

114TH CONGRESS
1ST SESSION

H. R. 2576

AN ACT

To modernize the Toxic Substances Control Act, and for
other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “TSCA Modernization Act of 2015”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Testing of chemical substances and mixtures.
- Sec. 4. Regulation of hazardous chemical substances and mixtures.
- Sec. 5. Relationship to other Federal laws.
- Sec. 6. Disclosure of data.
- Sec. 7. Effect on State law.
- Sec. 8. Administration of the Act.
- Sec. 9. Conforming amendments.

6 **SEC. 2. DEFINITIONS.**

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

9 (1) by redesignating paragraphs (7) through
10 (14) as paragraphs (8) through (10) and (12)
11 through (16), respectively;

12 (2) by inserting after paragraph (6) the fol-
13 lowing:

14 “(7) The term ‘intended conditions of use’ means the
15 circumstances under which a chemical substance is in-
16 tended, known, or reasonably foreseeable to be manufac-
17 tured, processed, distributed in commerce, used, and dis-
18 posed of.”; and

19 (3) by inserting after paragraph (10), as so re-
20 designated, the following:

1 “(11) The term ‘potentially exposed subpopulation’
 2 means a group of individuals within the general population
 3 who, due to either greater susceptibility or greater poten-
 4 tial exposure, are likely to be at greater risk than the gen-
 5 eral population of adverse health effects from exposure to
 6 a chemical substance.”.

7 **SEC. 3. TESTING OF CHEMICAL SUBSTANCES AND MIX-**
 8 **TURES.**

9 Section 4 of the Toxic Substances Control Act (15
 10 U.S.C. 2603) is amended—

11 (1) in subsection (a)(1)—

12 (A) in subparagraph (A)(iii), by striking “;
 13 or” and inserting a semicolon;

14 (B) in subparagraph (B)(iii), by striking “;
 15 and” and inserting “; or”; and

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

17 “(C) testing of a chemical substance is nec-
 18 essary to conduct a risk evaluation under section
 19 6(b); and”;

20 (2) in the matter following subsection (a)(2), by
 21 inserting “, order, or consent agreement” after “by
 22 rule”; and

23 (3) in subsection (b)(5), by striking “paragraph
 24 (1)(A) or (1)(B)” and inserting “paragraph (1)(A),
 25 (1)(B), or (1)(C)”.

1 **SEC. 4. REGULATION OF HAZARDOUS CHEMICAL SUB-**
2 **STANCES AND MIXTURES.**

3 (a) SCOPE OF REGULATION.—Section 6(a) of the
4 Toxic Substances Control Act (15 U.S.C. 2605(a)) is
5 amended—

6 (1) by striking “finds that there is a reasonable
7 basis to conclude” and inserting “determines under
8 subsection (b)”;

9 (2) by inserting “or designates a chemical sub-
10 stance under subsection (i)(2),” before “the Admin-
11 istrator shall by rule”; and

12 (3) by striking “to protect adequately against
13 such risk using the least burdensome requirements”
14 and inserting “so that the chemical substance or
15 mixture no longer presents or will present an unrea-
16 sonable risk, including an identified unreasonable
17 risk to a potentially exposed subpopulation”.

18 (b) RISK EVALUATIONS.—Section 6(b) of the Toxic
19 Substances Control Act (15 U.S.C. 2605(b)) is amended
20 to read as follows:

21 “(b) RISK EVALUATIONS.—

22 “(1) IN GENERAL.—The Administrator shall
23 conduct risk evaluations pursuant to this subsection
24 to determine whether or not a chemical substance
25 presents or will present, in the absence of require-

ments under subsection (a), an unreasonable risk of injury to health or the environment.

“(2) APPLYING REQUIREMENTS.—The Administrator shall apply requirements with respect to a chemical substance through a rule under subsection (a) only if the Administrator determines through a risk evaluation under this subsection, without consideration of costs or other non-risk factors, that the chemical substance presents or will present, in the absence of such requirements, an unreasonable risk of injury to health or the environment.

“(3) CONDUCTING RISK EVALUATION.—

“(A) REQUIRED RISK EVALUATIONS.—The Administrator shall conduct and publish the results of a risk evaluation under this subsection for a chemical substance if—

“(i) the Administrator determines that the chemical substance may present an unreasonable risk of injury to health or the environment because of potential hazard and a potential route of exposure under the intended conditions of use; or

“(ii) a manufacturer of the chemical substance requests such a risk evaluation

1 in a form and manner prescribed by the
2 Administrator.

3 “(B) TSCA WORK PLAN CHEMICALS.—The
4 Administrator may, without making a deter-
5 mination under subparagraph (A)(i), conduct
6 and publish the results of a risk evaluation
7 under this subsection for a chemical substance
8 that, on the date of enactment of the TSCA
9 Modernization Act of 2015, is listed in the
10 TSCA Work Plan for Chemical Assessments
11 published by the Administrator.

12 “(4) REQUIREMENTS.—In conducting a risk
13 evaluation under this subsection, the Administrator
14 shall—

15 “(A) integrate and assess information on
16 hazards and exposures for all of the intended
17 conditions of use of the chemical substance, in-
18 cluding information that is relevant to specific
19 risks of injury to health or the environment and
20 information on potentially exposed subpopula-
21 tions;

22 “(B) not consider information on cost and
23 other factors not directly related to health or
24 the environment;

1 “(C) take into account, where relevant, the
2 likely duration, intensity, frequency, and num-
3 ber of exposures under the intended conditions
4 of use of the chemical substance;

5 “(D) describe the weight of the scientific
6 evidence for identified hazard and exposure;

7 “(E) consider whether the weight of the
8 scientific evidence supports the identification of
9 doses of the chemical substance below which no
10 adverse effects can be expected to occur; and

11 “(F) in the case of a risk evaluation re-
12 quested by a manufacturer under paragraph
13 (3)(A)(ii), ensure that the costs to the Environ-
14 mental Protection Agency, including contractor
15 costs, of conducting the risk evaluation are paid
16 for by the manufacturer.

17 “(5) DEADLINES.—

18 “(A) RISK EVALUATIONS.—The Adminis-
19 trator shall conduct and publish a risk evalua-
20 tion under this subsection for a chemical sub-
21 stance as soon as reasonably possible, subject to
22 the availability of resources, but not later
23 than—

24 “(i) 3 years after the date on which
25 the Administrator—

1 “(I) makes a determination
2 under paragraph (3)(A)(i); or

3 “(II) begins the risk evaluation
4 under paragraph (3)(B); or

5 “(ii) in the case of a risk evaluation
6 requested by a manufacturer under para-
7 graph (3)(A)(ii), 2 years after the later of
8 the date on which—

9 “(I) the manufacturer requests
10 the risk evaluation; or

11 “(II) if applicable, the risk eval-
12 uation is initiated pursuant to sub-
13 paragraph (B).

14 “(B) DEADLINE ADJUSTMENT.—If the Ad-
15 ministrator receives more requests for risk eval-
16 uations under paragraph (3)(A)(ii) than the
17 Administrator has resources to conduct by the
18 deadline under subparagraph (A)(ii)(I) (taking
19 into account the requirement in paragraph
20 (4)(F)), the Administrator shall—

21 “(i) initiate risk evaluations that ex-
22 ceed the Administrator’s allotted resources
23 as soon as resources for such risk evalua-
24 tions are available; and

1 “(ii) not collect a fee under section 26
2 from the manufacturer for a risk evalua-
3 tion until the Administrator initiates the
4 risk evaluation.

5 “(C) SUBSECTION (a) RULES.—If, based
6 on a risk evaluation conducted under this sub-
7 section, the Administrator determines, without
8 consideration of costs or other non-risk factors,
9 that a chemical substance presents or will
10 present, in the absence of a rule under sub-
11 section (a), an unreasonable risk of injury to
12 health or the environment, the Administrator
13 shall—

14 “(i) propose a rule under subsection
15 (a) for the chemical substance not later
16 than 1 year after the date on which the
17 risk evaluation regarding such chemical
18 substance is published under subparagraph
19 (A); and

20 “(ii) publish in the Federal Register a
21 final rule not later than 2 years after the
22 date on which the risk evaluation regard-
23 ing such chemical substance is published
24 under subparagraph (A).

1 “(D) EXTENSION.—If the Administrator
2 determines that additional information is nec-
3 essary to make a risk evaluation determination
4 under this subsection, the Administrator may
5 extend the deadline under subparagraph (A) ac-
6 cordingly, except that the deadline may not be
7 extended to a date that is later than—

8 “(i) 90 days after receipt of such ad-
9 ditional information; or

10 “(ii) 2 years after the deadline being
11 extended under this subparagraph.

12 “(6) DETERMINATIONS OF NO UNREASONABLE
13 RISK.—

14 “(A) NOTICE AND COMMENT.—Not later
15 than 30 days before publishing a final deter-
16 mination under this subsection that a chemical
17 substance does not and will not present an un-
18 reasonable risk of injury to health or the envi-
19 ronment, the Administrator shall make a pre-
20 liminary determination to such effect and pro-
21 vide public notice of, and an opportunity for
22 comment regarding, such preliminary deter-
23 mination.

24 “(B) POTENTIALLY EXPOSED SUBPOPULA-
25 TIONS.—The Administrator shall not make a

1 determination under this subsection that a
2 chemical substance will not present an unrea-
3 sonable risk of injury to health or the environ-
4 ment if the Administrator determines that the
5 chemical substance, under the intended condi-
6 tions of use, presents or will present an unrea-
7 sonable risk of injury to one or more potentially
8 exposed subpopulations.

9 “(C) FINAL ACTION.—A final determina-
10 tion under this subsection that a chemical sub-
11 stance will not present an unreasonable risk of
12 injury to health or the environment shall be
13 considered a final agency action.

14 “(7) MINIMUM NUMBER.—Subject to the avail-
15 ability of appropriations, the Administrator shall ini-
16 tiate 10 or more risk evaluations under paragraphs
17 (3)(A)(i) or (3)(B) in each fiscal year beginning in
18 the fiscal year of the date of enactment of the TSCA
19 Modernization Act of 2015.”.

20 (c) PROMULGATION OF SUBSECTION (a) RULES.—
21 Section 6(c) of the Toxic Substances Control Act (15
22 U.S.C. 2605(c)) is amended—

23 (1) by amending paragraph (1) to read as fol-
24 lows:

1 “(1) REQUIREMENTS FOR RULE.—In promul-
2 gating any rule under subsection (a) with respect to
3 a chemical substance or mixture, the Administrator
4 shall—

5 “(A) consider and publish a statement with
6 respect to—

7 “(i) the effects of the chemical sub-
8 stance or mixture on health and the mag-
9 nitude of the exposure of human beings to
10 the chemical substance or mixture;

11 “(ii) the effects of the chemical sub-
12 stance or mixture on the environment and
13 the magnitude of the exposure of the envi-
14 ronment to the chemical substance or mix-
15 ture;

16 “(iii) the benefits of the chemical sub-
17 stance or mixture for various uses; and

18 “(iv) the reasonably ascertainable eco-
19 nomic consequences of the rule, including
20 consideration of the likely effect of the rule
21 on the national economy, small business,
22 technological innovation, the environment,
23 and public health;

24 “(B) impose requirements under the rule
25 that the Administrator determines, consistent

1 with the information published under subpara-
2 graph (A), are cost-effective, except where the
3 Administrator determines that additional or dif-
4 ferent requirements described in subsection (a)
5 are necessary to protect against the identified
6 risk;

7 “(C) based on the information published
8 under subparagraph (A), in deciding whether to
9 prohibit or restrict in a manner that substan-
10 tially prevents a specific use of a chemical sub-
11 stance or mixture and in setting an appropriate
12 transition period for such action, determine
13 whether technically and economically feasible al-
14 ternatives that benefit health or the environ-
15 ment, compared to the use so proposed to be
16 prohibited or restricted, will be reasonably
17 available as a substitute when the proposed pro-
18 hibition or other restriction takes effect;

19 “(D) exempt replacement parts designed
20 prior to the date of publication in the Federal
21 Register of the rule unless the Administrator
22 finds such replacement parts contribute signifi-
23 cantly to the identified risk, including identified
24 risk to identified potentially exposed subpopula-
25 tions; and

“(E) in selecting among prohibitions and other restrictions to address an identified risk, apply prohibitions or other restrictions to articles on the basis of a chemical substance or mixture contained in the article only to the extent necessary to protect against the identified risk.”;

(2) in paragraph (2)—

(A) by inserting “PROCEDURES.—” before “When prescribing a rule”;

(B) by striking “provide an opportunity for an informal hearing in accordance with paragraph (3); (D)”;

(C) by striking “, and (E)” and inserting “; and (D)”;

(D) by moving such paragraph 2 ems to the right;

(3) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3); and

(4) in paragraph (3) (as so redesignated)—

(A) by striking “Paragraphs (1), (2), (3), and (4)” and inserting “APPLICATION.—Paragraphs (1) and (2)”;

(B) by moving such paragraph 2 ems to the right.

1 (d) EFFECTIVE DATE.—Section 6(d)(2)(B) of the
2 Toxic Substances Control Act (15 U.S.C. 2605(d)(2)(B))
3 is amended by adding at the end the following: “Any rule
4 promulgated under subsection (a) shall provide for a rea-
5 sonable transition period.”.

6 (e) NON-RISK FACTORS; CRITICAL USE EXEMP-
7 TIONS; PBT CHEMICALS.—Section 6 of the Toxic Sub-
8 stances Control Act (15 U.S.C. 2605) is amended by add-
9 ing at the end the following:

10 “(g) NON-RISK FACTORS.—The Administrator shall
11 not consider costs or other non-risk factors when deciding
12 whether to initiate a rulemaking under subsection (a).

13 “(h) CRITICAL USE EXEMPTIONS.—

14 “(1) CRITERIA FOR EXEMPTION.—The Admin-
15 istrator may grant an exemption from a requirement
16 of a subsection (a) rule for a specific use of a chem-
17 ical substance or mixture, if—

18 “(A) the requirement is not cost-effective
19 with respect to the specific use, as determined
20 by the Administrator pursuant to subsection
21 (c)(1)(B); and

22 “(B) the Administrator finds that—

23 “(i) the specific use is a critical or es-
24 sential use; or

1 “(ii) the requirement, as applied with
2 respect to the specific use, would signifi-
3 cantly disrupt the national economy, na-
4 tional security, or critical infrastructure.

5 “(2) PROCEDURE.—An exemption granted
6 under paragraph (1) shall be—

7 “(A) supported by clear and convincing
8 evidence;

9 “(B) preceded by public notice of the pro-
10 posed exemption and an opportunity for com-
11 ment; and

12 “(C) followed by notice of the granted ex-
13 emption—

14 “(i) to the public, by the Adminis-
15 trator; and

16 “(ii) to known commercial purchasers
17 of the chemical substance or mixture with
18 respect to which the exemption applies, by
19 the manufacturers and processors of such
20 chemical substance or mixture.

21 “(3) PERIOD OF EXEMPTION.—An exemption
22 granted under paragraph (1) shall expire after a pe-
23 riod not to exceed 5 years, but may be renewed for
24 one or more additional 5-year periods if the Admin-

1 istrator finds that the requirements of paragraph (1)
2 continue to be met.

3 “(4) CONDITIONS.—The Administrator shall
4 impose conditions on any use for which an exemp-
5 tion is granted under paragraph (1) to reduce risk
6 from the chemical substance or mixture to the great-
7 est extent feasible.

8 “(i) CHEMICALS THAT ARE PERSISTENT, BIO-
9 ACCUMULATIVE, AND TOXIC.—

10 “(1) IDENTIFICATION.—Not later than 9
11 months after the date of enactment of the TSCA
12 Modernization Act of 2015, the Administrator shall
13 publish a list of those chemical substances that the
14 Administrator has a reasonable basis to conclude are
15 persistent, bioaccumulative, and toxic, not including
16 any chemical substance that is a metal, a metal com-
17 pound, or subject to subsection (e).

18 “(2) CONFIRMATION OF CONCERN.—Not later
19 than 2 years after the date of enactment of the
20 TSCA Modernization Act of 2015, the Administrator
21 shall designate as a PBT chemical of concern each
22 chemical substance on the list published under para-
23 graph (1)—

24 “(A) that, with respect to persistence and
25 bioaccumulation, scores high for one and either

1 high or moderate for the other, pursuant to the
2 TSCA Work Plan Chemicals Methods Docu-
3 ment published by the Administrator in Feb-
4 ruary 2012; and

5 “(B) exposure to which is likely to the gen-
6 eral population or to a potentially exposed sub-
7 population identified by the Administrator.

8 “(3) EXPEDITED ACTION.—Notwithstanding
9 subsection (b)(2), subject to the availability of ap-
10 propriations, not later than 2 years after designating
11 a chemical substance under paragraph (2), the Ad-
12 ministrator shall promulgate a rule under subsection
13 (a) with respect to the chemical substance to reduce
14 likely exposure to the extent practicable.

15 “(4) RELATIONSHIP TO SUBSECTION (b).—If,
16 at any time prior to the date that is 90 days after
17 the date on which the Administrator publishes the
18 list under paragraph (1), the Administrator makes a
19 finding under subsection (b)(3)(A)(i), or a manufac-
20 turer requests a risk evaluation under subsection
21 (b)(3)(A)(ii), with respect to a chemical substance,
22 such chemical substance shall not be subject to this
23 subsection.”.

1 **SEC. 5. RELATIONSHIP TO OTHER FEDERAL LAWS.**

2 Section 9(b) of the Toxic Substances Control Act (15
3 U.S.C. 2608(b)) is amended—

4 (1) by striking “The Administrator shall coordi-
5 nate” and inserting “(1) The Administrator shall co-
6 ordinate”; and

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

8 “(2) In making a determination under paragraph (1)
9 that it is in the public interest for the Administrator to
10 take an action under this title with respect to a chemical
11 substance or mixture rather than under another law ad-
12 ministered in whole or in part by the Administrator, the
13 Administrator shall consider the relevant risks, and com-
14 pare the estimated costs and efficiencies, of the action to
15 be taken under this title and an action to be taken under
16 such other law to protect against such risk.”.

17 **SEC. 6. DISCLOSURE OF DATA.**

18 Section 14 of the Toxic Substances Control Act (15
19 U.S.C. 2613) is amended—

20 (1) in subsection (a)—

21 (A) by striking “or” at the end of para-
22 graph (3);

23 (B) by striking the period at the end of
24 paragraph (4) and inserting a semicolon; and

25 (C) by adding after paragraph (4) the fol-
26 lowing new paragraphs:

1 “(5) may be disclosed to a State, local, or tribal
2 government official upon request of the official for
3 the purpose of administration or enforcement of a
4 law; and

5 “(6) shall be disclosed upon request—

6 “(A) to a health or environmental profes-
7 sional employed by a Federal or State agency in
8 response to an environmental release; or

9 “(B) to a treating physician or other
10 health care professional to assist in the diag-
11 nosis or treatment of one or more individuals.”;

12 (2) in subsection (b)(1), in the matter following
13 subparagraph (B)—

14 (A) by striking “data which discloses” and
15 inserting “data that disclose formulas (includ-
16 ing molecular structures) of a chemical sub-
17 stance or mixture,”;

18 (B) by striking “mixture or,” and inserting
19 “mixture, or,”; and

20 (C) by striking “the release of data dis-
21 closing”;

22 (3) in subsection (c)—

23 (A) by striking the subsection heading and
24 inserting “DESIGNATING AND SUBSTANTIATING
25 CONFIDENTIALITY.—”;

1 (B) by amending paragraph (1) to read as
2 follows: “(1)(A) In submitting information
3 under this Act after date of enactment of the
4 TSCA Modernization Act of 2015, a manufac-
5 turer, processor, or distributor in commerce
6 shall designate the information which such per-
7 son believes is entitled to protection under this
8 section, and submit such designated informa-
9 tion separately from other information sub-
10 mitted under this Act. A designation under this
11 subparagraph shall be made in writing and in
12 such manner as the Administrator may pre-
13 scribe, and shall include—

14 “(i) justification for each designation of
15 confidentiality;

16 “(ii) a certification that the information is
17 not otherwise publicly available; and

18 “(iii) separate copies of all submitted infor-
19 mation, with one copy containing and one copy
20 excluding the information to which the request
21 applies.

22 “(B) Designations made under subparagraph
23 (A) after the date of enactment of the TSCA Mod-
24 ernization Act of 2015 shall expire after 10 years,
25 at which time the information shall be made public

1 unless the manufacturer, processor, or distributor in
2 commerce has reasserted the claim for protection, in
3 writing and in such manner as the Administrator
4 may prescribe, including all of the elements required
5 for the initial submission.

6 “(C) Not later than 60 days prior to making in-
7 formation public under subparagraph (B), the Ad-
8 ministrator shall notify, as appropriate and prac-
9 ticable, the manufacturer, processor, or distributor
10 in commerce who designated the information under
11 subparagraph (A) of the date on which such infor-
12 mation will be made public unless a request for re-
13 newal is granted under subparagraph (B).”; and

14 (C) in paragraph (2)—

15 (i) in subparagraph (A), by inserting
16 “, for a reason other than the expiration of
17 such designation pursuant to paragraph
18 (1)(B),” before “proposes to release”; and

19 (ii) in subparagraph (B)(i), by strik-
20 ing “or (4)” and inserting “(4), or (6)”;
21 and

22 (4) by adding at the end the following new sub-
23 sections:

24 “(f) PROHIBITION.—No person who receives informa-
25 tion as permitted under subsection (a) may use such infor-

1 mation for any purpose not specified in such subsection,
2 nor disclose such information to any person not authorized
3 to receive such information.

4 “(g) SAVINGS.—Nothing in this section shall be con-
5 strued to affect the applicability of State or Federal rules
6 of evidence or procedure in any judicial proceeding.”.

7 **SEC. 7. EFFECT ON STATE LAW.**

8 (a) IN GENERAL.—Section 18(a) of the Toxic Sub-
9 stances Control Act (15 U.S.C. 2617(a)) is amended—

10 (1) in paragraph (2)(A), by striking “; and”
11 and inserting a semicolon;

12 (2) by striking paragraph (2)(B) and inserting
13 the following:

14 “(B) if the Administrator makes a final deter-
15 mination under section 6(b) that a chemical sub-
16 stance will not present an unreasonable risk of in-
17 jury to health or the environment under the intended
18 condition of use, no State or political subdivision
19 may, after the date of publication of such determina-
20 tion, establish or continue in effect any requirement
21 that applies to such chemical substance under the
22 intended conditions of use considered by the Admin-
23 istrator in the risk evaluation under section 6(b),
24 and is designed to protect against exposure to such
25 chemical substance under the intended conditions of

1 use, unless the requirement of the State or political
2 subdivision—

3 “(i) is adopted under the authority of a
4 Federal law; or

5 “(ii) is adopted to protect air or water
6 quality or is related to waste treatment or
7 waste disposal, except that this clause does not
8 apply to such a requirement if a provision of
9 this title, or an action or determination made
10 by the Administrator under this title, actually
11 conflicts with the requirement; and

12 “(C) if the Administrator imposes a require-
13 ment, through a rule or order under section 5 or 6,
14 that applies to a chemical substance or mixture
15 (other than a requirement described in section
16 6(a)(6)) and is designed to protect against a risk of
17 injury to health or the environment associated with
18 such chemical substance or mixture, no State or po-
19 litical subdivision may, after the effective date of
20 such requirement, establish or continue in effect any
21 requirement that applies to such chemical substance
22 or mixture (including a requirement that applies to
23 an article because the article contains the chemical
24 substance or mixture) and is designed to protect
25 against exposure to the chemical substance or mix-

1 ture either under the intended conditions of use con-
2 sidered by the Administrator in the risk evaluation
3 under section 6(b) or from a use identified in a no-
4 tice received by the Administrator under section
5 5(a), or, in the case of a requirement imposed pur-
6 suant to section 6(i), is designed to protect against
7 a risk of injury considered by the Administrator in
8 imposing such requirement, unless the requirement
9 of the State or political subdivision—

10 “(i) is identical to the requirement imposed
11 by the Administrator;

12 “(ii) is adopted under the authority of a
13 Federal law; or

14 “(iii) is adopted to protect air or water
15 quality or is related to waste treatment or
16 waste disposal, except that this clause does not
17 apply to such a requirement if a provision of
18 this title, or an action or determination made
19 by the Administrator under this title, actually
20 conflicts with the requirement.”; and

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

22 “(3) In the case of an identical requirement described
23 in paragraph (2)(C)(i)—

1 “(A) a State may not assess a penalty for a
2 specific violation for which the Administrator has as-
3 sessed a penalty under section 16; and

4 “(B) if a State has assessed a penalty for a
5 specific violation, the Administrator may not assess
6 a penalty for that violation in an amount that would
7 cause the total of the penalties assessed for the vio-
8 lation by the State and the Administrator combined
9 to exceed the maximum amount that may be as-
10 sessed for that violation by the Administrator under
11 section 16.”.

12 (b) SAVINGS.—Section 18 of the Toxic Substances
13 Control Act (15 U.S.C. 2617) is amended by adding at
14 the end the following:

15 “(c) SAVINGS.—

16 “(1) PRIOR STATE ACTIONS.—Nothing in this
17 title, nor any risk evaluation, rule, order, standard,
18 or requirement completed or implemented under this
19 title, shall be construed to preempt or otherwise af-
20 fect the authority of a State or political subdivision
21 of a State to continue to enforce any action taken
22 or requirement that has taken effect—

23 “(A) before August 1, 2015, under the au-
24 thority of a State law that prohibits or other-
25 wise restricts the manufacturing, processing,

1 distribution in commerce, use, or disposal of a
2 chemical substance; or

3 “(B) pursuant to a State law that was in
4 effect on August 31, 2003,

5 unless an action or determination made by the Ad-
6 ministrator under this title actually conflicts with
7 the action taken or requirement that has taken ef-
8 fect pursuant to such a State law.

9 “(2) TORT AND CONTRACT LAW.—Nothing in
10 this title, nor any risk evaluation, rule, order, stand-
11 ard, or requirement completed or implemented under
12 this title, shall be construed to preempt or otherwise
13 affect either Federal or State tort law or the law
14 governing the interpretation of contracts of any
15 State, including any remedy for civil relief, whether
16 under statutory or common law, including a remedy
17 for civil damages, and any cause of action for per-
18 sonal injury, wrongful death, property damage, or
19 other injury based on negligence, strict liability,
20 products liability, failure to warn, or any other legal
21 theory relating to tort law.

22 “(3) INTENT OF CONGRESS.—It is not the in-
23 tent of Congress that this title, or rules, regulations,
24 or orders issued pursuant to this title, be interpreted
25 as influencing, in either a plaintiff’s or defendant’s

1 favor, the disposition of any civil action for damages
2 in a State court, or the authority of any court to
3 make a determination in an adjudicatory proceeding
4 under applicable State law with respect to the ad-
5 missibility of evidence, unless a provision of this title
6 actually conflicts with the State court action.

7 “(4) APPLICATION.—For purposes of this title,
8 the term ‘requirements’ does not include civil tort
9 actions for damages under State law.”.

10 (c) EFFECT OF ACTIONS BY ADMINISTRATOR.—
11 Nothing in this Act, or the amendments made by this Act,
12 shall be construed as changing the preemptive effect of
13 an action taken by the Administrator prior to the date
14 of enactment of this Act or under section 6(e).

15 **SEC. 8. ADMINISTRATION OF THE ACT.**

16 Section 26 of the Toxic Substances Control Act (15
17 U.S.C. 2625) is amended—

18 (1) in subsection (b)(1)—

19 (A) by striking “of a reasonable fee”;

20 (B) by inserting “of a fee that is sufficient
21 and not more than reasonably necessary” after
22 “section 4 or 5”;

23 (C) by inserting “, or who requests a risk
24 evaluation under section 6(b)(3)(A)(ii),” before
25 “to defray the cost”;

1 (D) by striking “this Act” and inserting
2 “the provision of this title for which such fee is
3 collected”; and

4 (E) by striking “Such rules shall not pro-
5 vide for any fee in excess of \$2,500 or, in the
6 case of a small business concern, any fee in ex-
7 cess of \$100.” and inserting “Such rules shall
8 provide for lower fees for small business con-
9 cerns.”;

10 (2) by adding at the end of subsection (b) the
11 following:

12 “(3) FUND.—

13 “(A) ESTABLISHMENT.—There is established in
14 the Treasury of the United States a revolving fund,
15 to be known as the TSCA Service Fee Fund (in this
16 paragraph referred to as the ‘Fund’), consisting of
17 such amounts as are deposited in the Fund under
18 this paragraph.

19 “(B) COLLECTION AND DEPOSIT OF FEES.—
20 The Administrator shall collect the fees described in
21 paragraph (1) and deposit those fees in the Fund.

22 “(C) CREDITING AND AVAILABILITY OF
23 FEES.—On request by the Administrator, the Sec-
24 retary of the Treasury shall transfer from the Fund
25 to the Administrator amounts appropriated to pay

1 or recover the full costs incurred by the Environ-
2 mental Protection Agency, including contractor
3 costs, in carrying out the provisions of this title for
4 which the fees are collected under paragraph (1).

5 “(D) USE OF FUNDS BY ADMINISTRATOR.—
6 Fees authorized under this section shall be collected
7 and available for obligation only to the extent and in
8 the amount provided in advance in appropriations
9 Acts, and shall be available without fiscal year limi-
10 tation for use only in administering the provisions of
11 this title for which the fees are collected.

12 “(E) ACCOUNTING AND AUDITING.—

13 “(i) ACCOUNTING.—The Administrator
14 shall biennially prepare and submit to the Com-
15 mittee on Environment and Public Works of the
16 Senate and the Committee on Energy and Com-
17 merce of the House of Representatives a report
18 that includes an accounting of the fees paid to
19 the Administrator under this paragraph and
20 amounts disbursed from the Fund for the pe-
21 riod covered by the report, as reflected by fi-
22 nancial statements provided in accordance with
23 sections 3515 and 3521 of title 31, United
24 States Code.

25 “(ii) AUDITING.—

1 “(I) IN GENERAL.—For the purpose
2 of section 3515(c) of title 31, United
3 States Code, the Fund shall be considered
4 a component of a covered executive agency.

5 “(II) COMPONENTS OF AUDIT.—The
6 annual audit required in accordance with
7 sections 3515 and 3521 of title 31, United
8 States Code, of the financial statements of
9 activities carried out using amounts from
10 the Fund shall include an analysis of—

11 “(aa) the fees collected and
12 amounts disbursed under this sub-
13 section;

14 “(bb) the reasonableness of the
15 fees in place as of the date of the
16 audit to meet current and projected
17 costs of administering the provisions
18 of the title for which the fees are col-
19 lected; and

20 “(cc) the number of requests for
21 a risk evaluation made by manufac-
22 turers under section 6(b)(3)(A)(ii).

23 “(III) FEDERAL RESPONSIBILITY.—
24 The Inspector General of the Environ-
25 mental Protection Agency shall conduct

1 the annual audit described in subclause
2 (II) and submit to the Administrator a re-
3 port that describes the findings and any
4 recommendations of the Inspector General
5 resulting from the audit.”; and

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

7 “(h) SCIENTIFIC STANDARDS.—In carrying out sec-
8 tions 4, 5, and 6, to the extent that the Administrator
9 makes a decision based on science, the Administrator shall
10 consider, as applicable—

11 “(1) the extent to which the scientific and tech-
12 nical procedures, measures, methods, or models em-
13 ployed to generate the information are reasonable
14 for and consistent with the use of the information;

15 “(2) the extent to which the information is rel-
16 evant for the Administrator’s use in making a deci-
17 sion about a chemical substance or mixture;

18 “(3) the degree of clarity and completeness with
19 which the data, assumptions, methods, quality assur-
20 ance, and analyses employed to generate the infor-
21 mation are documented;

22 “(4) the extent to which the variability and un-
23 certainty in the information, or in the procedures,
24 measures, methods, or models, are evaluated and
25 characterized; and

1 “(5) the extent of independent verification or
2 peer review of the information or of the procedures,
3 measures, methods, or models.

4 “(i) WEIGHT OF SCIENTIFIC EVIDENCE.—The Ad-
5 ministrator shall make decisions under sections 4, 5, and
6 6 based on the weight of the scientific evidence.

7 “(j) AVAILABILITY OF INFORMATION.—Subject to
8 section 14, the Administrator shall make available to the
9 public all notices, determinations, findings, rules, and or-
10 ders of the Administrator under this title.

11 “(k) POLICIES, PROCEDURES, AND GUIDANCE.—

12 “(1) DEVELOPMENT.—Not later than 2 years
13 after the date of enactment of the TSCA Moderniza-
14 tion Act of 2015, the Administrator shall develop
15 any policies, procedures, and guidance the Adminis-
16 trator determines are necessary to carry out the
17 amendments to this Act made by the TSCA Mod-
18 ernization Act of 2015.

19 “(2) REVIEW.—Not later than 5 years after the
20 date of enactment of the TSCA Modernization Act
21 of 2015, and not less frequently than once every 5
22 years thereafter, the Administrator shall—

23 “(A) review the adequacy of the policies,
24 procedures, and guidance developed under para-
25 graph (1), including with respect to animal,

1 nonanimal, and epidemiological test methods
2 and procedures for assessing and determining
3 risk under this title; and

4 “(B) revise such policies, procedures, and
5 guidance as the Administrator determines nec-
6 essary to reflect new scientific developments or
7 understandings.

8 “(I) REPORT TO CONGRESS.—

9 “(1) INITIAL REPORT.—Not later than 6
10 months after the date of enactment of the TSCA
11 Modernization Act of 2015, the Administrator shall
12 submit to the Committees on Energy and Commerce
13 and Appropriations of the House of Representatives
14 and the Committees on Environment and Public
15 Works and Appropriations of the Senate a report
16 containing an estimation of—

17 “(A) the capacity of the Environmental
18 Protection Agency to conduct and publish risk
19 evaluations under subparagraphs (A)(i) and (B)
20 of section 6(b)(3), and the resources necessary
21 to initiate the minimum number of risk evalua-
22 tions required under section 6(b)(7);

23 “(B) the capacity of the Environmental
24 Protection Agency to conduct and publish risk
25 evaluations under section 6(b)(3)(A)(ii), the

1 likely demand for such risk evaluations, and the
 2 anticipated schedule for accommodating that
 3 demand;

4 “(C) the capacity of the Environmental
 5 Protection Agency to promulgate rules under
 6 section 6(a) as required based on risk evalua-
 7 tions conducted and published under section
 8 6(b); and

9 “(D) the actual and anticipated efforts of
 10 the Environmental Protection Agency to in-
 11 crease the Agency’s capacity to conduct and
 12 publish risk evaluations under section 6(b).

13 “(2) SUBSEQUENT REPORTS.—The Adminis-
 14 trator shall update and resubmit the report de-
 15 scribed in paragraph (1) not less frequently than
 16 once every 5 years.”.

17 **SEC. 9. CONFORMING AMENDMENTS.**

18 (a) SECTION 4.—Section 4 of the Toxic Substances
 19 Control Act (15 U.S.C. 2603) is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (1), by striking “rule”
 22 each place it appears and inserting “rule, order,
 23 or consent agreement”;

1 (B) in paragraph (2)(B), by striking
2 “rules” and inserting “rules, orders, and con-
3 sent agreements”;

4 (C) in paragraph (3), by striking “rule”
5 each place it appears and inserting “rule, order,
6 or consent agreement”; and

7 (D) in paragraph (4)—

8 (i) by striking “rule under subsection
9 (a)” each place it appears and inserting
10 “rule, order, or consent agreement under
11 subsection (a)”;

12 (ii) by striking “repeals the rule” each
13 place it appears and inserting “repeals the
14 rule or order or modifies the consent
15 agreement to terminate the requirement”;
16 and

17 (iii) by striking “repeals the applica-
18 tion of the rule” and inserting “repeals or
19 modifies the application of the rule, order,
20 or consent agreement”;

21 (2) in subsection (c)—

22 (A) in paragraph (1), by striking “rule”
23 and inserting “rule or order”;

24 (B) in paragraph (2)—

1 (i) in subparagraph (A), by striking
2 “a rule under subsection (a) or for which
3 data is being developed pursuant to such a
4 rule” and inserting “a rule, order, or con-
5 sent agreement under subsection (a) or for
6 which data are being developed pursuant
7 to such a rule, order, or consent agree-
8 ment”;

9 (ii) in subparagraph (B), by striking
10 “such rule or which is being developed pur-
11 suant to such rule” and inserting “such
12 rule, order, or consent agreement or which
13 is being developed pursuant to such rule,
14 order, or consent agreement”; and

15 (iii) in the matter following subpara-
16 graph (B), by striking “the rule” and in-
17 serting “the rule or order”;

18 (C) in paragraph (3)(B)(i), by striking
19 “rule promulgated” and inserting “rule, order,
20 or consent agreement”; and

21 (D) in paragraph (4)—

22 (i) by striking “rule promulgated”
23 each place it appears and inserting “rule,
24 order, or consent agreement”;

1 (ii) by striking “such rule” each place
2 it appears and inserting “such rule, order,
3 or consent agreement”; and

4 (iii) in subparagraph (B), by striking
5 “the rule” and inserting “the rule, order,
6 or consent agreement”;

7 (3) in subsection (d), by striking “rule” and in-
8 serting “rule, order, or consent agreement”; and

9 (4) in subsection (g), by striking “rule” and in-
10 serting “rule, order, or consent agreement”.

11 (b) SECTION 5.—Section 5 of the Toxic Substances
12 Control Act (15 U.S.C. 2604) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1)(A)—

15 (i) by striking “rule promulgated”
16 and inserting “rule, order, or consent
17 agreement”; and

18 (ii) by striking “such rule” and insert-
19 ing “such rule, order, or consent agree-
20 ment”;

21 (B) in paragraph (1)(B)—

22 (i) by striking “rule promulgated”
23 and inserting “rule or order”; and

24 (ii) by striking “the date of the sub-
25 mission in accordance with such rule” and

1 inserting “the required date of submis-
2 sion”; and

3 (C) in paragraph (2)(A)(ii), by striking
4 “rule promulgated” and inserting “rule, order,
5 or consent agreement”;

6 (2) in subsection (d)(2)(C), by striking “rule”
7 and inserting “rule, order, or consent agreement”;
8 and

9 (3) in subsection (h)(4), by striking “para-
10 graphs (2) and (3) of section 6(c)” and inserting
11 “paragraph (2) of section 6(c)”.

12 (c) SECTION 6.—Section 6 of the Toxic Substances
13 Control Act (15 U.S.C. 2605) is amended—

14 (1) in subsection (d)(2)(B)—

15 (A) by striking “, provide reasonable op-
16 portunity, in accordance with paragraphs (2)
17 and (3) of subsection (c), for a hearing on such
18 rule,” and inserting “in accordance with para-
19 graph (2) of subsection (c),”; and

20 (B) by striking “; and if such a hearing is
21 requested” and all that follows through “or re-
22 voke it.” and inserting a period; and

23 (2) in subsection (e)(4), by striking “para-
24 graphs (2), (3), and (4) of subsection (c)” and in-
25 serting “paragraph (2) of subsection (c)”.

1 (d) SECTION 7.—Section 7(a)(1) of the Toxic Sub-
2 stances Control Act (15 U.S.C. 2606(a)(1)) is amended,
3 in the matter following subparagraph (C), by striking “a
4 rule under section 4, 5, 6, or title IV or an order under
5 section 5 or title IV” and inserting “a rule under section
6 4, 5, or 6 or title IV, an order under section 4 or 5 or
7 title IV, or a consent agreement under section 4”.

8 (e) SECTION 8.—Section 8(a)(3)(A)(ii)(I) of the
9 Toxic Substances Control Act (15 U.S.C.
10 2607(a)(3)(A)(ii)(I)) is amended by striking “or an order
11 in effect under section 5(e)” and inserting “, an order in
12 effect under section 4 or 5(e), or a consent agreement
13 under section 4”.

14 (f) SECTION 9.—Section 9(a) of the Toxic Substances
15 Control Act (15 U.S.C. 2608(a)) is amended by striking
16 “section 6” each place it appears and inserting “section
17 6(a)”.

18 (g) SECTION 11.—Section 11(b)(2)(E) of the Toxic
19 Substances Control Act (15 U.S.C. 2610(b)(2)(E)) is
20 amended by striking “rule promulgated” and inserting
21 “rule promulgated, order issued, or consent agreement en-
22 tered into”.

23 (h) SECTION 15.—Section 15(1) of the Toxic Sub-
24 stances Control Act (15 U.S.C. 2614(1)) is amended by
25 striking “(A) any rule” and all that follows through “or

1 (D)” and inserting “any requirement of this title or any
2 rule promulgated, order issued, or consent agreement en-
3 tered into under this title, or”.

4 (i) SECTION 18.—Section 18(a)(2)(A) of the Toxic
5 Substances Control Act (15 U.S.C. 2617(a)(2)(A)) is
6 amended—

7 (1) by striking “rule promulgated” and insert-
8 ing “rule, order, or consent agreement”; and

9 (2) by striking “such rule” each place it ap-
10 pears and inserting “such rule, order, or consent
11 agreement”.

12 (j) SECTION 19.—Section 19 of the Toxic Substances
13 Control Act (15 U.S.C. 2618) is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)(A)—

16 (i) by striking “(A) Not later than 60
17 days after the date of the promulgation of
18 a rule” and inserting “Not later than 60
19 days after the date on which a rule is pro-
20 mulgated”;

21 (ii) by inserting “or the date on which
22 an order is issued under section 4,” before
23 “any person”;

24 (iii) by striking “such rule” and in-
25 serting “such rule or order”; and

- 1 (iv) by striking “such a rule” and in-
2 serting “such a rule or order”;
3 (B) by striking paragraph (1)(B);
4 (C) in paragraph (2), by striking “the
5 rule” and inserting “the rule or order”; and
6 (D) in paragraph (3)—
7 (i) in subparagraph (A), by striking
8 “the rule” and inserting “the rule or
9 order”;
10 (ii) in subparagraph (B), by striking
11 “a rule under section 4(a)” and inserting
12 “a rule or order under section 4(a)”;
13 (iii) in subparagraph (C), by striking
14 “such rule” and inserting “such rule or
15 order”;
16 (iv) in subparagraph (D), by striking
17 “such rule” and inserting “such rule or
18 order”; and
19 (v) in subparagraph (E)—
20 (I) by striking “to such rule” and
21 inserting “to such rule or order”; and
22 (II) by striking “the date of the
23 promulgation of such rule” and in-
24 serting “the date on which such rule

1 is promulgated or such order is
2 issued”;

3 (2) in subsection (b)—

4 (A) by striking “review a rule” and insert-
5 ing “review a rule, or an order under section
6 4,”;

7 (B) by striking “such rule” and inserting
8 “such rule or order”;

9 (C) by striking “the rule” and inserting
10 “the rule or order”;

11 (D) by striking “new rule” each place it
12 appears and inserting “new rule or order”; and

13 (E) by striking “modified rule” and insert-
14 ing “modified rule or order”; and

15 (3) in subsection (c)—

16 (A) in paragraph (1)—

17 (i) in subparagraph (A)—

18 (I) by striking “a rule” and in-
19 serting “a rule, or an order under sec-
20 tion 4”; and

21 (II) by striking “such rule” and
22 inserting “such rule or order”; and

23 (ii) in subparagraph (B)—

1 (I) in the matter preceding clause
2 (i), by striking “a rule” and inserting
3 “a rule or order”;

4 (II) in clause (i)—

5 (aa) by inserting “or an
6 order under section 4,” before
7 “the standard for review”;

8 (bb) by striking “such rule”
9 and inserting “such rule or
10 order”;

11 (cc) by striking “the rule”
12 and inserting “the rule or order”;
13 and

14 (dd) by striking the semi-
15 colon and inserting “; and”; and

16 (III) by striking clause (ii) and
17 redesignating clause (iii) as clause
18 (ii); and

19 (B) in paragraph (2), by striking “any
20 rule” and inserting “any rule or order”.

21 (k) SECTION 20.—Section 20(a)(1) of the Toxic Sub-
22 stances Control Act (15 U.S.C. 2619(a)(1)) is amended
23 by striking “order issued under section 5” and inserting
24 “order issued under section 4 or 5”.

1 (l) SECTION 21.—Section 21 of the Toxic Substances
2 Control Act (15 U.S.C. 2620) is amended—

3 (1) in subsection (a), by striking “order under
4 section 5(e) or 6(b)(2)” and inserting “order
5 under section 4 or 5(e)”; and

6 (2) in subsection (b)—

7 (A) in paragraph (1), by striking “order
8 under section 5(e), 6(b)(1)(A), or 6(b)(1)(B)”
9 and inserting “order under section 4 or 5(e)”;
10 and

11 (B) in paragraph (4)(B)—

12 (i) in the matter preceding clause (i),
13 by striking “order under section 5(e) or
14 6(b)(2)” and inserting “order under sec-
15 tion 4 or 5(e)”; and

16 (ii) in clause (i), by striking “order
17 under section 5(e)” and inserting “order
18 under section 4 or 5(e)”; and

19 (iii) in clause (ii), by striking “or an
20 order under section 6(b)(2)”.

21 (m) SECTION 24.—Section 24(b)(2)(B) of the Toxic
22 Substances Control Act (15 U.S.C. 2623(b)(2)(B)) is
23 amended—

24 (1) by inserting “and” at the end of clause (i);

25 (2) by striking clause (ii); and

1 (3) by redesignating clause (iii) as clause (ii).

2 (n) SECTION 27.—Section 27(a) of the Toxic Sub-
3 stances Control Act (15 U.S.C. 2626(a)) is amended by
4 striking “rules promulgated” and inserting “rules, orders,
5 or consent agreements”.

6 (o) SECTION 30.—Section 30(2) of the Toxic Sub-
7 stances Control Act (15 U.S.C. 2629(2)) is amended by
8 striking “rule” and inserting “rule, order, or consent
9 agreement”.

Passed the House of Representatives June 23, 2015.

Attest:

Clerk.

114TH CONGRESS
1ST SESSION

H. R. 2576

AN ACT

To modernize the Toxic Substances Control Act,
and for other purposes.