

EPA Releases User Fee Rule for Administration of TSCA

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On February 7, 2018, the U.S. Environmental Protection Agency (EPA) released the pre-publication version of its proposed rule to establish user fees for the administration of the Toxic Substances Control Act (TSCA). The rulemaking is authorized by section 26 of TSCA (as revised by the Frank R. Lautenberg Chemical Safety for the 21st Century Act). EPA currently collects fees for TSCA section 5 submissions; however, through the Lautenberg Act, Congress provided EPA with expanded authority to require regulated entities to pay reasonable fees to defray a significant portion of EPA's expenses in carrying out its statutory obligations.

In 2016, EPA held a meeting and opened a public docket to consider comments from the public regarding approaches (See industry consultation meeting on fees:). After considering comments received, EPA is proposing to set user fees for:

- Any person required to submit information to EPA under TSCA section 4 (testing);
- Any person required to submit a notice, exemption application or other information under TSCA section 5 (new chemicals);
- Any person who manufactures a chemical subject to a risk evaluation under TSCA section 6(b).

The purpose of the fees are to defray a portion of costs associated with:

- The Agency's administration of sections 4, 5, and 6;
- The Agency's collection, processing, review, and protection of confidential business information (CBI) claims under section 14 of TSCA, including contractor costs.

In the rule, EPA proposes fees and fee categories for fiscal years 2019, 2020 and 2021, and explains how fees will be established in the future. EPA also proposes to revise its regulations governing the review of TSCA section 5 premanufacture notices (PMN), exemption applications and notices, and significant new use notices (SNUN). Finally, EPA proposes standards for determining whether a business is a "small business" and, thus, would be subject to lower fees. Overall, EPA estimates that the annualized fees collected from industry for the fees as proposed are approximately \$20 million, with the highest percentage of fees coming from section 6 chemical risk evaluation fees.

It is critical for companies impacted by this user fee rule—including manufacturers, importers and processors—to carefully review the proposal and submit comments to EPA. EPA will be accepting comments until 60 days after the date of publication in the *Federal Register*.

To review the pre-publication version of the proposed rule, please visit EPA’s website: https://www.epa.gov/sites/production/files/2018-02/documents/prepublicationcopy_tscafees-nprm_2018-02-07.pdf.

In the proposed rule, EPA provides summary tables of its proposed user fees, as reproduced below:

Table 6: Proposed TSCA User Fees

PROPOSED FEE CATEGORY	PROPOSED FEE
TSCA Section 4	
Test order	\$9,800
Test rule	\$29,500
Enforceable consent agreement	\$22,800
TSCA Section 5	
PMN and consolidated PMM	\$16,000
SNUN	
MCAN and consolidated PMN	
LoREX	
LVE	\$4,700
TME*	
Tier II exemption	
TERA	
Film Articles	
TSCA Section 6	
EPA-initiated risk evaluation	\$1,350,000
Manufacturer-requested risk evaluation on a chemical included in the Work Plan	\$1,300,000
Manufacturer-requested risk evaluation on a chemical <u>not</u> included in the Work Plan	\$2,600,000

*EPA is proposing to waive the TME fee for submissions from companies that have graduated from EPA

EPA’s Sustainable Futures program.

Table 8: Proposed TSCA User Fees for Small Businesses

PROPOSED FEE CATEGORY	PROPOSED SMALL BUSINE
TSCA Section 4	
Test order	\$1,950
Test rule	\$5,900
ECA	\$4,600
TSCA Section 5	
PMN and consolidated PMN	\$2,800
SNUN	
MCAN and consolidated MCAN	

LoRex	\$940
LVE	
TME	
Tier II exemption	
TERA	
TSCA Section 6	
EPA-initiated risk evaluation	\$270,000
Manufacturer-requested risk evaluation on a chemical included in the Work Plan	\$1,300,000
Manufacturer-requested risk evaluation on a chemical <u>not</u> included in the Work Plan	\$2,600,000

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