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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,*

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”;

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

17 (3) in subsection (b)(5), by striking “paragraph
18 (1)(A) or (1)(B)” and inserting “paragraph (1)(A),
19 (1)(B), or (1)(C)”.

20 **SEC. 4. REGULATION OF HAZARDOUS CHEMICAL SUB-**
21 **STANCES AND MIXTURES.**

22 (a) SCOPE OF REGULATION.—Section 6(a) of the
23 Toxic Substances Control Act (15 U.S.C. 2605(a)) is
24 amended—

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

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

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

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

16 “(b) RISK EVALUATIONS.—

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

23 “(2) APPLYING REQUIREMENTS.—The Adminis-
24 trator shall apply requirements with respect to a
25 chemical substance through a rule under subsection

1 (a) only if the Administrator determines through a
2 risk evaluation under this subsection, without con-
3 sideration of costs or other non-risk factors, that the
4 chemical substance presents or will present, in the
5 absence of such requirements, an unreasonable risk
6 of injury to health or the environment.

7 “(3) CONDUCTING RISK EVALUATION.—

8 “(A) REQUIRED RISK EVALUATIONS.—The
9 Administrator shall conduct and publish the re-
10 sults of a risk evaluation under this subsection
11 for a chemical substance if—

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

18 “(ii) a manufacturer of the chemical
19 substance requests such a risk evaluation
20 in a form and manner prescribed by the
21 Administrator.

22 “(B) TSCA WORK PLAN CHEMICALS.—The
23 Administrator may, without making a deter-
24 mination under subparagraph (A)(i), conduct
25 and publish the results of a risk evaluation

1 under this subsection for a chemical substance
2 that, on the date of enactment of the TSCA
3 Modernization Act of 2015, is listed in the
4 TSCA Work Plan for Chemical Assessments
5 published by the Administrator.

6 “(4) REQUIREMENTS.—In conducting a risk
7 evaluation under this subsection, the Administrator
8 shall—

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

16 “(B) not consider information on cost and
17 other factors not directly related to health or
18 the environment;

19 “(C) take into account, where relevant, the
20 likely duration, intensity, frequency, and num-
21 ber of exposures under the intended conditions
22 of use of the chemical substance;

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

1 “(E) consider whether the weight of the
2 scientific evidence supports the identification of
3 doses of the chemical substance below which no
4 adverse effects can be expected to occur; and

5 “(F) in the case of a risk evaluation re-
6 quested by a manufacturer under paragraph
7 (3)(A)(ii), ensure that the costs to the Environ-
8 mental Protection Agency, including contractor
9 costs, of conducting the risk evaluation are paid
10 for by the manufacturer.

11 “(5) DEADLINES.—

12 “(A) RISK EVALUATIONS.—The Adminis-
13 trator shall conduct and publish a risk evalua-
14 tion under this subsection for a chemical sub-
15 stance as soon as reasonably possible, subject to
16 the availability of resources, but not later
17 than—

18 “(i) 3 years after the date on which
19 the Administrator—

20 “(I) makes a determination
21 under paragraph (3)(A)(i); or

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

24 “(ii) in the case of a risk evaluation
25 requested by a manufacturer under para-

1 graph (3)(A)(ii), 2 years after the later of
2 the date on which—

3 “(I) the manufacturer requests
4 the risk evaluation; or

5 “(II) if applicable, the risk eval-
6 uation is initiated pursuant to sub-
7 paragraph (B).

8 “(B) DEADLINE ADJUSTMENT.—If the Ad-
9 ministrator receives more requests for risk eval-
10 uations under paragraph (3)(A)(ii) than the
11 Administrator has resources to conduct by the
12 deadline under subparagraph (A)(ii)(I) (taking
13 into account the requirement in paragraph
14 (4)(F)), the Administrator shall—

15 “(i) initiate risk evaluations that ex-
16 ceed the Administrator’s allotted resources
17 as soon as resources for such risk evalua-
18 tions are available; and

19 “(ii) not collect a fee under section 26
20 from the manufacturer for a risk evalua-
21 tion until the Administrator initiates the
22 risk evaluation.

23 “(C) SUBSECTION (a) RULES.—If, based
24 on a risk evaluation conducted under this sub-
25 section, the Administrator determines, without

1 consideration of costs or other non-risk factors,
2 that a chemical substance presents or will
3 present, in the absence of a rule under sub-
4 section (a), an unreasonable risk of injury to
5 health or the environment, the Administrator
6 shall—

7 “(i) propose a rule under subsection
8 (a) for the chemical substance not later
9 than 1 year after the date on which the
10 risk evaluation regarding such chemical
11 substance is published under subparagraph
12 (A); and

13 “(ii) publish in the Federal Register a
14 final rule not later than 2 years after the
15 date on which the risk evaluation regard-
16 ing such chemical substance is published
17 under subparagraph (A).

18 “(D) EXTENSION.—If the Administrator
19 determines that additional information is nec-
20 essary to make a risk evaluation determination
21 under this subsection, the Administrator may
22 extend the deadline under subparagraph (A) ac-
23 cordingly, except that the deadline may not be
24 extended to a date that is later than—

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

3 “(ii) 2 years after the deadline being
4 extended under this subparagraph.

5 “(6) DETERMINATIONS OF NO UNREASONABLE
6 RISK.—

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

17 “(B) POTENTIALLY EXPOSED SUBPOPULA-
18 TIONS.—The Administrator shall not make a
19 determination under this subsection that a
20 chemical substance will not present an unrea-
21 sonable risk of injury to health or the environ-
22 ment if the Administrator determines that the
23 chemical substance, under the intended condi-
24 tions of use, presents or will present an unrea-

1 sonable risk of injury to one or more potentially
2 exposed subpopulations.

3 “(C) FINAL ACTION.—A final determina-
4 tion under this subsection that a chemical sub-
5 stance will not present an unreasonable risk of
6 injury to health or the environment shall be
7 considered a final agency action.

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

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

17 (1) by amending paragraph (1) to read as fol-
18 lows:

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

23 “(A) consider and publish a statement with
24 respect to—

1 “(i) the effects of the chemical sub-
2 stance or mixture on health and the mag-
3 nitude of the exposure of human beings to
4 the chemical substance or mixture;

5 “(ii) the effects of the chemical sub-
6 stance or mixture on the environment and
7 the magnitude of the exposure of the envi-
8 ronment to the chemical substance or mix-
9 ture;

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

12 “(iv) the reasonably ascertainable eco-
13 nomic consequences of the rule, including
14 consideration of the likely effect of the rule
15 on the national economy, small business,
16 technological innovation, the environment,
17 and public health;

18 “(B) impose requirements under the rule
19 that the Administrator determines, consistent
20 with the information published under subpara-
21 graph (A), are cost-effective, except where the
22 Administrator determines that additional or dif-
23 ferent requirements described in subsection (a)
24 are necessary to protect against the identified
25 risk;

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

13 “(D) exempt replacement parts designed
14 prior to the date of publication in the Federal
15 Register of the rule unless the Administrator
16 finds such replacement parts contribute signifi-
17 cantly to the identified risk, including identified
18 risk to identified potentially exposed subpopula-
19 tions; and

20 “(E) in selecting among prohibitions and
21 other restrictions to address an identified risk,
22 apply prohibitions or other restrictions to arti-
23 cles on the basis of a chemical substance or
24 mixture contained in the article only to the ex-

1 tent necessary to protect against the identified
2 risk.”;

3 (2) in paragraph (2)—

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

6 (B) by striking “provide an opportunity for
7 an informal hearing in accordance with para-
8 graph (3); (D)”;

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

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

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

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

16 (A) by striking “Paragraphs (1), (2), (3),
17 and (4)” and inserting “APPLICATION.—Para-
18 graphs (1) and (2)”;

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

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

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

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

8 “(h) CRITICAL USE EXEMPTIONS.—

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

13 “(A) the requirement is not cost-effective
14 with respect to the specific use, as determined
15 by the Administrator pursuant to subsection
16 (c)(1)(B); and

17 “(B) the Administrator finds that—

18 “(i) the specific use is a critical or es-
19 sential use; or

20 “(ii) the requirement, as applied with
21 respect to the specific use, would signifi-
22 cantly disrupt the national economy, na-
23 tional security, or critical infrastructure.

24 “(2) PROCEDURE.—An exemption granted
25 under paragraph (1) shall be—

1 “(A) supported by clear and convincing
2 evidence;

3 “(B) preceded by public notice of the pro-
4 posed exemption and an opportunity for com-
5 ment; and

6 “(C) followed by notice of the granted ex-
7 emption—

8 “(i) to the public, by the Adminis-
9 trator; and

10 “(ii) to known commercial purchasers
11 of the chemical substance or mixture with
12 respect to which the exemption applies, by
13 the manufacturers and processors of such
14 chemical substance or mixture.

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

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

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

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

11 “(2) CONFIRMATION OF CONCERN.—Not later
12 than 2 years after the date of enactment of the
13 TSCA Modernization Act of 2015, the Administrator
14 shall designate as a PBT chemical of concern each
15 chemical substance on the list published under para-
16 graph (1)—

17 “(A) that, with respect to persistence and
18 bioaccumulation, scores high for one and either
19 high or moderate for the other, pursuant to the
20 TSCA Work Plan Chemicals Methods Docu-
21 ment published by the Administrator in Feb-
22 ruary 2012; and

23 “(B) exposure to which is likely to the gen-
24 eral population or to a potentially exposed sub-
25 population identified by the Administrator.

1 “(3) EXPEDITED ACTION.—Notwithstanding
2 subsection (b)(2), subject to the availability of ap-
3 propriations, not later than 2 years after designating
4 a chemical substance under paragraph (2), the Ad-
5 ministrator shall promulgate a rule under subsection
6 (a) with respect to the chemical substance to reduce
7 likely exposure to the extent practicable.

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

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

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

20 (1) by striking “The Administrator shall coordi-
21 nate” and inserting “(1) The Administrator shall co-
22 ordinate”; and

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

24 “(2) In making a determination under paragraph (1)
25 that it is in the public interest for the Administrator to

1 take an action under this title with respect to a chemical
2 substance or mixture rather than under another law ad-
3 ministered in whole or in part by the Administrator, the
4 Administrator shall consider the relevant risks, and com-
5 pare the estimated costs and efficiencies, of the action to
6 be taken under this title and an action to be taken under
7 such other law to protect against such risk.”.

8 **SEC. 6. DISCLOSURE OF DATA.**

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

11 (1) in subsection (a)—

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

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

16 (C) by adding after paragraph (4) the fol-
17 lowing new paragraphs:

18 “(5) may be disclosed to a State, local, or tribal
19 government official upon request of the official for
20 the purpose of administration or enforcement of a
21 law; and

22 “(6) shall be disclosed upon request—

23 “(A) to a health or environmental profes-
24 sional employed by a Federal or State agency in
25 response to an environmental release; or

1 “(B) to a treating physician or other
2 health care professional to assist in the diag-
3 nosis or treatment of one or more individuals.”;
4 (2) in subsection (b)(1), in the matter following
5 subparagraph (B)—

6 (A) by striking “data which discloses” and
7 inserting “data that disclose formulas (includ-
8 ing molecular structures) of a chemical sub-
9 stance or mixture,”;

10 (B) by striking “mixture or,” and inserting
11 “mixture, or,”; and

12 (C) by striking “the release of data dis-
13 closing”;

14 (3) in subsection (c)—

15 (A) by striking the subsection heading and
16 inserting “DESIGNATING AND SUBSTANTIATING
17 CONFIDENTIALITY.—”;

18 (B) by amending paragraph (1) to read as
19 follows: “ (1)(A) In submitting information
20 under this Act after date of enactment of the
21 TSCA Modernization Act of 2015, a manufac-
22 turer, processor, or distributor in commerce
23 shall designate the information which such per-
24 son believes is entitled to protection under this
25 section, and submit such designated informa-

1 tion separately from other information sub-
2 mitted under this Act. A designation under this
3 subparagraph shall be made in writing and in
4 such manner as the Administrator may pre-
5 scribe, and shall include—

6 “(i) justification for each designation of
7 confidentiality;

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

10 “(iii) separate copies of all submitted infor-
11 mation, with one copy containing and one copy
12 excluding the information to which the request
13 applies.

14 “(B) Designations made under subparagraph
15 (A) after the date of enactment of the TSCA Mod-
16 ernization Act of 2015 shall expire after 10 years,
17 at which time the information shall be made public
18 unless the manufacturer, processor, or distributor in
19 commerce has reasserted the claim for protection, in
20 writing and in such manner as the Administrator
21 may prescribe, including all of the elements required
22 for the initial submission.

23 “(C) Not later than 60 days prior to making in-
24 formation public under subparagraph (B), the Ad-
25 ministrator shall notify, as appropriate and prac-

1 ticable, the manufacturer, processor, or distributor
2 in commerce who designated the information under
3 subparagraph (A) of the date on which such infor-
4 mation will be made public unless a request for re-
5 newal is granted under subparagraph (B).”; and

6 (C) in paragraph (2)—

7 (i) in subparagraph (A), by inserting
8 “, for a reason other than the expiration of
9 such designation pursuant to paragraph
10 (1)(B),” before “proposes to release”; and

11 (ii) in subparagraph (B)(i), by strik-
12 ing “or (4)” and inserting “(4), or (6)”;
13 and

14 (4) by adding at the end the following new sub-
15 sections:

16 “(f) PROHIBITION.—No person who receives informa-
17 tion as permitted under subsection (a) may use such infor-
18 mation for any purpose not specified in such subsection,
19 nor disclose such information to any person not authorized
20 to receive such information.

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

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

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

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

6 (2) by striking paragraph (2)(B) and inserting
7 the following:

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

22 “(i) is adopted under the authority of a
23 Federal law; or

24 “(ii) is adopted to protect air or water
25 quality or is related to waste treatment or
26 waste disposal, except that this clause does not

1 apply to such a requirement if a provision of
2 this title, or an action or determination made
3 by the Administrator under this title, actually
4 conflicts with the requirement; and

5 “(C) if the Administrator imposes a require-
6 ment, through a rule or order under section 5 or 6,
7 that applies to a chemical substance or mixture
8 (other than a requirement described in section
9 6(a)(6)) and is designed to protect against a risk of
10 injury to health or the environment associated with
11 such chemical substance or mixture, no State or po-
12 litical subdivision may, after the effective date of
13 such requirement, establish or continue in effect any
14 requirement that applies to such chemical substance
15 or mixture (including a requirement that applies to
16 an article because the article contains the chemical
17 substance or mixture) and is designed to protect
18 against exposure to the chemical substance or mix-
19 ture either under the intended conditions of use con-
20 sidered by the Administrator in the risk evaluation
21 under section 6(b) or from a use identified in a no-
22 tice received by the Administrator under section
23 5(a), or, in the case of a requirement imposed pur-
24 suant to section 6(i), is designed to protect against
25 a risk of injury considered by the Administrator in

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

3 “(i) is identical to the requirement imposed
4 by the Administrator;

5 “(ii) is adopted under the authority of a
6 Federal law; or

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

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

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

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

20 “(B) if a State has assessed a penalty for a
21 specific violation, the Administrator may not assess
22 a penalty for that violation in an amount that would
23 cause the total of the penalties assessed for the vio-
24 lation by the State and the Administrator combined
25 to exceed the maximum amount that may be as-

1 sessed for that violation by the Administrator under
2 section 16.”.

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

6 “(c) SAVINGS.—

7 “(1) PRIOR STATE ACTIONS.—Nothing in this
8 title, nor any risk evaluation, rule, order, standard,
9 or requirement completed or implemented under this
10 title, shall be construed to preempt or otherwise af-
11 fect the authority of a State or political subdivision
12 of a State to continue to enforce any action taken
13 or requirement that has taken effect—

14 “(A) before August 1, 2015, under the au-
15 thority of a State law that prohibits or other-
16 wise restricts the manufacturing, processing,
17 distribution in commerce, use, or disposal of a
18 chemical substance; or

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

21 unless an action or determination made by the Ad-
22 ministrator under this title actually conflicts with
23 the action taken or requirement that has taken ef-
24 fect pursuant to such a State law.

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

14 “(3) INTENT OF CONGRESS.—It is not the in-
15 tent of Congress that this title, or rules, regulations,
16 or orders issued pursuant to this title, be interpreted
17 as influencing, in either a plaintiff’s or defendant’s
18 favor, the disposition of any civil action for damages
19 in a State court, or the authority of any court to
20 make a determination in an adjudicatory proceeding
21 under applicable State law with respect to the ad-
22 missibility of evidence, unless a provision of this title
23 actually conflicts with the State court action.

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

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

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

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

12 (1) in subsection (b)(1)—

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

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

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

20 (D) by striking “this Act” and inserting
21 “the provision of this title for which such fee is
22 collected”; and

23 (E) by striking “Such rules shall not pro-
24 vide for any fee in excess of \$2,500 or, in the
25 case of a small business concern, any fee in ex-

1 cess of \$100.” and inserting “Such rules shall
2 provide for lower fees for small business con-
3 cerns.”;

4 (2) by adding at the end of subsection (b) the
5 following:

6 “(3) FUND.—

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

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

16 “(C) CREDITING AND AVAILABILITY OF
17 FEES.—On request by the Administrator, the Sec-
18 retary of the Treasury shall transfer from the Fund
19 to the Administrator amounts appropriated to pay
20 or recover the full costs incurred by the Environ-
21 mental Protection Agency, including contractor
22 costs, in carrying out the provisions of this title for
23 which the fees are collected under paragraph (1).

24 “(D) USE OF FUNDS BY ADMINISTRATOR.—
25 Fees authorized under this section shall be collected

1 and available for obligation only to the extent and in
2 the amount provided in advance in appropriations
3 Acts, and shall be available without fiscal year limi-
4 tation for use only in administering the provisions of
5 this title for which the fees are collected.

6 “(E) ACCOUNTING AND AUDITING.—

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

19 “(ii) AUDITING.—

20 “(I) IN GENERAL.—For the purpose
21 of section 3515(c) of title 31, United
22 States Code, the Fund shall be considered
23 a component of a covered executive agency.

24 “(II) COMPONENTS OF AUDIT.—The
25 annual audit required in accordance with

1 sections 3515 and 3521 of title 31, United
2 States Code, of the financial statements of
3 activities carried out using amounts from
4 the Fund shall include an analysis of—

5 “(aa) the fees collected and
6 amounts disbursed under this sub-
7 section;

8 “(bb) the reasonableness of the
9 fees in place as of the date of the
10 audit to meet current and projected
11 costs of administering the provisions
12 of the title for which the fees are col-
13 lected; and

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

17 “(III) FEDERAL RESPONSIBILITY.—
18 The Inspector General of the Environ-
19 mental Protection Agency shall conduct
20 the annual audit described in subclause
21 (II) and submit to the Administrator a re-
22 port that describes the findings and any
23 recommendations of the Inspector General
24 resulting from the audit.”; and

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

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

5 “(1) the extent to which the scientific and tech-
6 nical procedures, measures, methods, or models em-
7 ployed to generate the information are reasonable
8 for and consistent with the use of the information;

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

12 “(3) the degree of clarity and completeness with
13 which the data, assumptions, methods, quality assur-
14 ance, and analyses employed to generate the infor-
15 mation are documented;

16 “(4) the extent to which the variability and un-
17 certainty in the information, or in the procedures,
18 measures, methods, or models, are evaluated and
19 characterized; and

20 “(5) the extent of independent verification or
21 peer review of the information or of the procedures,
22 measures, methods, or models.

23 “(i) WEIGHT OF SCIENTIFIC EVIDENCE.—The Ad-
24 ministrator shall make decisions under sections 4, 5, and
25 6 based on the weight of the scientific evidence.

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

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

6 “(1) DEVELOPMENT.—Not later than 2 years
7 after the date of enactment of the TSCA Moderniza-
8 tion Act of 2015, the Administrator shall develop
9 any policies, procedures, and guidance the Adminis-
10 trator determines are necessary to carry out the
11 amendments to this Act made by the TSCA Mod-
12 ernization Act of 2015.

13 “(2) REVIEW.—Not later than 5 years after the
14 date of enactment of the TSCA Modernization Act
15 of 2015, and not less frequently than once every 5
16 years thereafter, the Administrator shall—

17 “(A) review the adequacy of the policies,
18 procedures, and guidance developed under para-
19 graph (1), including with respect to animal,
20 nonanimal, and epidemiological test methods
21 and procedures for assessing and determining
22 risk under this title; and

23 “(B) revise such policies, procedures, and
24 guidance as the Administrator determines nec-

1 essary to reflect new scientific developments or
2 understandings.

3 “(1) REPORT TO CONGRESS.—

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

12 “(A) the capacity of the Environmental
13 Protection Agency to conduct and publish risk
14 evaluations under subparagraphs (A)(i) and (B)
15 of section 6(b)(3), and the resources necessary
16 to initiate the minimum number of risk evalua-
17 tions required under section 6(b)(7);

18 “(B) the capacity of the Environmental
19 Protection Agency to conduct and publish risk
20 evaluations under section 6(b)(3)(A)(ii), the
21 likely demand for such risk evaluations, and the
22 anticipated schedule for accommodating that
23 demand;

24 “(C) the capacity of the Environmental
25 Protection Agency to promulgate rules under

1 section 6(a) as required based on risk evalua-
2 tions conducted and published under section
3 6(b); and

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

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

12 **SEC. 9. CONFORMING AMENDMENTS.**

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

15 (1) in subsection (b)—

16 (A) in paragraph (1), by striking “rule”
17 each place it appears and inserting “rule, order,
18 or consent agreement”;

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

22 (C) in paragraph (3), by striking “rule”
23 each place it appears and inserting “rule, order,
24 or consent agreement”; and

25 (D) in paragraph (4)—

1 (i) by striking “rule under subsection
2 (a)” each place it appears and inserting
3 “rule, order, or consent agreement under
4 subsection (a)”;

5 (ii) by striking “repeals the rule” each
6 place it appears and inserting “repeals the
7 rule or order or modifies the consent
8 agreement to terminate the requirement”;
9 and

10 (iii) by striking “repeals the applica-
11 tion of the rule” and inserting “repeals or
12 modifies the application of the rule, order,
13 or consent agreement”;

14 (2) in subsection (c)—

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

17 (B) in paragraph (2)—

18 (i) in subparagraph (A), by striking
19 “a rule under subsection (a) or for which
20 data is being developed pursuant to such a
21 rule” and inserting “a rule, order, or con-
22 sent agreement under subsection (a) or for
23 which data are being developed pursuant
24 to such a rule, order, or consent agree-
25 ment”;

1 (ii) in subparagraph (B), by striking
2 “such rule or which is being developed pur-
3 suant to such rule” and inserting “such
4 rule, order, or consent agreement or which
5 is being developed pursuant to such rule,
6 order, or consent agreement”; and

7 (iii) in the matter following subpara-
8 graph (B), by striking “the rule” and in-
9 serting “the rule or order”;

10 (C) in paragraph (3)(B)(i), by striking
11 “rule promulgated” and inserting “rule, order,
12 or consent agreement”; and

13 (D) in paragraph (4)—

14 (i) by striking “rule promulgated”
15 each place it appears and inserting “rule,
16 order, or consent agreement”;

17 (ii) by striking “such rule” each place
18 it appears and inserting “such rule, order,
19 or consent agreement”; and

20 (iii) in subparagraph (B), by striking
21 “the rule” and inserting “the rule, order,
22 or consent agreement”;

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

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

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

5 (1) in subsection (b)—

6 (A) in paragraph (1)(A)—

7 (i) by striking “rule promulgated”
8 and inserting “rule, order, or consent
9 agreement”; and

10 (ii) by striking “such rule” and insert-
11 ing “such rule, order, or consent agree-
12 ment”;

13 (B) in paragraph (1)(B)—

14 (i) by striking “rule promulgated”
15 and inserting “rule or order”; and

16 (ii) by striking “the date of the sub-
17 mission in accordance with such rule” and
18 inserting “the required date of submis-
19 sion”; and

20 (C) in paragraph (2)(A)(ii), by striking
21 “rule promulgated” and inserting “rule, order,
22 or consent agreement”;

23 (2) in subsection (d)(2)(C), by striking “rule”
24 and inserting “rule, order, or consent agreement”;
25 and

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

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

6 (1) in subsection (d)(2)(B)—

7 (A) by striking “, provide reasonable op-
8 portunity, in accordance with paragraphs (2)
9 and (3) of subsection (c), for a hearing on such
10 rule,” and inserting “in accordance with para-
11 graph (2) of subsection (c),”; and

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

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

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

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

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

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

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

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

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

3 (2) by striking “such rule” each place it ap-
4 pears and inserting “such rule, order, or consent
5 agreement”.

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

8 (1) in subsection (a)—

9 (A) in paragraph (1)(A)—

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

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

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

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

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

23 (C) in paragraph (2), by striking “the
24 rule” and inserting “the rule or order”; and

25 (D) in paragraph (3)—

1 (i) in subparagraph (A), by striking
2 “the rule” and inserting “the rule or
3 order”;

4 (ii) in subparagraph (B), by striking
5 “a rule under section 4(a)” and inserting
6 “a rule or order under section 4(a)”;

7 (iii) in subparagraph (C), by striking
8 “such rule” and inserting “such rule or
9 order”;

10 (iv) in subparagraph (D), by striking
11 “such rule” and inserting “such rule or
12 order”; and

13 (v) in subparagraph (E)—

14 (I) by striking “to such rule” and
15 inserting “to such rule or order”; and

16 (II) by striking “the date of the
17 promulgation of such rule” and in-
18 serting “the date on which such rule
19 is promulgated or such order is
20 issued”;

21 (2) in subsection (b)—

22 (A) by striking “review a rule” and insert-
23 ing “review a rule, or an order under section
24 4.”;

1 (B) by striking “such rule” and inserting
2 “such rule or order”;

3 (C) by striking “the rule” and inserting
4 “the rule or order”;

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

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

9 (3) in subsection (c)—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)—

12 (I) by striking “a rule” and in-
13 serting “a rule, or an order under sec-
14 tion 4”; and

15 (II) by striking “such rule” and
16 inserting “such rule or order”; and

17 (ii) in subparagraph (B)—

18 (I) in the matter preceding clause
19 (i), by striking “a rule” and inserting
20 “a rule or order”;

21 (II) in clause (i)—

22 (aa) by inserting “or an
23 order under section 4,” before
24 “the standard for review”;

1 (bb) by striking “such rule”
2 and inserting “such rule or
3 order”;

4 (cc) by striking “the rule”
5 and inserting “the rule or order”;
6 and

7 (dd) by striking the semi-
8 colon and inserting “; and”; and
9 (III) by striking clause (ii) and
10 redesignating clause (iii) as clause
11 (ii); and

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

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

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

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

23 (2) in subsection (b)—

24 (A) in paragraph (1), by striking “order
25 under section 5(e), 6(b)(1)(A), or 6(b)(1)(B)”

1 and inserting “order under section 4 or 5(e)”;

2 and

3 (B) in paragraph (4)(B)—

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

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

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

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

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

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

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

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

23 (o) SECTION 30.—Section 30(2) of the Toxic Sub-
24 stances Control Act (15 U.S.C. 2629(2)) is amended by

1 striking “rule” and inserting “rule, order, or consent
2 agreement”.

Passed the House of Representatives June 23, 2015.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 143

114TH CONGRESS
1ST Session

H. R. 2576

AN ACT

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

JULY 8, 2015

Read twice and placed on the calendar