

[DISCUSSION DRAFT]

114TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

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

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 RESPONSIBI-
20 LITY.—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 ministrators 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 sserting “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 sserting “rule, order, or consent agreement”; and

19 (4) in subsection (g), by striking “rule” and in-
20 sserting “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”.