

Congressional Efforts to Amend Title I of the Toxic Substances Control Act (TSCA)

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Related Author

- [Jerry H. Yen](#)

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Jerry H. Yen, Analyst in Environmental Policy (jyen@crs.loc.gov, 7-9113)

In 2015, the House and the Senate both passed legislation that would amend Title I of the Toxic Substances Control Act (TSCA; [15 U.S.C. 2601-2629](#)). Enacted in 1976, Title I of TSCA is the principal federal statute that applies to the regulation of the lifecycle of commercial chemicals from their manufacture (defined to include importation) to disposal if elements of the lifecycle are found to present unreasonable risks. Selected differences between the House and the Senate legislation are discussed below.

On June 23, 2015, the House passed [H.R. 2576](#), the TSCA Modernization Act of 2015. Prior to passage in the House, the House Committee on Energy and Commerce reported [H.R. 2576](#); the report is [H.Rept. 114-176](#). On December 17, 2015, the Senate passed a substitute amendment ([S.Amdt. 2932](#)) to [H.R. 2576](#). The Senate substitute amendment was based on [S. 697](#), the Frank R. Lautenberg Chemical Safety for the 21st Century Act, and includes additional provisions that would amend the Mercury Export Ban Act of 2008 ([P.L. 110-414](#)) and add a section to the Public Health Service Act ([42 U.S.C. Chapter 6A](#)) regarding potential cancer clusters. The Senate Committee on Environment and Public Works reported [S. 697](#); the report is [S.Rept. 114-67](#).

Under Title I of TSCA, the Environmental Protection Agency (EPA) is authorized to identify risks from commercial chemical substances and mixtures and regulate those that present unreasonable risks to human health and the environment. For more background information on TSCA, see CRS Report RL31905, [The Toxic Substances Control Act \(TSCA\): A Summary of the Act and Its Major Requirements](#), by Jerry H. Yen.

Among the various issues regarding the federal role in regulating chemical substances and mixtures under Title I of TSCA, the following topics are among the more debated:

- the prioritization of chemical substances and mixtures for the evaluation of risks,
- the regulatory threshold criteria under which EPA would be authorized to restrict a chemical substance or mixture,
- the regulatory options available to EPA in restricting a chemical substance or mixture found to warrant regulation,
- the authority of EPA to require the development of new information regarding a chemical substance or mixture,
- the preemption of state laws concerning the regulation of chemical substances and mixtures,

- the disclosure and protection from disclosure of information submitted to EPA under TSCA, and
- the resources that may be available for EPA to administer TSCA.

These topics are discussed in greater detail in CRS Report R44434, [Proposed Amendments to the Toxic Substances Control Act \(TSCA\) in the 114th Congress: H.R. 2576 Compared with the Senate Substitute Amendment](#), by Jerry H. Yen and Alexandra M. Wyatt.

In summary, [H.R. 2576](#), as passed by the House, would amend a number of provisions in Title I of TSCA, including the following:

- the authority for EPA to require testing of chemical substances and mixtures under TSCA Section 4,
- the process in which EPA would be required to evaluate risks of certain chemical substances and mixtures and regulate those found to present unreasonable risks under TSCA Section 6,
- the procedures and standards under TSCA Section 14 for confidential treatment of certain information submitted to EPA under TSCA,
- the relationship between TSCA and state laws that regulate chemical substances and mixtures under TSCA Section 18, and
- the authority for EPA to collect fees under TSCA Section 26.

The Senate amendment to [H.R. 2576](#) would amend the same provisions as would [H.R. 2576](#), as passed by the House (albeit with differences), and would also amend other provisions, including the following:

- the process in which EPA reviews new chemical substances or significant new uses of chemical substances under TSCA Section 5,
- the recordkeeping and reporting requirements under TSCA Section 8, and
- the export recordkeeping, reporting, and notification requirements under TSCA Section 12.

Additionally, the Senate amendment to [H.R. 2576](#) would add a new TSCA Section 4A to establish a risk-based screening process and criteria to prioritize existing chemical substances for evaluation under TSCA Section 6. The Senate amendment to [H.R. 2576](#) would also amend Section 5 of the Mercury Export Ban Act of 2008 ([42 U.S.C. 6939f](#)) to require the Department of Energy to make operational a facility that would accept elemental mercury generated within the United States and other related purposes. Additionally, the Senate amendment to [H.R. 2576](#) would add new Section 399V-6 to the Public Health Service Act ([42 U.S.C. Chapter 6A](#)) to authorize a greater federal role in addressing potential cancer clusters.

If either the House bill or the Senate amendment were enacted, the ultimate effects would depend on implementation decisions and resources provided to implement the legislation. Regarding resources for implementation, neither the House bill nor the Senate amendment would provide mandatory appropriations to implement TSCA. Therefore, resources to implement either the House bill or the Senate amendment would be subject to the annual discretionary appropriations process, although both the House bill and the Senate amendment would provide authority for EPA to collect certain fees to offset the costs of implementation.

For more information on how [H.R. 2576](#) as passed by the House and the Senate amendment to [H.R. 2576](#) would amend the relationship between TSCA and state laws that regulate chemical substances and mixtures under TSCA Section 18, see CRS Report R44066, [Preemption in Proposed Amendments to the Toxic Substances Control Act \(TSCA\): Side-by-Side Analysis of S. 697 and H.R. 2576](#), by Alexandra M. Wyatt.