

114TH CONGRESS
1ST SESSION

H. R. 2576

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

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 2015

Mr. SHIMKUS (for himself, Mr. UPTON, Mr. PALLONE, and Mr. TONKO) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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,*

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

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

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 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.

1 **SEC. 2. DEFINITIONS.**

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

4 (1) by redesignating paragraphs (7) through
5 (14) as paragraphs (8) through (10) and (12)
6 through (16), respectively;

7 (2) by inserting after paragraph (6) the fol-
8 lowing:

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

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

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

1 **SEC. 3. TESTING OF CHEMICAL SUBSTANCES AND MIX-**
2 **TURES.**

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

5 (1) in subsection (a)(1)—

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

8 (B) in subparagraph (B)(iii), by striking “;
9 and” and inserting “; or”; and

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

11 “(C) testing of a chemical substance is nec-
12 essary to conduct a risk evaluation under section
13 6(b); and”; and

14 (2) in the matter following subsection (a)(2), by
15 inserting “, order, or consent agreement” after “by
16 rule”.

17 **SEC. 4. REGULATION OF HAZARDOUS CHEMICAL SUB-**
18 **STANCES AND MIXTURES.**

19 (a) SCOPE OF REGULATION.—Section 6(a) of the
20 Toxic Substances Control Act (15 U.S.C. 2605(a)) is
21 amended—

22 (1) by striking “finds that there is a reasonable
23 basis to conclude” and inserting “determines under
24 subsection (b)”;

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

4 (3) by striking “to protect adequately against
5 such risk using the least burdensome requirements”
6 and inserting “so that the chemical substance or
7 mixture no longer presents or will present an unrea-
8 sonable risk, including an identified unreasonable
9 risk to a potentially exposed subpopulation”.

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

13 “(b) RISK EVALUATIONS.—

14 “(1) IN GENERAL.—The Administrator shall
15 conduct risk evaluations pursuant to this subsection
16 to determine whether or not a chemical substance
17 presents or will present, in the absence of require-
18 ments under subsection (a), an unreasonable risk of
19 injury to health or the environment.

20 “(2) APPLYING REQUIREMENTS.—The Adminis-
21 trator shall apply requirements with respect to a
22 chemical substance through a rule under subsection
23 (a) only if the Administrator determines through a
24 risk evaluation under this subsection that the chem-
25 ical substance presents or will present, in the ab-

1 sence of such requirements, an unreasonable risk of
2 injury to health or the environment.

3 “(3) CONDUCTING RISK EVALUATION.—

4 “(A) REQUIRED RISK EVALUATIONS.—The
5 Administrator shall conduct and publish the re-
6 sults of a risk evaluation under this subsection
7 for a chemical substance if—

8 “(i) the Administrator determines
9 that the chemical substance may present
10 an unreasonable risk of injury to health or
11 the environment because of potential haz-
12 ard and a potential route of exposure
13 under the intended conditions of use; or

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

16 “(B) TSCA WORK PLAN CHEMICALS.—The
17 Administrator may, without making a deter-
18 mination under subparagraph (A)(i), conduct
19 and publish the results of a risk evaluation
20 under this subsection for a chemical substance
21 that, on the date of enactment of the TSCA
22 Modernization Act of 2015, is listed in the
23 TSCA Work Plan for Chemical Assessments
24 published by the Administrator.

1 “(4) REQUIREMENTS.—In conducting a risk
2 evaluation under this subsection, the Administrator
3 shall—

4 “(A) integrate and assess information on
5 hazards and exposures for all of the intended
6 conditions of use of the chemical substance, in-
7 cluding information that is relevant to specific
8 risks of injury to health or the environment and
9 information on potentially exposed subpopula-
10 tions;

11 “(B) not include information on cost and
12 other factors not directly related to health or
13 the environment;

14 “(C) take into account, where relevant, the
15 likely duration, intensity, frequency, and num-
16 ber of exposures under the intended conditions
17 of use of the chemical substance;

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

20 “(E) consider whether the weight of the
21 scientific evidence supports the identification of
22 doses of the chemical substance below which no
23 adverse effects can be expected to occur; and

24 “(F) in the case of a risk evaluation re-
25 quested by a manufacturer under paragraph

1 (3)(A)(ii), ensure that the costs to the Environ-
2 mental Protection Agency, including contractor
3 costs, of conducting the risk evaluation are paid
4 for by the manufacturer.

5 “(5) DEADLINES.—

6 “(A) RISK EVALUATIONS.—The Adminis-
7 trator shall conduct and publish a risk evalua-
8 tion under this subsection for a chemical sub-
9 stance as soon as reasonably possible, subject to
10 the availability of resources, but not later than
11 3 years after the date on which—

12 “(i) the Administrator—

13 “(I) makes a determination
14 under paragraph (3)(A)(i); or

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

17 “(ii) a manufacturer requests the risk
18 evaluation under paragraph (3)(A)(ii).

19 “(B) SUBSECTION (a) RULES.—If, based
20 on a risk evaluation conducted under this sub-
21 section, the Administrator determines that a
22 chemical substance presents or will present, in
23 the absence of a rule under subsection (a), an
24 unreasonable risk of injury to health or the en-
25 vironment, the Administrator shall—

1 “(i) propose a rule under subsection
2 (a) for the chemical substance not later
3 than 90 days after the date on which the
4 risk evaluation regarding such chemical
5 substance is published under subparagraph
6 (A); and

7 “(ii) publish in the Federal Register a
8 final rule not later than 180 days after the
9 date on which the risk evaluation regard-
10 ing such chemical substance is published
11 under subparagraph (A).

12 “(C) EXTENSION.—If the Administrator
13 determines that additional information is nec-
14 essary to make a risk evaluation determination
15 under this subsection, the Administrator may
16 extend the deadline under subparagraph (A) ac-
17 cordingly, except that the deadline may not be
18 extended to a date that is later than—

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

21 “(ii) 2 years after the original dead-
22 line.

23 “(6) DETERMINATIONS OF NO UNREASONABLE
24 RISK.—

1 “(A) NOTICE AND COMMENT.—Not later
2 than 30 days before publishing a final deter-
3 mination under this subsection that a chemical
4 substance will not present an unreasonable risk
5 of injury to health or the environment, the Ad-
6 ministrator shall make a preliminary determina-
7 tion to such effect and provide public notice of,
8 and an opportunity for comment regarding,
9 such preliminary determination.

10 “(B) POTENTIALLY EXPOSED SUBPOPULA-
11 TIONS.—The Administrator shall not make a
12 determination under this subsection that a
13 chemical substance will not present an unrea-
14 sonable risk of injury to health or the environ-
15 ment if the Administrator determines that the
16 chemical substance, under the intended condi-
17 tions of use, poses an unreasonable risk of in-
18 jury to 1 or more potentially exposed sub-
19 populations.

20 “(C) FINAL ACTION.—A final determina-
21 tion under this subsection that a chemical sub-
22 stance will not present an unreasonable risk of
23 injury to health or the environment shall be
24 considered a final agency action.

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

7 (c) PROMULGATION OF SUBSECTION (a) RULES.—
8 Section 6(e) of the Toxic Substances Control Act (15
9 U.S.C. 2605(e)) is amended—

10 (1) by amending paragraph (1) to read as fol-
11 lows:

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

16 “(A) consider and publish a statement with
17 respect to—

18 “(i) the effects of the chemical sub-
19 stance or mixture on health and the mag-
20 nitude of the exposure of human beings to
21 the chemical substance or mixture;

22 “(ii) the effects of the chemical sub-
23 stance or mixture on the environment and
24 the magnitude of the exposure of the envi-

1 ronment to the chemical substance or mix-
2 ture;

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

5 “(iv) the reasonably ascertainable eco-
6 nomic consequences of the rule, including
7 consideration of the likely effect of the rule
8 on the national economy, small business,
9 technological innovation, the environment,
10 and public health;

11 “(B) impose requirements under the rule
12 that the Administrator determines, consistent
13 with the information published under subpara-
14 graph (A), are cost-effective, except where the
15 Administrator determines that additional or dif-
16 ferent requirements described in subsection (a)
17 are necessary to protect against the identified
18 risk;

19 “(C) based on the information published
20 under subparagraph (A), in deciding whether to
21 prohibit or restrict in a manner that substan-
22 tially prevents a specific use of a chemical sub-
23 stance or mixture and in setting an appropriate
24 transition period for such action, determine
25 whether technically and economically feasible al-

1 alternatives that benefit health or the environ-
2 ment, compared to the use so proposed to be
3 prohibited or restricted, will be reasonably
4 available as a substitute when the proposed pro-
5 hibition or restriction takes effect;

6 “(D) exempt replacement parts designed
7 prior to the date of publication in the Federal
8 Register of the rule unless the Administrator
9 finds such replacement parts contribute signifi-
10 cantly to the identified risk, including identified
11 risk to identified potentially exposed subpopula-
12 tions; and

13 “(E) in selecting among prohibitions and
14 restrictions to address an identified risk, apply
15 prohibitions or restrictions to articles on the
16 basis of a chemical substance or mixture con-
17 tained in the article only to the extent necessary
18 to mitigate the identified risk.”;

19 (2) in paragraph (2)—

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

22 (B) by striking “provide an opportunity for
23 an informal hearing in accordance with para-
24 graph (3); (D)”;

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

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

5 (3) by striking paragraphs (3) and (4) and re-
6 designating paragraph (5) as paragraph (3); and

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

8 (A) by striking “Paragraphs (1), (2), (3),
9 and (4)” and inserting “APPLICATION.—Para-
10 graphs (1) and (2)”; and

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

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

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

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

25 “(h) CRITICAL USE EXEMPTIONS.—

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

5 “(A) the requirement is not cost-effective
6 with respect to the specific use, as determined
7 by the Administrator pursuant to subsection
8 (c)(1)(B); and

9 “(B) the Administrator finds that—

10 “(i) the specific use is a critical or es-
11 sential use; or

12 “(ii) the requirement, as applied with
13 respect to the specific use, would signifi-
14 cantly disrupt the national economy, na-
15 tional security, or critical infrastructure.

16 “(2) PROCEDURE.—An exemption granted
17 under paragraph (1) shall be—

18 “(A) supported by clear and convincing
19 evidence;

20 “(B) preceded by public notice of the pro-
21 posed exemption and an opportunity for com-
22 ment; and

23 “(C) followed by notice of the granted ex-
24 emption—

1 “(i) to the public, by the Adminis-
2 trator; and

3 “(ii) to known commercial purchasers
4 of the chemical substance or mixture with
5 respect to which the exemption applies, by
6 the manufacturers and processors of such
7 chemical substance or mixture.

8 “(3) PERIOD OF EXEMPTION.—An exemption
9 granted under paragraph (1) shall expire after a pe-
10 riod not to exceed 5 years, but may be renewed for
11 one or more additional 5-year periods if the Admin-
12 istrator finds that the requirements of paragraph (1)
13 continue to be met.

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

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

21 “(1) IDENTIFICATION.—Not later than 9
22 months after the date of enactment of the TSCA
23 Modernization Act of 2015, the Administrator shall
24 publish a list of those chemical substances that the
25 Administrator has a reasonable basis to conclude are

1 persistent, bioaccumulative, and toxic, not including
2 any chemical substance that is a metal, a metal com-
3 pound, or subject to subsection (e).

4 “(2) CONFIRMATION OF CONCERN.—Not later
5 than 2 years after the date of enactment of the
6 TSCA Modernization Act of 2015, the Administrator
7 shall designate as a PBT chemical of concern each
8 chemical substance on the list published under para-
9 graph (1)—

10 “(A) that, with respect to persistence and
11 bioaccumulation, scores high for one and either
12 high or moderate for the other, pursuant to the
13 TSCA Work Plan Chemicals Methods Docu-
14 ment published by the Administrator in Feb-
15 ruary 2012; and

16 “(B) exposure to which is likely to the gen-
17 eral population or to a potentially exposed sub-
18 population identified by the Administrator.

19 “(3) EXPEDITED ACTION.—Notwithstanding
20 subsection (b)(2), subject to the availability of ap-
21 propriations, not later than 2 years after designating
22 a chemical substance under paragraph (2), the Ad-
23 ministrator shall promulgate a rule under subsection
24 (a) with respect to the chemical substance to reduce
25 likely exposure to the extent practicable.

1 “(4) RELATIONSHIP TO SUBSECTION (b).—If,
2 at any time prior to the date that is 90 days after
3 the date on which the Administrator publishes the
4 list under paragraph (1), the Administrator makes a
5 finding under subsection (b)(3)(A)(i), or a manufac-
6 turer requests a risk evaluation under subsection
7 (b)(3)(A)(ii), with respect to a chemical substance,
8 such chemical substance shall not be subject to this
9 subsection.”.

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

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

13 (1) by striking “The Administrator shall coordi-
14 nate” and inserting “(1) The Administrator shall co-
15 ordinate”; and

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

17 “(2) In making a determination under paragraph (1)
18 that it is in the public interest for the Administrator to
19 take an action under this title with respect to a chemical
20 substance or mixture rather than under another law ad-
21 ministered in whole or in part by the Administrator, the
22 Administrator shall compare the relevant risks, estimated
23 costs, and efficiencies of the action to be taken under this
24 title and an action to be taken under such other law to
25 protect against such risk.”.

1 **SEC. 6. DISCLOSURE OF DATA.**

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

4 (1) in subsection (a)—

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

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

9 (C) by adding after paragraph (4) the fol-
10 lowing new paragraphs:

11 “(5) may be disclosed to a State, local, or tribal
12 government official upon request of the official for
13 the purpose of administration or enforcement of a
14 law; and

15 “(6) shall be disclosed upon request—

16 “(A) to a health or environmental profes-
17 sional employed by a Federal or State agency in
18 response to an environmental release; or

19 “(B) to a treating physician or other
20 health care professional to assist in the diag-
21 nosis or treatment of 1 or more individuals.”;

22 (2) in subsection (b)(1), in the matter following
23 subparagraph (B)—

24 (A) by striking “data which discloses” and
25 inserting “data that disclose formulas (includ-

1 ing molecular structures) of a chemical sub-
2 stance or mixture,”;

3 (B) by striking “mixture or,” and inserting
4 “mixture, or,”; and

5 (C) by striking “the release of data dis-
6 closing”;

7 (3) in subsection (c)—

8 (A) by striking the subsection heading and
9 inserting “DESIGNATING AND SUBSTANTIATING
10 CONFIDENTIALITY.—”; and

11 (B) by amending paragraph (1) to read as
12 follows:

13 “(1)(A) In submitting information under this Act
14 after the date of enactment of the TSCA Modernization
15 Act of 2015, a manufacturer, processor, or distributor in
16 commerce shall designate the information which such per-
17 son believes is entitled to protection under this section,
18 and submit such designated information separately from
19 other information submitted under this Act. A designation
20 under this subparagraph shall be made in writing and in
21 such manner as the Administrator may prescribe, and
22 shall include—

23 “(i) justification for each designation of con-
24 fidentiality;

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

3 “(iii) separate copies of all submitted informa-
4 tion, with 1 copy containing and 1 copy excluding
5 the information to which the request applies.

6 “(B) Designations made under subparagraph (A)
7 after the date of enactment of the TSCA Modernization
8 Act of 2015 shall expire after 10 years, at which time the
9 information shall be made public unless the manufacturer,
10 processor, or distributor in commerce has submitted a re-
11 quest for renewal, made in writing and in such manner
12 as the Administrator may prescribe, including all of the
13 elements required for the initial submission.

14 “(C) Not later than 60 days prior to making informa-
15 tion public under subparagraph (B), the Administrator
16 shall notify, as appropriate and practicable, the manufac-
17 turer, processor, or distributor in commerce who des-
18 ignated the information under subparagraph (A) of the
19 date on which such information will be made public unless
20 a request for renewal is granted under subparagraph
21 (B).”; 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 before August 1, 2015, under the authority of a
23 State law that prohibits or otherwise restricts the
24 manufacturing, processing, distribution in com-
25 merce, use, or disposal of a chemical substance, or

1 any action taken pursuant to a State law that was
2 in effect on August 31, 2003, unless an action or de-
3 termination made by the Administrator under this
4 title actually conflicts with the action taken pursu-
5 ant to such a State law.

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

19 “(3) INTENT OF CONGRESS.—It is not the in-
20 tent of Congress that this title, or rules, regulations,
21 or orders issued pursuant to this title, be interpreted
22 as influencing, in either a plaintiff’s or defendant’s
23 favor, the disposition of any civil action for damages
24 in a State court, or the authority of any court to
25 make a determination in an adjudicatory proceeding

1 under applicable State law with respect to the ad-
2 missibility of evidence, unless a provision of this title
3 actually conflicts with the State court action.

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

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

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

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

15 (1) in subsection (b)(1)—

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

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

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

23 (D) by striking “this Act” and inserting
24 “the provision of this title for which such fee is
25 collected”; and

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

7 (2) by adding at the end of subsection (b) the
8 following:

9 “(3) FUND.—

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

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

19 “(C) CREDITING AND AVAILABILITY OF
20 FEES.—On request by the Administrator, the Sec-
21 retary of the Treasury shall transfer from the Fund
22 to the Administrator amounts appropriated to pay
23 or recover the full costs incurred by the Environ-
24 mental Protection Agency, including contractor

1 costs, in carrying out the provisions of this title for
2 which the fees are collected under paragraph (1).

3 “(D) USE OF FUNDS BY ADMINISTRATOR.—

4 Amounts equivalent to fees collected by the Adminis-
5 trator and deposited in the Fund under this section
6 shall be available without fiscal year limitation to the
7 Administrator, subject to the availability of appro-
8 priations, for use only in administering the provi-
9 sions of this title for which the fees are collected.

10 “(E) ACCOUNTING AND AUDITING.—

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

23 “(ii) AUDITING.—

24 “(I) IN GENERAL.—For the purpose
25 of section 3515(c) of title 31, United

1 States Code, the Fund shall be considered
2 a component of a covered executive agency.

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

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

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

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

21 “(III) FEDERAL RESPONSIBILITY.—
22 The Inspector General of the Environ-
23 mental Protection Agency shall conduct
24 the annual audit described in subclause
25 (II) and submit to the Administrator a re-

1 port that describes the findings and any
2 recommendations of the Inspector General
3 resulting from the audit.”; and

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

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

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

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

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

20 “(4) the extent to which the variability and un-
21 certainty in the information, or in the procedures,
22 measures, methods, or models, are evaluated and
23 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 “(1) 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 is being developed pursuant to
7 such a rule, order, or consent agreement”;
- 8 (ii) in subparagraph (B), by striking
9 “such rule or which is being developed pur-
10 suant to such rule” and inserting “such
11 rule, order, or consent agreement or which
12 is being developed pursuant to such rule,
13 order, or consent agreement”; and
- 14 (iii) in the matter following subpara-
15 graph (B), by striking “the rule” and in-
16 serting “the rule or order”;
- 17 (C) in paragraph (3)(B)(i), by striking
18 “rule promulgated” and inserting “rule, order,
19 or consent agreement”; and
- 20 (D) in paragraph (4)—
- 21 (i) by striking “rule promulgated”
22 each place it appears and inserting “rule,
23 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), by striking “para-
15 graphs (2) and (3) of subsection (c)” and inserting
16 “paragraph (2) of subsection (c)”; and

17 (2) in subsection (e)(4), by striking “para-
18 graphs (2), (3), and (4) of subsection (c)” and in-
19 serting “paragraph (2) of subsection (c)”.

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

1 4, 5, or 6 or title IV, an order under section 4 or 5 or
2 title IV, or a consent agreement under section 4”.

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

9 (f) SECTION 9.—Section 9(a) of the Toxic Substances
10 Control Act (15 U.S.C. 2608(a)) is amended by striking
11 “section 6” each place it appears and inserting “section
12 6(a)”.

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

18 (h) SECTION 15.—Section 15(1) of the Toxic Sub-
19 stances Control Act (15 U.S.C. 2614(1)) is amended by
20 striking “(A) any rule” and all that follows through “or
21 (D)” and inserting “any requirement of this title or any
22 rule promulgated, order issued, or consent agreement en-
23 tered into under this title, or”.

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

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

6 (2) by striking “such rule” each place it ap-
7 pears and inserting “such rule, order, or consent
8 agreement”.

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

11 (1) in subsection (a)—

12 (A) in paragraph (1)(A)—

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

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

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

23 (iv) by striking “such a rule” and in-
24 serting “such a rule or order”;

25 (B) by striking paragraph (1)(B);

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

1 (A) by striking “review a rule” and insert-
2 ing “review a rule, or an order under section
3 4,”;

4 (B) by striking “such rule” and inserting
5 “such rule or order”;

6 (C) by striking “the rule” and inserting
7 “the rule or order”;

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

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

12 (3) in subsection (c)—

13 (A) in paragraph (1)—

14 (i) in subparagraph (A)—

15 (I) by striking “a rule” and in-
16 serting “a rule, or an order under sec-
17 tion 4”; and

18 (II) by striking “such rule” and
19 inserting “such rule or order”; and

20 (ii) in subparagraph (B)—

21 (I) in the matter preceding clause
22 (i), by striking “a rule” and inserting
23 “a rule or order”; and

24 (II) in clause (i)—

1 (aa) by inserting “or an
2 order under section 4,” before
3 “the standard for review”;

4 (bb) by striking “such rule”
5 and inserting “such rule or
6 order”; and

7 (cc) by striking “the rule”
8 and inserting “the rule or order”;
9 and

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

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

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

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

21 (2) in subsection (b)—

22 (A) in paragraph (1), by striking “order
23 under section 5(e), 6(b)(1)(A), or 6(b)(1)(B)”
24 and inserting “order under section 4 or 5(e)”;
25 and

1 (B) in paragraph (4)(B)—

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

6 (ii) in clause (i), by striking “order
7 under section 5(e)” and inserting “order
8 under section 4 or 5(e)”;

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

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

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

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

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

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

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

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