

**[DISCUSSION DRAFT]**114TH CONGRESS  
1ST SESSION**H. R.** \_\_\_\_\_

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

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**IN THE HOUSE OF REPRESENTATIVES**

M \_\_. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**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  
2           substance under subsection (i)(2),” before “the Ad-  
3           ministrator shall by rule”; and

4           (3) by striking “using the least burdensome re-  
5           quirements” and inserting “, including an identified  
6           risk to a potentially exposed subpopulation”.

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

10          “(b) RISK EVALUATIONS.—

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

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

1 injury to health or the environment as described in  
2 subsection (a).

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, but not including information on cost and  
11          other factors not directly related to health or  
12          the environment;

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

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

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

23                   “(E) in the case of a risk evaluation re-  
24          quested by a manufacturer under paragraph  
25          (3)(A)(ii), ensure that the costs to the Environ-

1 mental Protection Agency, including contractor  
2 costs, of conducting the risk evaluation are paid  
3 for by the manufacturer.

4 “(5) DEADLINES.—

5 “(A) RISK EVALUATIONS.—The Adminis-  
6 trator shall conduct and publish a risk evalua-  
7 tion under this subsection for a chemical sub-  
8 stance not later than 3 years after the date on  
9 which—

10 “(i) the Administrator—

11 “(I) makes a finding under para-  
12 graph (3)(A)(i); or

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

15 “(ii) a manufacturer requests the risk  
16 evaluation under paragraph (3)(A)(ii).

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

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

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

19 “(ii) 2 years after the original dead-  
20 line.

21 “(6) DETERMINATIONS OF NO UNREASONABLE  
22 RISK.—

23 “(A) NOTICE AND COMMENT.—Not later  
24 than 30 days before publishing a final deter-  
25 mination under this subsection that a chemical

1 substance will not present an unreasonable risk  
2 of injury to health or the environment, the Ad-  
3 ministrator shall make a preliminary determina-  
4 tion to such effect and provide public notice of,  
5 and an opportunity for comment regarding,  
6 such preliminary determination.

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

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

22 “(7) MINIMUM NUMBER.—Subject to the avail-  
23 ability of appropriations, the Administrator shall ini-  
24 tiate 10 or more risk evaluations under paragraph  
25 (3)(A)(i) in each fiscal year beginning in the fiscal

1 year of the date of enactment of the TSCA Mod-  
2 ernization Act of 2015.”.

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

6 (1) by amending paragraph (1) to read as fol-  
7 lows:

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

12 “(A) consider and publish a statement with  
13 respect to—

14 “(i) the effects of the chemical sub-  
15 stance or mixture on health and the mag-  
16 nitude of the exposure of human beings to  
17 the chemical substance or mixture;

18 “(ii) the effects of the chemical sub-  
19 stance or mixture on the environment and  
20 the magnitude of the exposure of the envi-  
21 ronment to the chemical substance or mix-  
22 ture;

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

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

7 “(B) impose requirements under the rule  
8 that the Administrator determines, consistent  
9 with the information published under subpara-  
10 graph (A), are cost-effective, except where the  
11 Administrator determines that it is not prac-  
12 ticable to protect against the identified risk  
13 using cost-effective requirements;

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

1 “(D) exempt replacement parts designed  
2 prior to the date of publication in the Federal  
3 Register of the rule unless the Administrator  
4 finds such replacement parts contribute signifi-  
5 cantly to the identified risk; and

6 “(E) in selecting among prohibitions and  
7 restrictions to address an identified risk, apply  
8 prohibitions or restrictions to articles on the  
9 basis of a chemical substance or mixture con-  
10 tained in the article only to the extent necessary  
11 to mitigate the identified risk.”;

12 (2) in paragraph (2)—

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

15 (B) by striking “provide an opportunity for  
16 an informal hearing in accordance with para-  
17 graph (3); (D)”;

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

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

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

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

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

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

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

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

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

18 “(h) CRITICAL USE EXEMPTIONS.—

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

23 “(A) the requirement is not cost-effective  
24 with respect to the specific use, as determined

1 by the Administrator pursuant to subsection  
2 (c)(1)(B); and

3 “(B) the Administrator finds that—

4 “(i) the specific use is a critical or es-  
5 sential use; or

6 “(ii) the requirement, as applied with  
7 respect to the specific use, would signifi-  
8 cantly disrupt the national economy, na-  
9 tional security, or critical infrastructure.

10 “(2) PROCEDURE.—An exemption granted  
11 under paragraph (1) shall be—

12 “(A) supported by clear and convincing  
13 evidence;

14 “(B) preceded by public notice of the pro-  
15 posed exemption and an opportunity for com-  
16 ment; and

17 “(C) followed by notice of the granted ex-  
18 emption—

19 “(i) to the public, by the Adminis-  
20 trator; and

21 “(ii) to known commercial purchasers  
22 of the chemical substance or mixture with  
23 respect to which the exemption applies, by  
24 the manufacturers and processors of such  
25 chemical substance or mixture.

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

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

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

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

22               “(2) CONFIRMATION OF CONCERN.—Not later  
23               than 2 years after the date of enactment of the  
24               TSCA Modernization Act of 2015, the Administrator  
25               shall designate as a PBT chemical of concern each

1 chemical substance on the list published under para-  
2 graph (1)—

3 “(A) that, with respect to persistence and  
4 bioaccumulation, scores high for one and either  
5 high or moderate for the other, pursuant to the  
6 TSCA Work Plan Chemicals Methods Docu-  
7 ment published by the Administrator in Feb-  
8 ruary 2012; and

9 “(B) exposure to which is likely to the gen-  
10 eral population or to a potentially exposed sub-  
11 population identified by the Administrator.

12 “(3) EXPEDITED ACTION.—Subject to the avail-  
13 ability of appropriations, not later than 2 years after  
14 designating a chemical substance under paragraph  
15 (2), the Administrator shall promulgate a rule under  
16 subsection (a) with respect to the chemical substance  
17 to reduce likely exposure to the extent practicable.

18 “(4) RELATIONSHIP TO SUBSECTION (B).—If,  
19 at any time prior to the date that is 90 days after  
20 the date on which the Administrator publishes the  
21 list under paragraph (1), the Administrator makes a  
22 finding under subsection (b)(3)(A)(i), or a manufac-  
23 turer requests a risk evaluation under subsection  
24 (b)(3)(A)(ii), with respect to a chemical substance,

1       such chemical substance shall not be subject to this  
2       subsection.”.

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

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

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

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

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

19   **SEC. 6. DISCLOSURE OF DATA.**

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

22           (1) in subsection (a)—

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

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

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

5 “(5) may be disclosed to a State, local, or tribal  
6 government official upon request of the official for  
7 the purpose of administration or enforcement of a  
8 law; and

9 “(6) shall be disclosed upon request—

10 “(A) to a health or environmental profes-  
11 sional employed by a Federal or State agency in  
12 response to an environmental release; or

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

16 (2) in subsection (b)(1), in the matter following  
17 subparagraph (B)—

18 (A) by striking “data which discloses” and  
19 inserting “data that disclose formulas (includ-  
20 ing molecular structures) of a chemical sub-  
21 stance or mixture,”;

22 (B) by striking “mixture or,” and inserting  
23 “mixture, or,”; and

24 (C) by striking “the release of data dis-  
25 closing”;

1           (3) by amending subsection (c)(1) to read as  
2 follows:

3       “(c) DESIGNATING AND SUBSTANTIATING CON-  
4 FIDENTIALITY.—(1)(A) In submitting information under  
5 this Act after date of enactment of the TSCA Moderniza-  
6 tion Act of 2015, a manufacturer, processor, or distributor  
7 in commerce shall designate the information which such  
8 person believes is entitled to protection under this section,  
9 and submit such designated information separately from  
10 other information submitted under this Act. A designation  
11 under this subparagraph shall be made in writing and in  
12 such manner as the Administrator may prescribe, and  
13 shall include—

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

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

18           “(iii) separate copies of all submitted infor-  
19 mation, with 1 copy containing and 1 copy ex-  
20 cluding the information to which the request  
21 applies.

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

1 processor, or distributor in commerce has submitted a re-  
2 quest for renewal, made in writing and in such manner  
3 as the Administrator may prescribe, including all of the  
4 elements required for the initial submission.

5 “(C) Not later than 60 days prior to making informa-  
6 tion public under subparagraph (B), the Administrator  
7 shall notify, as appropriate and practicable, the manufac-  
8 turer, processor, or distributor in commerce who des-  
9 ignated the information under subparagraph (A) of the  
10 date on which such information will be made public unless  
11 a request for renewal is granted under subparagraph  
12 (B).”; and

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

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

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

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

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

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

3 (2) by striking paragraph (2)(B) and inserting  
4 the following:

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

18 “(C) if the Administrator imposes a require-  
19 ment, through a rule or order under section 5 or 6,  
20 that applies to a chemical substance or mixture  
21 (other than a requirement described in section  
22 6(a)(6)), no State or political subdivision may, after  
23 the effective date of such requirement, establish or  
24 continue in effect any requirement that applies to  
25 such chemical substance or mixture (including a re-

1        requirement that applies to an article because the arti-  
2        cle contains the chemical substance or mixture) and  
3        is designed to protect against exposure to the chem-  
4        ical substance or mixture either under the intended  
5        conditions of use considered by the Administrator in  
6        the risk evaluation under section 6(b), or from a use  
7        identified in a notice received by the Administrator  
8        under section 5(a), unless the requirement of the  
9        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, expressly  
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; INTENT OF CONGRESS.—Section 18 of  
13          the Toxic Substances Control Act (15 U.S.C. 2617) is  
14          amended by adding at 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 expressly 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              “(d) INTENT OF CONGRESS.—It is not the intent of  
20      Congress that this title, or rules, regulations, or orders  
21      issued pursuant to this title, be interpreted as influencing,  
22      in either a plaintiff’s or defendant’s favor, the disposition  
23      of any civil action for damages in a State court, or the  
24      authority of any court to make a determination in an adju-  
25      dicatory proceeding under applicable State law with re-

1 spect to the admissibility of evidence, unless a provision  
2 of this title expressly conflicts with the State court ac-  
3 tion.”.

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

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

7 (1) in subsection (b)(1)—

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

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

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

15 (D) by striking “this Act” and inserting  
16 “the provision of this title for which such fee is  
17 collected”; and

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

24 (2) by adding at the end of subsection (b) the  
25 following:

1 “(3) FUND.—

2 “(A) ESTABLISHMENT.—There is estab-  
3 lished in the Treasury of the United States a  
4 revolving fund, to be known as the TSCA Serv-  
5 ice Fee Fund (in this paragraph referred to as  
6 the ‘Fund’), consisting of such amounts as are  
7 deposited in the Fund under this paragraph.

8 “(B) COLLECTION AND DEPOSIT OF  
9 FEES.—The Administrator shall collect the fees  
10 described in paragraph (1) and deposit those  
11 fees in the Fund.

12 “(C) CREDITING AND AVAILABILITY OF  
13 FEES.—On request by the Administrator, the  
14 Secretary of the Treasury shall transfer from  
15 the Fund to the Administrator amounts appro-  
16 priated to pay or recover the full costs incurred  
17 by the Environmental Protection Agency, in-  
18 cluding contractor costs, in carrying out the  
19 provisions of this title for which the fees are  
20 collected under paragraph (1).

21 “(D) USE OF FUNDS BY ADMINIS-  
22 TRATOR.—Amounts equivalent to fees collected  
23 by the Administrator and deposited in the Fund  
24 under this section shall be available without fis-  
25 cal year limitation to the Administrator, subject

1 to the availability of appropriations, for use  
2 only in administering the provisions of this title  
3 for which the fees are collected.

4 “(E) ACCOUNTING AND AUDITING.—

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

18 “(ii) AUDITING.—

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

24 “(II) COMPONENTS OF AUDIT.—

25 The annual audit required in accord-

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

6                       “(aa) the fees collected and  
7                       amounts disbursed under this  
8                       subsection;

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

15                      “(cc) the number of requests  
16                      for a risk evaluation made by  
17                      manufacturers under section  
18                      6(b)(3)(A)(ii).

19                      “(III)     FEDERAL     RESPONSI-  
20                      BILITY.—The Inspector General of  
21                      the Environmental Protection Agency  
22                      shall conduct the annual audit de-  
23                      scribed in subclause (II) and submit  
24                      to the Administrator a report that de-  
25                      scribes the findings and any rec-

1                   ommendations of the Inspector Gen-  
2                   eral resulting from the audit.”; and

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

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

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

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

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

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

23                  “(5) the extent of independent verification or  
24                  peer review of the information or of the procedures,  
25                  measures, methods, or models.

1       “(i) WEIGHT OF SCIENTIFIC EVIDENCE.—The Ad-  
2   ministrator shall make decisions under sections 4, 5, and  
3   6 based on the weight of the scientific evidence.

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

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

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

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

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

1           “(B) revise such policies, procedures, and  
2           guidance as the Administrator determines nec-  
3           essary to reflect new scientific developments or  
4           understandings.”.

5   **SEC. 9. CONFORMING AMENDMENTS.**

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

8           (1) in subsection (b)—

9               (A) in paragraph (1), by striking “rule”  
10           each place it appears and inserting “rule, order,  
11           or consent agreement”;

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

15               (C) in paragraph (3), by striking “rule”  
16           each place it appears and inserting “rule, order,  
17           or consent agreement”; and

18               (D) in paragraph (4)—

19                   (i) by striking “rule under subsection  
20           (a)” each place it appears and inserting  
21           “rule, order, or consent agreement under  
22           subsection (a)”;

23                   (ii) by striking “repeals the rule” each  
24           place it appears and inserting “repeals the  
25           rule or order or modifies the consent

1 agreement to terminate the requirement”;

2 and

3 (iii) by striking “repeals the applica-  
4 tion of the rule” and inserting “repeals or  
5 modifies the application of the rule, order,  
6 or consent agreement”;

7 (2) in subsection (c)—

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

10 (B) in paragraph (2)—

11 (i) in subparagraph (A), by striking  
12 “a rule under subsection (a) or for which  
13 data is being developed pursuant to such a  
14 rule” and inserting “a rule, order, or con-  
15 sent agreement under subsection (a) or for  
16 which data is being developed pursuant to  
17 such a rule, order, or consent agreement”;

18 (ii) in subparagraph (B), by striking  
19 “such rule or which is being developed pur-  
20 suant to such rule” and inserting “such  
21 rule, order, or consent agreement or which  
22 is being developed pursuant to such rule,  
23 order, or consent agreement”; and

1 (iii) in the matter following subpara-  
2 graph (B), by striking “the rule” and in-  
3 serting “the rule or order”;

4 (C) in paragraph (3)(B)(i), by striking  
5 “rule promulgated” and inserting “rule, order,  
6 or consent agreement”; and

7 (D) in paragraph (4)—

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

11 (ii) by striking “such rule” each place  
12 it appears and inserting “such rule, order,  
13 or consent agreement”; and

14 (iii) in subparagraph (B), by striking  
15 “the rule” and inserting “the rule, order,  
16 or consent agreement”;

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

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

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

23 (1) in subsection (b)—

24 (A) in paragraph (1)(A)—

1 (i) by striking “rule promulgated”  
2 and inserting “rule, order, or consent  
3 agreement”; and

4 (ii) by striking “such rule” and insert-  
5 ing “such rule, order, or consent agree-  
6 ment”;

7 (B) in paragraph (1)(B)—

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

10 (ii) by striking “the date of the sub-  
11 mission in accordance with such rule” and  
12 inserting “the required date of submis-  
13 sion”; and

14 (C) in paragraph (2)(A)(ii), by striking  
15 “rule promulgated” and inserting “rule, order,  
16 or consent agreement”; and

17 (2) in subsection (d)(2)(C), by striking “rule”  
18 and inserting “rule, order, or consent agreement”.

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

1 (d) 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 (e) SECTION 9.—Section 9(a) of the Toxic Sub-  
8 stances Control Act (15 U.S.C. 2608(a)) is amended by  
9 striking “section 6” each place it appears and inserting  
10 “section 6(a)”.

11 (f) 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 (g) SECTION 15.—Section 15(1) (15 U.S.C. 2614(1))  
17 is amended by striking “(A) any rule” and all that follows  
18 through “or (D)” and inserting “any requirement of this  
19 title or any rule promulgated, order issued, or consent  
20 agreement entered into under this title, or”.

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

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

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

4           (i) SECTION 19.—Section 19 of the Toxic Substances  
5           Control Act (15 U.S.C. 2618) is amended—

6           (1) in subsection (a)—

7           (A) in paragraph (1)(A)—

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

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

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

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

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

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

23          (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 “such rule” and  
15 inserting “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”; and

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 inserting “such rule or order”;  
3 and

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

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

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

13 (k) SECTION 21.—Section 21 of the Toxic Substances  
14 Control Act (15 U.S.C. 2620) is amended—

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

18 (2) in subsection (b)—

19 (A) in paragraph (1), by striking “order  
20 under section 5(e), 6(b)(1)(A), or 6(b)(1)(B)”  
21 and inserting “order under section 4 or 5(e)”;

22 (B) in paragraph (4)(B)—

23 (i) in the matter preceding clause (i),  
24 by striking “order under section 5(e) or

1                   6(b)(2)” and inserting “order under sec-  
2                   tion 4 or 5(e)”;

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

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

8           (l) SECTION 24.—Section 24(b)(2)(B) of the Toxic  
9   Substances Control Act (15 U.S.C. 2623(b)(2)(B)) is  
10 amended—

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

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

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

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

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