

The Administration strongly supports regulatory transparency, but strongly opposes H.R. 1030. The bill would impose arbitrary, unnecessary, and expensive requirements that would seriously impede the Environmental Protection Agency's (EPA's) ability to use science to protect public health and the environment, as required under an array of environmental laws, while increasing uncertainty for businesses and States.

H.R. 1030 could be used to prevent EPA from proposing, finalizing, or disseminating any "covered action" until legal challenges about the legitimate withholding of certain scientific and technical information are resolved. Provisions of the bill could be interpreted to prevent EPA from taking important, and possibly legally required, actions, where supporting data is not publicly available, and legal challenges could delay important environmental and health protections. For example, the data underlying some scientifically-important studies is not made broadly available in order to protect the privacy of test subjects, and modeling that EPA uses for a variety of purposes are not EPA property and therefore cannot be publicly released. H.R. 1030 could interfere with EPA's ability to take actions based on such data. In short, the bill would undermine EPA's ability to protect the health of Americans, would impose expensive new mandates on EPA, and could impose substantial litigation costs on the Federal government. It also could impede EPA's reliance on the best available science.

Instead of an overly broad bill that would tie EPA's hands, the Administration urges the Congress to support the Administration's efforts to make scientific and technical information more accessible and regulations more transparent. A bill consistent with the principles expressed in the Administration's Executive Order 13563 "Improving Regulation and Regulatory Review" and the December 2010 Office of Science and Technology Policy (OSTP) *Memorandum on Scientific Integrity*, as well as implementation of the Administration's recent open data and public access initiatives (e.g., OSTP's February 2013 policy memorandum on *Increasing Access to the Results of Federally Funded Scientific Research*) would greatly benefit the American people. EPA also has embarked on several initiatives that enhance access to and transparency of data and science used to inform policy and regulatory decisions.

If the President were presented with H.R. 1030, his senior advisors would recommend that he veto the bill.



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March 4, 2015

The Honorable James Inhofe
Chair, Committee on Environment and Public
Works
United States Senate
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member, Committee on Environment
and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Inhofe and Ranking Member Boxer,

As president of the American Statistical Association, with 19,000 members, I write regarding H.R. 1030, "The Secret Science Reform Act of 2015." We generally applaud the idea that researchers and federal agencies strive to make data available to others—under strict pledges to maintain confidentiality of data provided by individuals and establishments where necessary—and to encourage reproducible research. Access to data and reproducibility of research are crucially important for science to advance.

While the bill's intent is to make data more widely available, we have several concerns and urge the bill be revised significantly before further consideration. Our concerns include those voiced by others last year (especially the American Association for the Advancement of Science) that the bill's statements do not account for the complexities common to the scientific process on research that involves biological materials or physical specimens not easily accessible, combinations of public and private data, longitudinal data collected over many years that are difficult to reproduce, and data from one-time events that cannot be replicated. The bill as written could have far-reaching consequences that would ultimately hamper or undermine the scientific process generally and EPA's work specifically. We also agree with the point that it would be prudent to see the EPA's data access policy—in accordance with the America COMPETES Reauthorization Act of 2010—expected later this year before further action on the Secret Science Reform Act of 2015.

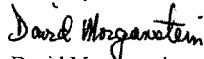
Our nation should be striving for transparency in government and, as noted above, data accessibility, but these goals also must be balanced with the necessity to protect individuals' and businesses' privacy. The bill's language of "publicly available" except when "superseding any nondiscretionary statutory requirement" acknowledges this balance, but that language is vague and may be insufficient to protect individuals and businesses. In particular, some data sets may not fall under "prohibited by law," yet the data are still collected under a pledge to protect the identifiability and confidentiality of the reported values. For example, the government, as well as private and nonprofit sectors, routinely collects data—including private business information and private health information—under strict pledges to protect confidentiality. In some studies, this is

backed up with penalties for violating those pledges. Such data should not be publicly available to every person who might ask for them. Rather, data subjects' confidentiality should be protected, for example by policies and procedures that provide data access to trusted users (i.e., approved users committed to appropriate protections of the confidentiality of study participants) while discouraging breaches of confidentiality and/or by data redaction techniques developed in the statistical and computer science communities. Under the current wording, a choice may have to be made between maintaining data confidentiality and issuing needed regulations.

To emphasize the challenges and importance of confidentiality protection, we note that simple but necessary de-identification methods—like stripping names and other personally identifiable information (PII)—often do not suffice to protect confidentiality. Statisticians and computer scientists have repeatedly shown that it is possible to link individuals to publicly available sources, even with PII removed. Thus, allowing unrestricted public access without appropriate controls could result in unintended disclosures. These could cause significant harm to the advancement of science and the federal government—especially the federal statistical system—as people may be less willing to provide their data if highly publicized breaches occur.

In short, any requirements for making data available should carefully consider the complexities, challenges, and potential ramifications. We hope you will address these concerns, which would require major modifications to the bill. We would be happy to be of any assistance.

Sincerely,



David Morganstein
President, American Statistical Association

COALITION FOR
SENSIBLE
SAFEGUARDS

April 27, 2015

The Honorable James Inhofe
Chairman
U.S. Senate
Environment & Public Works Committee
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member
U.S. Senate
Environment & Public Works Committee
Washington, DC 20510

RE: Markup of S. 544, the Secret Science Reform Act of 2015

Dear Senator Inhofe and Senator Boxer:

The Coalition for Sensible Safeguards (CSS), an alliance of over 150 labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, strongly urges members of the Committee to oppose S. 544, the Secret Science Reform Act of 2015, which will be considered this week.

The legislation would radically diminish the Environmental Protection Agency's (EPA) ability to fulfill its mission. It is broadly written and would require the agency to ignore significant science when carrying out its statutory responsibilities to safeguard public health and the environment.

For instance, the bill would deny EPA the ability to rely on peer-reviewed medical studies that involve patient confidentiality. Additionally, it would effectively amend numerous environmental statutes by forbidding EPA from using certain kinds of studies in setting health standards.

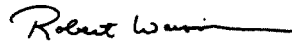
Furthermore, the legislation would make it impossible for EPA to use many kinds of economic and technical models it routinely relies on because those models are proprietary. This would mark a radical departure from long-standing practices.

This legislation's end result would be to make it much more difficult to protect the American people by forcing EPA to ignore key scientific studies and jeopardize public health. For these reasons, we strongly urge you to oppose the Secret Science Reform Act, S. 544.

Sincerely,



Katherine McFate, President and CEO
Center for Effective Government
Co-chair, Coalition for Sensible Safeguards



Robert Weissman, President
Public Citizen
Co-chair, Coalition for Sensible Safeguards

The Coalition for Sensible Safeguards is an alliance of consumer, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, as well as concerned individuals, joined in the belief that our country's system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.

04-27-'15 15:05 FROM- OPA Fax

3016347651

T-177 P0002/0003 F-402



FASEB
Federation of American Societies
for Experimental Biology

Representing Over 120,000 Researchers

301.634.7000
www.faseb.org

9650 Rockville Pike
Bethesda, MD 20814

April 27, 2015

The Honorable James Inhofe, Chairman
Senate Environment & Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Barbara Boxer, Ranking Member
Senate Environment & Public Works Committee
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Inhofe and Ranking Member Boxer:

The Federation of American Societies for Experimental Biology (FASEB) would like to express its opposition to the "Secret Science Reform Act of 2015" (S 544), a bill that will be considered by the Senate Environment and Public Works Committee this week. As a federation of 27 scientific and engineering societies, representing more than 120,000 biomedical researchers, we clearly understand and support the principle that federal regulations must be based on sound science. We are, however, concerned that the language of the proposed legislation is so broad that it could be used to prevent the implementation of nearly any regulation by the Environmental Protection Agency (EPA) and, by precedent, lead to similar restrictions on other agencies. We agree that federal agencies should base regulations on sound science. However, we are concerned that this legislation will not increase transparency, and is, in fact, duplicative of existing policies.

According to a March 9, 2009 Memorandum from the White House on the subject of Scientific Integrity, "when scientific or technological information is considered in policy decisions, the information should be subject to well-established scientific processes." Additionally, under Section (d), unless information is prevented from being disclosed by statute or other regulation, "an agency should make available to the public the scientific or technological findings or conclusions considered or relied on in policy decisions." In accordance with this Memorandum, the EPA has its own Scientific Integrity Policy. As the policy notes, the EPA is in compliance with the 2002 Office of Management and Budget (OMB) Information Quality Guidelines, the 2005 OMB Information Quality Bulletin for Peer Review, the EPA's Quality Policy for assuring the collection and use of sound scientific data, and the EPA's Information Quality Guidelines for establishing the transparency, integrity, and utility of information used and published by the agency. This extensive and comprehensive set of regulations more than ensures that the science upon which EPA bases regulations is of the highest technical merit, transparent, and reproducible.

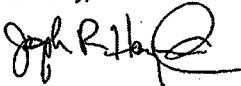
Steps to enhance transparency across all disciplines of science are already underway at several other federal agencies. For instance, the National Institutes of Health (NIH) is developing a training module for graduate students to enhance experimental design to increase the reproducibility and transparency of research findings. Funding agencies, including NIH and the National Science Foundation, require inclusion of data management plans as part of the grant

The American Physiological Society • American Society for Biochemistry and Molecular Biology • American Society for Pharmacology and Experimental Therapeutics
American Society for Investigative Pathology • American Society for Nutrition • The American Association of Immunologists • American Association of Anatomists
The Protein Society • Society for Developmental Biology • American Peptide Society • Association of Biomolecular Resource Facilities
The American Society for Bone and Mineral Research • American Society for Clinical Investigation • Society for the Study of Reproduction • The Teratology Society
The Endocrine Society • The American Society of Human Genetics • International Society for Computational Biology • American College of Sports Medicine
Biomedical Engineering Society • Genetics Society of America • American Federation for Medical Research • The Histochemical Society • Society for Pediatric Research
Society for Glycobiology • Association for Molecular Pathology • Society for Free Radical Biology and Medicine

application. These efforts enhance work already being done by the agencies to ensure the transparency, availability, and reproducibility of data produced by federally-funded research. As working scientists, we are dedicated to the open distribution of our work, much of which is funded by federal agencies that require dissemination, including the EPA, NIH, the National Science Foundation and the Department of Energy. We are equally committed to seeing that our research results contribute to the good of the Nation, including the quality of its environment and the health of its people. Establishing unreasonably broad and burdensome requirements for the implementation of already well-supported regulations, as the "Secret Science Reform Act" appears to do, could weaken the scientific foundations of government policy, contrary to the stated goals of the bill.

For these reasons, FASEB opposes the "Secret Science Reform Act" in its current form.

Sincerely,



Joseph R. Haywood, PhD
FASEB President



April 27, 2015

U.S. Senate
Washington, DC 20510

Dear Senator:

We are writing to express our opposition to S. 544, the Secret Science Reform Act of 2015. Our organizations are dedicated to saving lives and improving public health.

Science is the bedrock of sound regulatory decision making. The best science underscores everything our organizations do to improve health. We strongly believe in a transparent and open regulatory process. A vital element of research is patient confidentiality. Physicians and researchers have earned the trust of their patients by steadfastly maintaining patient confidentiality. Patient confidentiality is a clear legal and ethical obligation.

The Secret Science Reform Act of 2015 will compel the U.S. Environmental Protection Agency to either ignore the best science by prohibiting the agency from considering peer-reviewed research that is based on confidential patient information or force EPA to publicly release confidential patient information, which would violate federal law. This is an untenable outcome that would completely undermine the ability of the EPA to perform its responsibilities under the Clean Air Act and myriad other federal laws. The legislation will not improve EPA's actions; rather, it will stifle public health protections.

The kind of information disclosure envisioned in this legislation exceeds that required by peer-reviewed journals. We believe much of the intent of this legislation is already achieved through the current peer-review process required by all academic journals. The vast majority of peer-reviewed journals require manuscript authors to register any trial using human subjects with clinicaltrials.gov. This public registry collects key information on the study population, research goals and methods that allow outside reviewers and scientists to either challenge or attempt to reproduce study results. Additionally, the peer-review process and publication of results invites the broader scientific community to debate study findings. Trial registry and manuscript publications are only part of the process by which scientific endeavors operate in a transparent environment.

Private organizations, public charities, research universities, the National Institutes of Health, the Centers for Disease Control and Prevention, the Centers for Medicare and Medicaid Services, the Department of Veterans Affairs, corporations and many other entities conduct medical research. Many of these organizations compile large longitudinal data sets that track patients over a period of time. These data serve as the basis of many studies that permit epidemiologists to track disease and risk factor information for large patient populations.

The published peer-reviewed information from such data often inform regulatory decision making at the EPA and other federal agencies as well as future research. Not only do these data inform regulatory action, they help inform efforts to educate the public about the magnitude of a disease, risk factors and steps individuals can take to improve their health. In order for EPA to set the most appropriate standards, it must be informed by the best information.

Understanding the impact of air pollution on human health and the magnitude of harm caused by pollution at specific levels helps the agency meet its obligations under the Clean Air Act. Absent these data, it is unclear upon what basis the agency could make sound decisions.

We urge the U.S. Senate to stand up for sound science and public health protections, and vote NO on S. 544.

Sincerely,

Allergy & Asthma Network
American College of Preventive Medicine
American Lung Association
American Public Health Association
American Thoracic Society
Health Care Without Harm
National Association of County and City Health Officials
National Association for the Medical Direction of Respiratory Care
Trust for America's Health



April 27, 2015

The Honorable James Inhofe
Chair, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

The Honorable Barbara Boxer
Ranking Member, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Chairman Inhofe and Ranking Member Boxer,

I am writing on behalf of the American Association for the Advancement of Science (AAAS), the world's largest general scientific society, to express deep concerns about the impact of the Secret Science Reform Act of 2015 (S. 544). We encourage you and your colleagues to evaluate the unintended consequences of this bill and revise it significantly to address the below concerns.

Section 2 of the bill prohibits the Environmental Protection Agency (EPA) from using research that is not "publicly available online in a manner that is sufficient for independent analysis and substantial reproduction of research results." While transparency and reproducibility are of utmost importance to the scientific community, this mandate is overly broad and will have severe unintended consequences.

Research, especially in areas of public health, involves longitudinal studies that are so large and of great duration that they could not realistically be reproduced. Examples include a 40 year study on the ecology of a forest or an epidemiological study that tracks patients over the course of their lives. Rather than reproducing these studies, scientists use statistical modeling to test and verify results. However, as written S. 544 prohibits EPA from using the research results of these studies, thus limiting the best available science to make sound regulation.

In addition, S. 544 would also prohibit EPA from using research conducted during one-time events, like the Deepwater Horizon oil spill, to issue covered actions or conduct hazard assessments. Because research cannot be reproduced on these one-time events, S. 544 would also bar EPA from utilizing any of their findings.

S. 544 also does not clarify what is meant by "sufficient for independent analysis," or if an analysis would be required before EPA could use research results. Consequently, S. 544 would subject the EPA to litigation, burdening it with heavy administrative costs and send a chilling effect to the scientific community.

Moreover, while Section 2 states that nothing shall be construed as "superseding any nondiscretionary statutory requirement," this language remains insufficient to protect the privacy of individuals and businesses who participate in research studies. The public and private sector routinely collect data for research, including proprietary business information and private health information, under strict pledges to protect confidentiality. Such data should not be made publicly available, and again S. 544 is unclear how an "independent analysis" would be conducted, risking the violation of privacy laws.

Furthermore, S. 544 may be duplicative of efforts already undertaken by the Office of Science and Technology Policy (OSTP). OSTP is working with federal agencies to establish access to data policies that relate “to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications.” Agencies are beginning to issue their data access policies, and given the complexities associated with access to research data as outlined above we suggest that Congress wait to review the agency policies before imposing new statutory requirements.

Again, we strongly support transparency and maintaining the highest standards for research utilized in the regulatory process. However, as written S. 544 would prohibit the EPA from using the best available science, send a chilling effect to researchers and the scientific community, impose burdensome costs to the EPA, and may be duplicative of efforts already undertaken by OSTP. We urge you to carefully consider these concerns and significantly revise the legislation.

Sincerely,



Geraldine Richmond
AAAS President
Presidential Chair in Science and Professor of Chemistry
University of Oregon



ucusa.org Two Brattle Square, Cambridge, MA 02138-3780 t 617.547.5552 f 617.864.9405
 1825 K Street NW, Suite 800, Washington, DC 20006-1232 t 202.223.6133 f 202.223.6162
 2397 Shattuck Avenue, Suite 203, Berkeley, CA 94704-1567 t 510.843.1872 f 510.843.3785
 One North LaSalle Street, Suite 1904, Chicago, IL 60602-4064 t 312.578.1750 f 312.578.1751

April 27, 2015

Dear Senator:

The Union of Concerned Scientists, with 450,000 members and supporters throughout the country, strongly opposes S. 544, the Secret Science Reform Act of 2015, scheduled for markup in the Senate Environment and Public Works Committee tomorrow. The legislation represents a solution in search of a problem, and would greatly impede the agency's mission to protect public health and the environment.

As you know, this bill is identical to H.R. 1030 passed by the House of Representatives earlier this year. That bill received a veto threat from the Administration, which noted that it would prevent the Environmental Protection Agency from protecting public health and safety and the environment, "if the data supporting [its] decisions cannot, for legitimate reasons, be made publicly available."

It appears that the language of this bill attempts to obscure the drafters' true intent: to cripple the ability of the EPA to regulate based on information supplied by industries that is designated confidential, or on public health and medical data where the privacy of patients must be protected.

The EPA already makes the data, methodology, and peer-reviewed research it relies on in its rule-making processes as transparent as possible. Moreover, the additional restrictions imposed by this proposed bill would make it almost impossible to base public protections on the best available scientific information. In particular, if enacted, the language appears to indicate that the agency would face the following challenges:

- **The EPA wouldn't be able to use most health studies.** The agency would likely be prevented from using any study that uses personal health data. The confidentiality of such data is usually protected by institutional review boards (IRBs); thus, the data could not be made publicly available as the bill requires. Since many EPA rules are health-based standards, this restriction would severely impede the ability of the agency to base rules on science.
- **The EPA wouldn't be able to draw from confidential industry data sources.** The agency would be prevented from using data provided by industry to the agency. Since information from industry sources is often not publicly available, this bill would prevent the agency from using industry

data, a source of information that often provides otherwise unknown data to inform EPA rule-making.

- **The EPA wouldn't be able to use new and innovative science.** New scientific methods and data may be restricted by intellectual property protections or industry trade secret exemptions. This bill would limit EPA's ability to rely on the best available science including novel approaches that may not yet be publicly available.
- **Long-term and meta- analyses would be unavailable.** Many of EPA's health-based standards rely on long-term exposure studies that assess the link between chronic diseases/mortality and pollutants; or on meta- analyses that include many different studies and locations to provide a more robust look at the science. The bill's requirement that the EPA's regulations be informed only by studies conducted "in a manner that is sufficient for independent analysis and substantial reproduction of research" may restrict the EPA's use of these exposure studies because it is unclear whether such spatially and temporally comprehensive studies would be considered "sufficient for substantial reproduction."
- **The CBO estimates exorbitant costs.** The attempt to implement this law would also make the EPA process much more costly. The CBO estimated that a bill identical to S. 544 introduced in the House of Representatives may cost the EPA up to \$250 million annually to simply comply with the bill's mandates. That estimate, doesn't take into account the costs to public health and the environment when crucial public protections are delayed or blocked.

We strongly urge you to oppose S. 544, the Secret Science Reform Act of 2015. The proposed bill would inhibit the EPA's ability to carry out its science-based mission to protect human health and the environment. We strongly urge you not to report this bill out of committee.

Sincerely,



Andrew A. Rosenberg, Ph.D.
Director, Center for Science and Democracy
Union of Concerned Scientists



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

March 11, 2015

H.R. 1030
Secret Science Reform Act of 2015

*As ordered reported by the House Committee on Science, Space, and Technology
on March 3, 2015*

SUMMARY

H.R. 1030 would amend the Environmental Research, Development, and Demonstration Authorization Act of 1978 to prohibit the Environmental Protection Agency (EPA) from proposing, finalizing, or disseminating a “covered action” unless all scientific and technical information used to support that action is publicly available in a manner that is sufficient for independent analysis and substantial reproduction of research results. Covered actions would include assessments of risks, exposure, or hazards; documents specifying criteria, guidance, standards, or limitations; and regulations and regulatory impact statements.

Although H.R. 1030 would not require EPA to disseminate any scientific or technical information that it relies on to support covered actions, the bill would not prohibit EPA from doing so. Based on information from EPA, CBO expects that EPA would spend \$250 million annually over the next few years to ensure the transparency of information and data supporting some covered actions.

Enacting H.R. 1030 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. H.R. 1030 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

This legislation would direct EPA to implement H.R. 1030 using up to \$1 million a year from amounts authorized to be appropriated for other activities under current law. Although H.R. 1030 would not authorize additional appropriations to implement the requirements of the bill, CBO estimates that implementing H.R. 1030 would cost about \$250 million a year for the next few years, subject to appropriation of the necessary amounts. Costs in later years would probably decline gradually from that level. The

additional discretionary spending would cover the costs of expanding the scope of EPA studies and related activities such as data collection and database construction for all of the information necessary to meet the legislation's requirements.

BASIS OF ESTIMATE

Under current law, EPA typically spends about \$500 million each year to support research and development activities, including assessments to determine the potential risk to public health from environmental contaminants. The number of studies involved in supporting covered actions depends on the complexity of the issue being addressed. For example, when addressing a recent issue with flaring at petroleum refineries, EPA relied on a dozen scientific studies. In contrast, when reviewing the National Ambient Air Quality Standards, the agency relied on thousands of scientific studies. In total, the agency relies on about 50,000 scientific studies annually to perform its mission—although some of those studies are used more than once from year to year.

The costs of implementing H.R. 1030 are uncertain because it is not clear how EPA would meet the bill's requirements. Depending on their size and scope, the new activities called for by the bill would cost between \$10,000 and \$30,000 for each scientific study used by the agency. If EPA continued to rely on as many scientific studies as it has used in recent years, while increasing the collection and dissemination of all the technical information used in such studies as directed by H.R. 1030, then implementing the bill would cost at least several hundred million dollars a year. However, EPA could instead rely on significantly fewer studies each year in support of its mission, and limit its spending on data collection and database construction activities to a relatively small expansion of existing study-related activity; in that scenario, implementing the bill would be much less costly.

Thus, the costs of implementing H.R. 1030 would ultimately depend on how EPA adapts to the bill's requirements. (It would also depend on the availability of appropriated funds to conduct the additional data collection and database construction activities and related coordination and reporting activities under the legislation.) CBO expects that EPA would modify its practices, at least to some extent, and would base its future work on fewer scientific studies, and especially those studies that have easily accessible or transparent data. Any such modification of EPA practices would also have to take into consideration the concern that the quality of the agency's work could be compromised if that work relies on a significantly smaller collection of scientific studies; we expect that the agency would seek to reduce its reliance on numerous studies without sacrificing the quality of the agency's covered actions related to research and development.

On balance—recognizing the significant uncertainty regarding EPA’s potential actions under the bill—CBO expects that the agency would probably cut the number of studies it relies on by about one-half and that the agency would aim to limit the costs of new activities required by the bill, such as data collection, correspondence and coordination with study authors, construction of a database to house necessary information, and public dissemination of such information. As a result, CBO estimates the incremental costs to the agency would be around \$250 million a year initially, subject to appropriation of the necessary amounts. In our assessment that figure lies near the middle of a broad range of possible outcomes under H.R. 1030. CBO expects that the additional costs to implement the legislation would decline over time as EPA became more adept and efficient at working with authors and researchers to ensure that the data used to support studies are provided in a standardized and replicable form.

PAY-AS-YOU-GO CONSIDERATIONS: None.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 1030 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: Susanne S. Mehlman
Impact on State, Local, and Tribal Governments: Jon Sperl
Impact on the Private Sector: Amy Petz

ESTIMATE APPROVED BY:

Peter H. Fontaine
Assistant Director for Budget Analysis



March 16, 2015

The Honorable Kevin McCarthy
House Majority Whip
U.S. House of Representatives
Washington, DC 20515

Dear Representative McCarthy:

As leading U.S. science, engineering, and academic institutions, we are writing to once again express our concerns regarding the Secret Science Reform Act of 2015 (H.R. 1030). We encourage you and your colleagues to take additional time to evaluate the unintended consequences of this bill before passing it on the House floor.

The research community is concerned about how some of the key terms in the bill could be interpreted or misinterpreted, especially terms such as “materials,” “data,” and “reproducible.” Would the Environmental Protection Agency (EPA) be excluded from utilizing research that involved physical specimens or biological materials that are not easily accessible? How would the agency address research that combines both public and private data?

With respect to reproducibility of research, some scientific research, especially in areas of public health, involves longitudinal studies that are so large and of great duration that they could not realistically be reproduced. Rather, these studies are replicated utilizing statistical modeling. The same may be true for scientific data from a one-time event (e.g., Deepwater Horizon Gulf oil spill) where the data are gathered in real time. We could foresee a situation in which the EPA would be constrained from making a proposal or even disseminating public information in a timely fashion.

Finally, the legislation could impose additional uncompensated burdens of cost and effort on those recipients of federal research grants where the research results are expected to be “relied on to support a covered action.” The bill is not clear on whether it is the EPA’s or the research institution’s responsibility to cover the costs associated with sharing and archiving this information.

The Office of Science and Technology Policy (OSTP) is working with federal agencies to establish access to data policies that relate “to the dissemination and long-term stewardship of the results of unclassified research, including digital data and peer-reviewed scholarly publications.” Agencies are beginning to issue their data access policies, and given the complexities associated with access to research data as outlined above we suggest that Congress wait to review the agency policies before imposing new statutory requirements.

American Anthropological Association
American Association for the Advancement of Science
American Chemical Society
American Geophysical Union
American Geosciences Institute
American Meteorological Society
American Society for Microbiology (ASM)
American Society of Agronomy
American Society of Civil Engineers
Association of American Geographers
Association of American Universities
Association of Public and Land-grant Universities (APLU)
Biophysical Society
Brown University
Consortium for Ocean Leadership
Consortium of Social Science Associations
Cornell University
Crop Science Society of America
Duke University
Ecological Society of America
Entomological Society of America
Harvard University
Massachusetts Institute of Technology
National Council for Science and the Environment
Society for Conservation Biology
Soil Science Society of America
Stanford University
The Ohio State University
The University of Texas at Austin
University of California System
University of California, Riverside
University of Maryland
University of Michigan
University of Oregon
University of Pennsylvania

**BlueGreen Alliance * Center for Effective Government * Clean Water Action
Defenders of Wildlife * Earthjustice * Environmental Defense Fund * Friends of the Earth
Greenpeace * League of Conservation Voters * Natural Resources Defense Council
Physicians for Social Responsibility * Sierra Club * Union of Concerned Scientists**

Honorable Chairman Inhofe
Senate Committee on Environment and Public Works
205 Russell Senate Office Building
Washington, DC 20510

Honorable Ranking Member Boxer
Senate Committee on Environment and Public Works
112 Hart Senate Office Building
Washington, DC 20510

April 27, 2015

Dear Chairman Inhofe and Ranking Member Boxer,

On behalf of our millions of members and supporters, we strongly urge you to oppose the "Secret Science Reform Act of 2015" (S. 544). This misleadingly named bill would radically diminish EPA's ability to protect public health. Under this bill, EPA would be required to ignore significant science; and enforcement officials would be required to ignore pollution emitted in violation of the law. This bill is broadly written and would have damaging impacts far in excess of what the sponsors will admit.

The "Secret Science Reform Act" is based on a faulty premise. Its notion of "secret science," based on claims about studies of fine soot pollution conducted almost two decades ago, is unfounded despite lengthy congressional inquiries. The bill would deny EPA the ability to rely upon peer-reviewed medical studies that involve commitments to patient confidentiality, when the agency carries out its statutory responsibilities to safeguard public health and the environment. Further, this bill would effectively amend numerous environmental statutes by forbidding EPA to use certain kinds of studies in setting health standards. It would also make it impossible for EPA to use many kinds of economic models it routinely relies on because those models are proprietary. This marks a radical departure from longstanding practices. Its end result would be to make it much more difficult to protect the public by forcing EPA to ignore key scientific studies.

This legislation will obstruct the implementation and enforcement of critical environmental statutes, undermine the EPA's ability to consider and use science, and jeopardize public health. For these reasons, we urge you to oppose this bill.

Sincerely,

BlueGreen Alliance
Center for Effective Government
Clean Water Action
Defenders of Wildlife
Earthjustice
Environmental Defense Fund
Friends of the Earth
Greenpeace
League of Conservation Voters
Natural Resources Defense Council
Physicians for Social Responsibility
Sierra Club
Union of Concerned Scientists

