



1           tribution in commerce of asbestos or any mix-  
2           ture or article containing asbestos only if the  
3           President determines that—

4                   “(i) the manufacture, processing, or  
5                   distribution in commerce of asbestos or  
6                   any mixture or article containing asbestos  
7                   by the person is necessary to protect the  
8                   national security interests of the United  
9                   States; and

10                   “(ii) no feasible alternative to the  
11                   manufacture, processing, or distribution in  
12                   commerce of asbestos or any mixture or  
13                   article containing asbestos exists for the  
14                   intended use.

15           “(B) DURATION.—

16                   “(i) IN GENERAL.—The period of an  
17                   exemption granted under subparagraph  
18                   (A) shall not exceed 3 years.

19                   “(ii) EXTENSION.—The President  
20                   may, in accordance with subparagraph (A),  
21                   extend an exemption granted under such  
22                   subparagraph once, for a period not to ex-  
23                   ceed 3 years.

24           “(C) TERMS AND CONDITIONS.—An ex-  
25           emption granted under this paragraph (includ-

1           ing an extension thereof) shall include such  
2           terms and conditions as are necessary to  
3           achieve maximum practicable reduction in expo-  
4           sure to the asbestos that is the covered by the  
5           exemption.

6           “(D) PUBLICATION.—

7                   “(i) APPLICATIONS.—Not later than  
8                   30 days after receipt of an application for  
9                   an exemption under this paragraph (in-  
10                  cluding an extension thereof), the Presi-  
11                  dent shall publish the application in the  
12                  Federal Register.

13                  “(ii) EXEMPTIONS.—Not later than  
14                  30 days after granting an exemption under  
15                  this paragraph (including an extension  
16                  thereof), the President shall publish in the  
17                  Federal Register notice of the exemption  
18                  and the terms and conditions included  
19                  under subparagraph (C).

20                  “(iii) EXCEPTION.—The President,  
21                  upon a determination that publication  
22                  under this paragraph of information per-  
23                  taining to an application or granting of a  
24                  particular exemption would harm the na-  
25                  tional security interests of the United

1 States, shall not publish such information  
2 in the Federal Register but shall provide  
3 such information to the Committee on En-  
4 ergy and Commerce of the House of Rep-  
5 resentatives and the Committee on Envi-  
6 ronment and Public Works of the Senate.

7 “(E) APPLICATION OF WAIVER AUTHOR-  
8 ITY.—Notwithstanding section 22, the Adminis-  
9 trator may not issue a waiver under such sec-  
10 tion with respect to asbestos.

11 “(3) CHLOR-ALKALI INDUSTRY.—Notwith-  
12 standing paragraph (1), the owner, operator, or  
13 agent thereof of a chlor-alkali facility that is in oper-  
14 ation on the date of enactment of this subsection  
15 may—

16 “(A) until the date that is 5 years after  
17 such date of enactment, import processed asbes-  
18 tos fibers solely for the purpose of manufac-  
19 turing diaphragms for use in the chlor-alkali  
20 process; and

21 “(B) until the date that is 10 years after  
22 such date of enactment, use, hold, or process  
23 asbestos fibers solely for the purpose of manu-  
24 facturing diaphragms for use in the chlor-alkali  
25 process.

1           “(4) REPORTS.—

2                   “(A) TIMING AND COVERAGE.—

3                           “(i) PREVIOUS ACTION.—Not later  
4 than 120 days after the date of enactment  
5 of this subsection, any person who has  
6 manufactured, processed, or distributed in  
7 commerce asbestos or any mixture or arti-  
8 cle containing asbestos (not including any  
9 mixture or article in which asbestos is  
10 present only as an impurity) in the 36  
11 months preceding such date of enactment  
12 shall submit to the Administrator a report  
13 described in subparagraph (B).

14                           “(ii) LATER ACTION.—Any person  
15 manufacturing, processing, or distributing  
16 in commerce asbestos or any mixture or  
17 article containing asbestos during the pe-  
18 riod that begins on the date of enactment  
19 of this subsection and ends on the date on  
20 which the prohibition under paragraph (1)  
21 takes effect shall submit to the Adminis-  
22 trator a report described in subparagraph  
23 (B) not later than 120 days after—

24                                   “(I) the date of enactment of this  
25 subsection, for any person who has

1 manufactured, processed, or distrib-  
2 uted in commerce asbestos or any  
3 mixture or article containing asbestos  
4 before such date of enactment; or

5 “(II) the date on which the per-  
6 son initiates any such manufacture,  
7 processing, or distribution in com-  
8 merce, for any person initiating such  
9 manufacturing, processing, or dis-  
10 tribution in commerce on or after  
11 such date of enactment.

12 “(iii) REPORTS DURING EXEMPTED  
13 PERIOD.—Any person granted an exemp-  
14 tion under paragraph (2) shall submit to  
15 the Administrator a report described in  
16 subparagraph (B) not later than 27  
17 months after—

18 “(I) the exemption is granted;

19 and

20 “(II) the exemption is extended,  
21 if applicable.

22 “(iv) REPORTS BY CHLOR-ALKALI IN-  
23 DUSTRY.—Any owner, operator, or agent  
24 thereof of a chlor-alkali facility importing,  
25 using, holding, or processing asbestos pur-

1           suant to paragraph (3) in a calendar year  
2           shall submit to the Administrator a report  
3           described in subparagraph (B)—

4                   “(I) not later than March 1 of  
5                   the following calendar year; and

6                   “(II) annually thereafter until  
7                   the person has submitted such a re-  
8                   port with respect to each calendar  
9                   year after the date of enactment of  
10                  this subsection in which such person  
11                  imported, used, held, or processed  
12                  such an article.

13                  “(B) CONTENTS.—Each report submitted  
14                  under subparagraph (A) shall, if not previously  
15                  reported to the Administrator, include—

16                   “(i) the name and address of the per-  
17                   son submitting the report;

18                   “(ii) the name, title, and contact in-  
19                   formation of an authorized representative  
20                   of the person submitting the report;

21                   “(iii) the location of the facility or fa-  
22                   cilities where the manufacture, processing,  
23                   or distribution in commerce of asbestos or  
24                   mixtures or articles containing asbestos

1 has occurred during the applicable report-  
2 ing period;

3 “(iv) a description of the manufac-  
4 ture, processing, or distribution activity  
5 during the applicable reporting period of  
6 the person submitting the report, and the  
7 intended and known uses of asbestos and  
8 each mixture or article containing asbestos  
9 that was manufactured, processed, or dis-  
10 tributed in commerce by such person dur-  
11 ing such period;

12 “(v) the amount of asbestos, and rea-  
13 sonable estimates of the amount and con-  
14 centration of asbestos in any mixture or  
15 article containing asbestos, that is manu-  
16 factured, processed, or distributed in com-  
17 merce, or expected to be manufactured,  
18 processed, or distributed in commerce, by  
19 the person during the applicable reporting  
20 period;

21 “(vi) to the extent practicable, reason-  
22 able estimates of the amount of asbestos to  
23 be disposed of as a result of the reported  
24 manufacture, processing, or distribution



1 activities, and the manner of such disposal;

2 and

3 “(vii) reasonable estimates of—

4 “(I) the number of individuals

5 who, as a result of their involvement

6 in the reported manufacture, proc-

7 essing, and distribution activities—

8 “(aa) have been exposed to

9 asbestos or mixtures or articles

10 containing asbestos; and

11 “(bb) will be so exposed; and

12 “(II) the nature, duration, fre-

13 quency, and levels of any such expo-

14 sure.

15 “(C) REPORTING PERIOD.—For purposes

16 of subparagraph (B), the reporting period for a

17 report submitted under—

18 “(i) subparagraph (A)(i) shall be the

19 period that begins on the date that is 36

20 months prior to the date of enactment of

21 this subsection and ends on the date of en-

22 actment of this subsection;

23 “(ii) subparagraph (A)(ii) shall be the

24 period that begins on the date of enact-

25 ment of this subsection and ends on the

1 date on which the prohibition under para-  
2 graph (1) takes effect;

3 “(iii) subparagraph (A)(iii)(I) shall be  
4 the period that begins on the date on  
5 which an exemption is granted under para-  
6 graph (2) and ends on the date such ex-  
7 emption expires (not including an exten-  
8 sion thereof);

9 “(iv) subparagraph (A)(iii)(II) shall  
10 be the period that begins on the date on  
11 which an exemption is extended under  
12 paragraph (2) and ends on the date such  
13 extension expires; and

14 “(v) subparagraph (A)(iv) shall be the  
15 calendar year prior to the calendar year in  
16 which the report is submitted.

17 “(D) REPORTING FORMS AND INSTRUC-  
18 TIONS.—Not later than 45 days after the date  
19 of the enactment of this subsection, the Admin-  
20 istrator shall publish a notice in the Federal  
21 Register that provides instructions for reporting  
22 under this paragraph and a form or forms for  
23 use by persons submitting reports under this  
24 paragraph.

1           “(E) AVAILABILITY.—Not later than 3  
2 months after a report is submitted under sub-  
3 paragraph (A), the Administrator shall, subject  
4 to section 14, make such report available to the  
5 public.

6           “(F) SUMMARY AND ANALYSIS.—Not later  
7 than 180 days after a report is submitted under  
8 subparagraph (A), the Administrator shall, sub-  
9 ject to section 14, make available to the public  
10 a summary and analysis of the information  
11 such report contains.

12           “(5) DEFINITIONS.—In this subsection:

13           “(A) ASBESTOS.—The term ‘asbestos’  
14 means the following chemical substances:

15           “(i) The asbestiform varieties of  
16 chrysotile, actinolite, amosite,  
17 anthophyllite, crocidolite, richterite,  
18 winchite, and tremolite.

19           “(ii) The acicular and fibrous forms  
20 of richterite and winchite.

21           “(B) DISTRIBUTE IN COMMERCE.—The  
22 terms ‘distribute in commerce’ and ‘distribution  
23 in commerce’ have the meaning given the terms  
24 in section 3(5), but, notwithstanding such sec-

1           tion 3(5), do not include, with respect to asbes-  
2           tos—

3                   “(i) end-use of a mixture or article  
4                   containing asbestos and installed in a  
5                   building or other structure before the date  
6                   of enactment of this subsection; or

7                   “(ii) distribution of a mixture or arti-  
8                   cle containing asbestos solely for the pur-  
9                   pose of disposal of the mixture or article in  
10                  compliance with applicable Federal, State,  
11                  and local requirements.

12                  “(C) MIXTURE OR ARTICLE CONTAINING  
13                  ASBESTOS.—The term ‘mixture or article con-  
14                  taining asbestos’ does not include—

15                   “(i) a mixture or article in which as-  
16                   bestos is present as an impurity, as defined  
17                   in section 720.3(m) of title 40, Code of  
18                   Federal Regulations, as of the date of en-  
19                   actment of this clause, in an amount that  
20                   does not exceed a content of 0.1 percent of  
21                   the mixture or article; or

22                   “(ii) with regard to mined construc-  
23                   tion materials, including aggregates, stone,  
24                   sand, and gravel, a mixture or article in  
25                   which less than 0.25 percent of naturally

1           occurring asbestos is present in the bulk  
2           content of such materials.”.

3           (b) The prohibition and requirements described in  
4 this Act shall only apply to chemical substances regulated  
5 under the Toxic Substances Control Act and shall have  
6 no force or effect on the prohibition, requirements, or defi-  
7 nitions pertaining to asbestos for any other purpose in-  
8 cluding the purpose of defining asbestos for evaluation of  
9 cosmetic ingredients as defined in section 201 of the Fed-  
10 eral Food, Drug, and Cosmetic Act, and whether cosmetic  
11 ingredients such as talc contain asbestos as an accessory  
12 mineral.

13           (c) TESTING.—Nothing in the amendment made by  
14 this section requires a manufacturer, processor, or dis-  
15 tributor in commerce to test for the presence of asbestos  
16 in any mixture or article.

17           (d) CHEMICAL SUBSTANCE.—The definition of “as-  
18 bestos” under the amendment made by this section shall  
19 apply only to “chemical substance” as defined under sec-  
20 tion 3(2), including subparagraph (B)(vi) of such section,  
21 of the Toxic Substances Control Act.

22 **SEC. 12702. LEGACY ASBESTOS: REPORT AND REC-**  
23 **COMMENDATIONS.**

24           (a) REPORT.—The Administrator of the Environ-  
25 mental Protection Agency, in consultation with the Sec-

1   retary of Health and Human Services and the Secretary  
2   of Labor, shall seek to enter into an agreement with the  
3   National Academy of Sciences to prepare a report assess-  
4   ing—

5           (1) the presence of asbestos in residential, com-  
6           mercial, industrial, public, and school buildings; and

7           (2) the extent of exposure to the asbestos  
8           present in such buildings from all commercial, indus-  
9           trial, and consumer activities that may result in as-  
10          bestos exposure.

11          (b) CONTENTS.—The report described in subsection  
12   (a) shall be based upon the best available information, and  
13   information that can feasibly be obtained through surveys  
14   or other reliable means, and shall provide the following:

15           (1) An estimate of the number of residential,  
16           commercial, industrial, public, and school buildings  
17           where asbestos is present.

18           (2) An estimate of the amount of asbestos in  
19           such buildings and the portion of such asbestos that  
20           is friable.

21           (3) A description of the types of building com-  
22           ponents and systems containing asbestos in such  
23           buildings and the categories of mixtures and articles  
24           containing asbestos that are present, such as ther-

1 mal insulation, roofing materials, asbestos cement  
2 pipe, and asbestos cement sheet.

3 (4) For each category of building, an estimate  
4 of the number of people potentially exposed to asbes-  
5 tos, the conditions and activities with the greatest  
6 potential for exposure, and estimates of the levels of  
7 exposure.

8 (5) A description of the role of handling, main-  
9 tenance, and construction practices in creating expo-  
10 sure to asbestos and the impact of building aging on  
11 the potential for asbestos exposure.

12 (6) A best estimate of the amount of asbestos  
13 waste generated from building renovation, repair,  
14 and demolition for each of the last 5 years and the  
15 procedures that are utilized for the handling, trans-  
16 port, and disposal of such waste.

17 (c) RECOMMENDATIONS.—

18 (1) IN GENERAL.—The report described in sub-  
19 section (a) shall contain—

20 (A) an assessment of the sufficiency of ex-  
21 isting statutes, regulations, policies, and pro-  
22 grams, implemented by the Environmental Pro-  
23 tection Agency, the Department of Labor, and  
24 other agencies, in protecting against exposures  
25 to legacy asbestos; and

1 (B) recommendations for modifications or  
2 additions to such statutes, regulations, policies,  
3 and programs, as necessary to reduce or elimi-  
4 nate risks to human health.

5 (2) INCLUSIONS.—Recommendations under  
6 paragraph (1)(B) may include recommendations for  
7 new, additional, or modified statutes, regulations,  
8 policies, or programs for—

9 (A) the inspection of buildings to deter-  
10 mine the presence and condition of asbestos;

11 (B) inventorying the presence and condi-  
12 tion of asbestos in buildings;

13 (C) removal of asbestos from buildings;

14 (D) handling asbestos during building  
15 maintenance, repair, demolition, and other com-  
16 mercial and industrial activities with the poten-  
17 tial for asbestos exposure; and

18 (E) disposal of asbestos-containing waste  
19 and debris.

20 (d) DEADLINES.—

21 (1) AGREEMENT.—The Administrator of the  
22 Environmental Protection Agency, in consultation  
23 with the Secretary of Health and Human Services  
24 and the Secretary of Labor, shall seek to enter into  
25 a contract with the National Academy of Sciences



1 under this section not later than 4 months after the  
2 date of enactment of this Act.

3 (2) REPORT.—Under the agreement entered  
4 into pursuant to subsection (a), the National Acad-  
5 emy of Sciences shall, not later than 18 months  
6 after the date of enactment of this Act, submit to  
7 Congress and to the Administrator of the Environ-  
8 mental Protection Agency the report described in  
9 this section.

10 (e) EFFECT ON EXISTING LAW.—Compliance with  
11 this section shall not relieve the Administrator of the Envi-  
12 ronmental Protection Agency, the Secretary of Health and  
13 Human Services, or the Secretary of Labor, of any other  
14 obligation arising under this subtitle or any other law.

15 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
16 authorized to be appropriated to carry out this section  
17 \$1,500,000.

18 (g) DEFINITION OF ASBESTOS.—In this section, the  
19 term “asbestos” means—

20 (1) the asbestiform varieties of chrysotile, actin-  
21 olite, amosite, anthophyllite, crocidolite, richterite,  
22 winchite, and tremolite; and

23 (2) the acicular and fibrous forms of richterite  
24 and winchite.

1 **SEC. 12703. PREEMPTION.**

2 For purposes of section 18 of the Toxic Substances  
3 Control Act, subsection (k) of section 6 of such Act (as  
4 added by this subtitle) shall be considered to be a rule  
5 promulgated under such section 6.

