



NATIONAL WILDLIFE FEDERATION®

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The Honorable Fred Upton
U.S. House of Representatives
2183 Rayburn House Office Building
Washington, DC 20515-2206

The Honorable Frank Pallone
U.S. House of Representatives
237 Cannon House Office Building
Washington, DC 20515-3006

June 2, 2015

Dear Chairman Upton and Ranking Member Pallone:

On behalf of our nearly six million members and supporters, the National Wildlife Federation (NWF) commends your leadership and efforts to work toward long-overdue reform of the outdated Toxic Substances Control Act (TSCA). H.R. 2576, The “TSCA Modernization Act of 2015,” makes several important improvements compared to the status quo. With some additional improvements, we believe H.R. 2576 could further improve chemical safety, and better protect people and communities, as well as our nation’s cherished wildlife.

Toxic chemicals have long been and remain one of the most significant threats to fish and wildlife populations. Once toxic chemicals enter the environment, they can accumulate in the food chain, affecting all levels of the ecosystem, as well as subsistence and sport hunters and anglers who consume fish and game. It typically takes years of scientific research and substantial state and federal conservation funding to help reverse these often unintended impacts of toxic chemicals on wildlife. Recall the near collapse of the American bald eagle and its eventual recovery after the chemical DDT was banned. Further, the bioaccumulation in fish of toxics, such as PCBs, disproportionately affects low-income anglers in urban areas who often rely on local catch for subsistence.

The release of chemicals into our lakes, rivers, streams, and elsewhere in the environment can affect fish and wildlife, including by affecting their hormone levels, undermining their reproductive systems, and affecting their growth and development. Chemicals also can weaken the immune systems of wildlife, causing disease and, in many instances, death.

Recently, on the fifth anniversary of the BP Gulf Coast oil spill, NWF called attention to some of the harmful effects that oil and individual toxic chemicals can have on wildlife, including: abnormal development in a number of fish species, such as mahi mahi, and bluefin and yellowfin tuna; deaths of dolphin on the Louisiana Coast, which, last year, were four times historic levels, and are continuing; harm to local turtle populations and coral; death of an estimated one-third of the laughing gull population in the Northern Gulf; eggs of white pelicans found containing oil

and related dispersant compounds in three upper Midwestern states – destinations to which these pelicans migrate, and nest/breed, in the winter.

For these and many other reasons, making progress toward improving chemical safety is vital. H.R. 2576 represents a major step forward. It has been nearly four decades since TSCA's original enactment and the law is proving increasingly inadequate to protect against the risks posed by toxic chemicals. The "TSCA Modernization Act of 2015" would reform and strengthen TSCA by replacing its cost-benefit safety standard with a health-based safety standard for the risk evaluation process. This bill also takes into account risks posed to vulnerable populations.

In addition, the bill addresses the following areas that are significant to NWF:

- **State preemption:** The failure of TSCA over the past 39 years to evaluate many unsafe chemicals has led more than thirty states to act and adopt regulatory regimes that protect the public health of their residents by restricting specific chemicals. As a former state regulator, I can attest to the frustration with federal inaction under the current law and understand the fear of state regulators and others should the ability for states to act be pre-empted. I am pleased that H.R. 2576 has made improvements over the prior Discussion Drafts in this area. Specifically, we appreciate the fact that state laws cannot be pre-empted except in very narrowly defined circumstances. As long as they are identical to a TSCA requirement or they were adopted to protect air or water quality or pertain to waste management or disposal, state laws cannot be pre-empted.

The fact that the legislation thereby provides for federal and state co-enforcement also is laudable.

- **PBT and TSCA Work Plan chemicals:** We also appreciate that this introduced bill places a higher priority on chemicals on the Environmental Protection Agency (EPA) TSCA work plan, and especially on persistent, bioaccumulative, and toxic chemicals (PBTs). This is an improvement over prior Drafts of the legislation.

However, we must express concern over the exemption for metals and metal compounds under this Act. Metals and metal compounds can significantly harm fish and wildlife. The impacts noted above are just a few examples of the wide-ranging impacts that already do occur, and could continue to occur. It could also limit our ability to address lead deposition where it poses a significant threat to fish and wildlife populations.

We urge you to continue to strengthen H.R. 2576 as it moves through the legislative process in this latter regard, as well as in a few other key areas, including providing for adequate transparency and funding to achieve the legislative goals at hand. Among the greatest failures of TSCA to date is the glacial speed with which chemicals known to pose threats are analyzed and regulated. Ensuring that EPA receives sufficient information and financial resources to minimize chemical risks to public health and the environment is imperative.

Again, we applaud your leadership in advancing the long-overdue TSCA reform effort. We believe that the current debate represents a once-in-a-generation opportunity to improve

protections of public health for Americans—and of the wildlife they love. We look forward to working with you and the full House to help enact TSCA reform that better protects our families, communities, and wildlife populations from toxic chemicals.

Sincerely,

A handwritten signature in black ink, appearing to read "Collin O'Mara". The signature is fluid and cursive, with a large initial "C" and "O".

Collin O'Mara
President and CEO
National Wildlife Federation

Cc: Members of the House Energy & Commerce Committee