CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 23, 2015

H.R. 2576
TSCA Modernization Act of 2015

As ordered reported by the House Committee on Energy and Commerce on June 3, 2015

SUMMARY

H.R. 2576 would modify the Toxic Substances Control Act (TSCA), the law that regulates the manufacture, importation, and processing of chemicals, with the aim of strengthening the Environmental Protection Agency's (EPA's) ability to evaluate and regulate potentially hazardous chemicals.

CBO estimates that EPA would incur additional costs to conduct safety evaluations of chemical substances over the 2016-2020 period in order to meet the new requirements imposed by H.R. 2576; we estimate that implementing this legislation would cost $64 million over the next five years and $143 million over the 2016-2025 period, assuming appropriation actions consistent with the bill.

Under the legislation, EPA would be authorized to charge two types of fees for some of its work under the legislation. Those fees would have different budgetary treatments. One fee would be classified as a mandatory offsetting receipt and the other would be classified as a revenue. Based on information provided by the agency, CBO estimates that enacting the legislation would increase offsetting receipts, which are treated as reductions in direct spending, by $115 million over the 2016-2025 period; revenues would increase by $121 million over the same period, net of income and payroll tax offsets. Pay-as-you-go procedures apply because the bill would affect direct spending and revenues.

H.R. 2576 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on manufacturers, processors, importers, and users of chemical substances. CBO estimates that the aggregate cost of those mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($77 million and $154 million in 2015, respectively, adjusted annually for inflation).

MAJOR PROVISIONS

The bill's major provisions would:

- Require EPA to develop policies, procedures, guidance, and rules to implement the bill;
- Authorize EPA to obtain new information from manufacturers and processors necessary to conduct risk evaluations on chemical substances;
- Require EPA to initiate at least 10 risk evaluations annually on chemical substances the agency determines may present an unreasonable risk of injury to human health or the environment;
- Require EPA to publish a list of chemicals that are considered to be persistent, bioaccumulative and toxic (PBTs) and to designate any such PBTs as a "chemical of concern" for which EPA can take regulatory action;
- Require EPA to review any renewed requests from manufacturers and processors to keep certain information confidential beginning 10 years after the original designations concerning confidentiality are made;
- Address when federal actions under TSCA preempt requirements of state and local governments related to restricting and banning chemical substances; and
- Require EPA to establish a new schedule for charging fees to chemical manufacturers who are required to submit data to the agency or who request that EPA assess certain chemicals that are not yet prioritized for review by EPA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2576 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2020	2016-2025
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Administrative Expenses under TSCA												
Estimated Authorization Level	15	15	15	15	15	15	16	16	17	17	75	156
Estimated Outlays	6	13	15	15	15	15	15	16	16	17	64	143
CHANGES IN DIRECT SPENDING												
PMN Fee Collections												
Estimated Budget Authority	0	-7	-10	-14	-14	-14	-14	-14	-14	-14	-45	-115
Estimated Outlays	0	-7	-10	-14	-14	-14	-14	-14	-14	-14	-45	-115
CHANGES IN REVENUES												
Estimated Revenues	2	7	7	15	15	15	15	15	15	15	46	121
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Net Change in the Deficit	-2	-14	-17	-29	-29	-29	-29	-29	-29	-29	-91	-236

Notes: TSCA = Toxic Substances Control Act; PMN = Premanufacturing Notice.

For direct spending, a negative number in indicates a decrease in outlays; for revenue, a positive number indicates an increase in revenues.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2576 will be enacted near the end of 2015 and that the necessary amounts will be appropriated each year**.**

Spending Subject to Appropriation

CBO estimates that implementing H.R. 2576 would cost $64 million over the 2016-2020 period, subject to appropriation of the necessary amounts. While some of the requirements in H.R. 2576 are similar to activities currently performed by EPA under TSCA, CBO estimates that implementing this legislation would increase EPA's administrative workload for regulating chemical safety by about 25 percent each year. That estimate is based on historical information about how other large regulatory programs have been implemented by EPA and on estimates that were provided by the agency of the additional workload under the bill. According to EPA, the agency currently requires, on average, an appropriation of about $58 million annually to implement and enforce EPA's Chemical Risk Review and Reduction program under TSCA. That funding supports roughly 245 employees. Subject to appropriation of the necessary amounts, CBO estimates that EPA would require about $15 million annually over the next five years to cover the costs of additional personnel, contractors, and other administrative activities associated with meeting the new requirements of H.R. 2576.

H.R. 2576 also specifies that all additional fees collected by EPA under the bill would be available for spending on the safety analysis of individual chemicals, subject to appropriation of those amounts. (A more detailed discussion of the fees is provided below.)

Direct Spending and Revenues

Enacting this legislation would affect one existing fee and would authorize EPA to collect a new fee. Those fees would be recorded differently in the budget, as discussed below. CBO estimates that the gross collections would total $108 million over the 2016-2020 period, and would be available for spending on chemical safety evaluations, subject to appropriation of those amounts.

Premanufacturing Notice (PMN) Fees. Under the legislation the statutory cap in TSCA on the amount EPA can charge manufacturers and processors for premanufacturing notices would be eliminated. (Manufacturers or processors who plan to use a new chemical substance for a non-exempt commercial purpose are required to provide EPA with notice before initiating the activity. EPA then performs a risk assessment on the new chemical substance.) PMN fees are currently classified in the budget as offsetting receipts (a reduction in direct spending). CBO estimates that by eliminating the cap, EPA would begin collecting additional fees in 2017 and that such collections would total $7 million in that year. By 2019, we estimate that as more chemicals are reviewed by EPA, collections would reach $14 million annually. In total CBO estimates that direct spending would be reduced by $45 million over the next five years and by $115 million over the next 10 years.

Manufacturing/Processor Requested Assessment Fees. In addition, under H.R. 2576 EPA could charge fees to manufacturers and processors who request that EPA initiate risk evaluations for chemicals that have not been designated a priority for further assessment. Those new fees would be classified as revenues because their payment would be compulsory, enforced by the federal government's sovereign authority. CBO estimates that EPA would begin collecting additional fees in 2016 and that by 2019 such revenue would total $20 million annually. We estimate that gross revenues would total $63 million over the next five years and $163 million over the next ten years. Such amounts would be available for spending on risk evaluations, subject to future appropriation action. However, the amount of revenue attributable to this bill would be approximately 25 percent less to account for income and payroll tax offsets. Net of those offsets, CBO estimates that enacting H.R. 2576 would increase revenues by $121 million over the 2016-2025 period.

Enacting H.R. 2576 also could affect direct spending and revenues because this bill would establish new authority for EPA to assess civil and criminal penalties against persons who receive confidential business information and then improperly use or disclose such information. Criminal penalties are recorded as revenues, then deposited in the Crime Victims Fund, and later spent; civil penalties are recorded as revenues. CBO estimates that any increase in criminal or civil penalties under the bill would not be significant.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that any fee collections over the 2016-2025 period would result in a decrease in direct spending and an increase in revenues as shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 2576, as ordered reported by the House Committee on Energy and Commerce on June 3, 2015

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	-2	-14	-17	-29	-29	-29	-29	-29	-29	-29	-91	-236
Memorandum:													
Changes in Outlays	0	0	-7	-10	-14	-14	-14	-14	-14	-14	-14	-45	-115
Changes in Revenues	0	2	7	7	15	15	15	15	15	15	15	46	121

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2576 would impose intergovernmental and private-sector mandates, as defined in UMRA, on manufacturers, processors, importers, and users of chemical substances. CBO estimates that the aggregate cost of those mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates ($77 million and $154 million in 2015, respectively, adjusted annually for inflation).

Mandates That Apply to Both Public and Private Entities

H.R. 2576 would modify the standard used to determine whether a chemical substance presents an unreasonable risk to human health or the environment and would allow EPA to regulate the manufacture, processing, distribution, use, and disposal of chemical substances to ensure the standard is met. If EPA determines that some chemical substances do not meet the standard and issues regulations for those substances, the bill would impose an intergovernmental and private-sector mandate. The bill also would impose an intergovernmental and private-sector mandate if EPA uses its authority under the bill to expedite the regulation of any chemical substance determined to be persistent, bioaccumulative, and toxic. EPA would have the authority to adopt a range of regulatory options to address risks from chemical substances. For example, EPA could limit the amount manufactured or require manufacturers to put warning labels on selected chemicals. EPA also could require users of chemicals, such as public and private universities conducting research, to handle or dispose of selected chemicals in a certain way. Based on information from industry experts, CBO expects that the annual cost of any restriction would not be substantial. Also, because of the amount of time involved in evaluating the risk of each chemical, any restrictions imposed would apply to few chemicals in the first five years the mandate is in effect. Therefore, CBO estimates that the cost of the mandate would be small for both public and private entities during that time.

Mandates That Apply to Public Entities Only

The bill would impose an intergovernmental mandate by preempting state regulations that conflict with the federal regulation of chemicals, but that preemption would impose no duty on states that would result in additional spending or a loss of revenues.

Mandates That Apply to Private Entities Only

The bill would impose additional private-sector mandates on manufacturers, importers, and processors of chemical substances. By removing the cap on fees assessed by EPA when manufacturers and importers submit premanufacture notices, the bill would increase the cost of an existing mandate to pay those fees. CBO estimates that the increase in fees would start in 2017 and would reach $14 million annually beginning in 2019. The bill also would require manufacturers and processors of chemical substances to submit data to EPA for use in carrying out risk evaluations. Manufacturers and processors also would have to include additional information along with any data to substantiate a request that EPA protect their data as confidential business information. Based on information from industry experts, CBO expects that the cost to submit those data would not be substantial.

PREVIOUS CBO ESTIMATE

On June 5, 2015, CBO transmitted a cost estimate for S. 697, the Frank R. Lautenberg Chemical Safety for the 21st Century Act, as ordered reported by the Senate Committee on Environment and Public Works on April 28, 2015. Both S. 697 and H.R. 2576 would increase EPA's administrative workload by roughly equivalent amounts to meet new requirements under TSCA and both bills would enable EPA to charge fees to chemical manufacturers and processors for certain activities, though the types of fees charged and the amounts collected would vary between the two bills. Furthermore, because the classification of fees under the two bills differs, collections under the bills would have different budgetary implications. Under S. 697 the fees collected would be classified as offsetting collections and would more than offset the additional discretionary spending estimated under S. 697. In contrast, the fees collected under H.R. 2576 would result in a reduction in direct spending and an increase in revenues. The cost estimates for the two bills reflect the different budgetary treatment.

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