**Supporting Statement for an Information Collection Request (ICR)**

**Under the Paperwork Reduction Act (PRA)**

# EXECUTIVE SUMMARY

## Identification of the Information Collection – Title and Numbers

**Title:** User Fees for the Administration of the Toxic Substances Control Act (TSCA) – Proposed Rule

**ICR Numbers:** EPA ICR No.: 2569.01; OMB Control No.: 2070-NEW.

**EPA Form Numbers:** EPA Form No. TBD: Certification of Attempt to Enter into an Agreement with Manufacturers/Processors to Share in TSCA Fees.

**Docket ID Number:** EPA-HQ-OPPT-2016-0401.

## Docket Information

This information collection request (ICR), which explains the information collection activities of a proposed rule and related burden and cost estimates, as well as other supporting documents related to the ICR are available in the docket established for the proposed rulemaking. The docket can be viewed online at http://www.regulations.gov or in person at the EPA Docket Center, West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The telephone number for the Docket Center is (202) 566-1744. For additional information about EPA’s public docket, visit <http://www.epa.gov/dockets>.

## ICR Status

This is a new ICR that addresses the information collection activities that are contained in a proposed rule (RIN 2070-AK27). Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid control number issued by the Office of Management and Budget (OMB). The OMB control numbers are displayed either by publication in the Federal Register or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Before submitting an ICR to OMB for review and approval under the PRA, an agency must solicit comments pursuant to PRA §3506(c)(2)(A) and [5 CFR 1320.8(d)(1)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=67b7f8b06cce47cf338b3b52057016a4&ty=HTML&h=L&n=5y3.0.2.3.9&r=PART#5:3.0.2.3.9.0.48.8). After considering comments received on the draft ICR, the agency must submit the ICR to OMB for review and approval according to the procedures prescribed in [5 CFR 1320.12](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=67b7f8b06cce47cf338b3b52057016a4&ty=HTML&h=L&n=5y3.0.2.3.9&r=PART#5:3.0.2.3.9.0.48.12). In announcing the submission of the final ICR to OMB for review and approval, the agency must provide another opportunity for public review and comments on the revised ICR pursuant to 5 CFR 1320.12(c).

## Abstract

The Environmental Protection Agency (EPA) is developing a proposed rule in response to new

provisions amending the Toxic Substances Control Act (TSCA) outlined in the Frank R. Lautenberg Chemical Safety of the 21st Century Act passed in June 2016 (Pub. L. 114-182, 130 Stat. 448), enacted on June 22, 2016). Section 26(b) of amended TSCA authorizes EPA to establish fees to defray a portion of the costs of administering TSCA sections 4, 5, 6 and 14. The proposed rule would require payment from manufactures, importers and processors of a chemical substance, as appropriate, who: submit information under TSCA section 4; submit a notice, exemption application, or other information under TSCA section 5; and who manufacture a chemical substance that is the subject of a risk evaluation under TSCA section 6(b). These fees are intended to achieve the goals articulated by Congress to provide a sustainable source of funds for EPA to fulfill its legal obligations to conduct activities such as risk-based screenings, designation of applicable substances as High- and Low-Priority, conducting risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, requiring testing of chemical substances and mixtures, and evaluating and reviewing and making determinations on new chemicals, as required under TSCA sections 4, 5 and 6, as well as collection and management of TSCA Confidential Business Information under TSCA section 14.

*Legal authority:* The Toxic Substances Control Act (TSCA), 15 U.S.C. 2625(b).

*Respondents/affected entities*: Entities potentially affected by this ICR include persons who manufacture, distribute in commerce, use, dispose, process a chemical substance (or any combination of such activities) and are required to submit information to EPA under TSCA sections 4 and 5, or persons who manufacture (including import) or process a chemical substance that is the subject of a risk evaluation under TSCA section 6(b).

*Respondent’s obligation to respond*: Responses are mandatory under TSCA section 26(b).

*Confidentiality of responses:* N/A.

*Estimated total annual number of potential respondents*: 1,414.

*Frequency of response*: On occasion to EPA as needed.

*Estimated total annual burden*: 740 hours. Burden is defined at 5 CFR 1320.3(b).

*Estimated total annual costs*: $59,540.

*Changes in the estimates*: N/A.

# NECESSITY OF THE INFORMATION COLLECTION

## Related Legal and/or Administrative Requirements

TSCA section 26(b) provides EPA with authority to establish fees to defray some of the costs associated with administering TSCA sections 4, 5, 6 and 14. The proposed rule will require fee payments from chemical manufactures, importers and processors who submit information under TSCA sections 4, 5 and 6, and who manufacture a chemical that is the subject of a risk evaluation under TSCA section 6(b). EPA is not proposing to collect a fee for submissions of Confidential Business Information (CBI) submitted under TSCA section 14.

Under the proposed rule, persons subject to fees would be required to make fee payments electronically using Department of Treasury’s Pay.gov electronic collection payment services or Fedwire. Fedwire, which is generally used for foreign payments, allows payers to authorize their financial institution to initiate an electronic (wire transfer) payment to the Federal Reserve Bank of New York. Once the payment is made, Federal agencies are allowed to access the payment and associated information. The information submitted to EPA during the payment process includes company contact information, payment amount and method information. Once submitted via Pay.gov or Fedwire, the payment information is sent to EPA.

The proposed rule will also make several minor changes to existing regulations. The proposal will require certain manufactures, importers and processors to submit an identifying number and payment identity number with their payments for submissions under TSCA sections 4 and 6, and exemption applications under TSCA section 5. The Agency will also require manufactures, importers and processors to inform EPA if they choose to associate as a consortium. Under TSCA, a consortium is an association of manufacturers (including importers) and/or processors who have made an agreement to jointly split the cost of applicable user fees.

## Necessity of the Information Collection

The information collection activities covered by this ICR are necessary to collect and process fees as required by section 26(b) of TSCA. The fees collected will defray some of the costs of administering TSCA sections 4, 5, 6 and 14.

## Uses, Users, and Purpose of the Information Collection

When manufactures, importers and processors pay a fee they must submit information that includes company contact information, payment amount and payment method information. The information will be used by the Agency to calculate the revenue generated by the TSCA fee programs and ensure that the required fees have been paid by each respondent.

Under the proposed rule, chemical manufactures, importers and processors will be required to submit an identifying number and payment identity number with their submissions required under TSCA sections 4 and 6, and exemption applications under TSCA section 5. The identifying number is also submitted with payment information in Pay.gov or Fedwire and is used to match the information submitted to the Agency with the payment associated with that submission. The identifying number is created by the submitter and must include the letters “TS” followed by a combination of 6 numbers (letters may be substituted for some numbers). The payment identity number may be a Pay.gov transaction number or FedWire wire transfer number used to transmit the user fee.

The proposed rule requires manufactures, importers and processors to inform EPA if they choose to associate as a consortium for submissions under TSCA sections 4 and 6. EPA will use this information to determine the fee assessed to the consortium based on a formula explained in the proposed rule. Once the fee is assessed by the Agency, the consortium can determine how the fees will be split among its members. However, if the consortium is unable to come to terms on how the fees will be split among its members, EPA will determine the portion of the fee to be paid by each member.

## NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

## Non-Duplication

The EPA’s collection pursuant to the TSCA section 26(b) do not duplicate any other collection. There is no other Federal program that requires the information collection activities related to the fees under the proposed rule.

## Public Notice Required Prior to ICR Submission to OMB

The notice of proposed rulemaking serves as the public notice for this ICR. Interested parties should submit comments referencing Docket ID No. EPA-HQ-OPPT-2016-0401 to the address listed at the end of this document. Responses will be taken into account in developing the final rulemaking.

## 3(c). Consultations

EPA engaged with members of the public (or their representatives) potentially subject to the fees. The Agency held a public meeting and webinar on August 11, 2016, and an industry-specific consultation meeting and webinar on September 13, 2016, in accordance with TSCA section 26(b)(4)(E). The Agency sought comments from industry on various aspects of the proposed rulemaking, including the amendment of existing TSCA section 5 fees, the establishment of new fees for TSCA sections 4 and 6 activities, and small business considerations. As part of EPA’s efforts to consult with industry on the proposed fees and the methodology for establishing the fees, the Agency also opened a docket and collected written comments from stakeholders. To view the comments, go to http://www.regulation.gov and search for docket number: EPA-HQ-OPPT-2016-0401.

## 3(d). Effects of Less Frequent Collection

Due to the nature of the triggering events that initiate information collection activities under the proposed rule, less frequent collection is not feasible. There is no set collection schedule for the payment information associated with fee payments (e.g. payment method). Payment information is collected each time a fee payment is made via Pay.gov or Fedwire with the frequency of collection depending entirely on the frequency with which applicants submit information to EPA under TSCA sections 4, 5 and 6. Therefore, less frequent collection is not an option.

## 3(e). Small Entity Flexibility

The EPA believes that the regulatory requirements do not unduly burden small businesses. As stated in the preamble to the proposed rule, EPA estimates that, of the 298 small businesses paying fees every year, all firms may have annual cost-revenue impacts less than 1%.

## 3(f). General PRA Related Guidelines

This ICR is consistent with OMB’s general guidelines do not exceed any of the Paperwork Reduction Act guidelines at 5 CFR 1320.5.

## 3(g). Confidentiality

Since the information collected under this ICR involves only information related to payments, EPA does not believe that respondents will submit any confidential information collected under this ICR. However, to the extent information submitted by respondents is business confidential, procedures are in place to protect the information from improper disclosure consistent with section 14 of TSCA.

## 3(h). Sensitive Questions

The information collection activities do not include questions of a sensitive nature.

# AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

# Agency Activities

Agency activities include data management of the fee information.

## Estimated Agency Costs

## EPA estimates that managing the information that is submitted at the time of the fee payment would require one business day of labor per year for a GS-13, Step 5 employee in the Washington D.C. area, which will amount to an annual Agency cost associated with the proposed rule of $642.64 ($80.33 x 8 = $642.64). To calculate the loaded wage rate, EPA uses the wage rate for a GS-13, Step 5 employee in the Washington D.C. area, loaded with a combined fringe and overhead factor of 60% to obtain a loaded wage rate of $167,093 per year. Dividing this wage rate over 2,080 hours – the annual labor hours of a full-time employee – results in an hourly wage rate of $80.33.

## Collection Schedule

This information collection activity does not have a calendar-based schedule. Fee payments are made when a manufacturer, importer or processor of a chemical triggers the requirements for submitting information about that chemical to EPA or when EPA initiates a risk evaluation. These activities occur on an as-needed, on-occasion basis, initiated by the respondents.

### Use of Technology to Facilitate Collection Activities

EPA will make use of existing technology to collect the information subject to this ICR. Fee payments will be made electronically via Pay.gov or Fedwire. The collection of the identifying number and payment identity number will be made through the Central Data Exchange, EPA’s portal for submitting information electronically.

# The RESPONDENTS AND INFORMATION COLLECTION (IC) ACTIVITIES

For each respondent category, this section of the ICR describes the respondents, the information collection activities and related estimates for burden and costs associated with those activities.

## Methodology for Estimating Respondent Burden and Costs

The collection specifies fee payment requirements for firms which manufacturer, process, or distribute chemicals under TSCA as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. TSCA section 6(b). The following list of North American Industry Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include companies found in major NAICS groups:

324 Petroleum and Coal Products

325 Chemical Manufacturing

424 Chemical, Petroleum and Merchant Wholesalers

The proposed rule would require that certain firms that manufacture, process, or distribute chemicals subject to TSCA sections 4, 5, and 6 actions pay a fee specific to that action. Fees would be paid via Pay.gov or Fedwire. Firms would also need to determine if they qualify as an eligible small business for discounted fees. For the proposed rule, EPA specifies discounted fees for small business with average annual sales of less than $91 million for the three preceding years. For TSCA section 4 and 6 fees, firms are allowed to form a consortium for paying the specified fees and would be required to notify EPA that the consortium was formed, detailing the members of the consortium. This notification must be submitted electronically with EPA’s Central Data Exchange (CDX).

Number of Entities Affected

EPA developed estimates for number of firms affected per action based on the average number of manufacturers per chemicals multiplied by the number of chemicals affected per action. For TSCA section 4, the number of manufacturers per chemical and number of chemicals per action was estimated from the High Production Volume (HPV) Test Rules 2, 3, and 4. With an average of seven chemicals involved per TSCA section 4 action and an average of four manufacturers per chemical, each TSCA section 4 action is estimated to impact 28 firms. TSCA section 5 actions impact one firm per action. The number of firms affected per action for TSCA section 6 is estimated from the average number of manufacturers for the first 10 chemicals identified for risk evaluations under TSCA as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, amounting to seven firms affected per TSCA section 6 action.

The total number of firms affected per year is the product of the number of firms affected per action and the estimated number of actions per year. EPA estimates the number of TSCA section 4 actions to total 12 actions per year. Certain TSCA section 5 actions are estimated as 20% lower than the average number of TSCA section 5 submissions in fiscal year 2016, due to increased fees, for a total of 1,022 submissions per year. Since risk evaluations are new actions under TSCA section 6, EPA based its estimate of the number of actions per year on the statutory requirement of 25 ongoing risk evaluations over a three-year period, resulting in an average of eight TSCA section 6 actions per year. Combined with the number of firms affected per action, the total number of firms impacted per year is 1,414 firms; 336 firms from TSCA section 4 actions, 1,022 firms from TSCA section 5 actions, and 56 firms from TSCA section 6 actions.

Rule Familiarization Burden

EPA assumes that each firm subject to a fee from a TSCA action will spend 0.5 hours becoming familiar with the requirements of the proposed rule and developing an understanding of what actions are necessary to comply with the fee payment requirements. This is estimated as a one-time burden. The burden is estimated to occur the first time a firm is affected by the proposed rule. To simplify the analysis, EPA assumes that no firm will be subject to any of the TSCA section 4, 5, or 6 actions more than once over the three-year period of this ICR. Therefore, average burden per respondent for each year is calculated as 0.5/3 = 0.167 hours/year.

Discounted Fee Eligibility Determination

The proposed rule specifies discounted fees for firms with average annual sales of less than $91 million in annual sales over the three years preceding the submission. EPA estimates a burden of 0.5 hours of managerial burden to review the proposed rule’s threshold for firms eligible for a discounted fee and compare it to the firm’s sales figures over the preceding three years to determine eligibility for the discount. EPA estimates that small businesses account for one in four firms for TSCA section 4 actions, 18.5% of affected firms for TSCA section 5 actions, and 24 of 56 firms for TSCA section 6 actions. EPA assumes that the proportion of firms that will incur this cost is roughly equivalent to the proportion of affected firms that are small. This may be an overestimate as some small businesses with annual sales far below the threshold will not spend the time to confirm eligibility for the discount, while other firms with annual sales far exceeding the threshold may also not spend the time to determine if they qualify for the discount.

This burden is assumed to occur once for each affected firm over the three-year period of this ICR. Since EPA assumes that no firm will be subject to any of the TSCA section 4, 5, or 6 actions more than once over the three-year period of this ICR, the average burden per respondent is calculated as 0.5/3 = 0.167 hours/year.

Fee Payment Burden

Firms would be required to make fee payments electronically using Pay.gov or Fedwire. Firms will need to spend time gathering the necessary information required by the two-page form for payment. This information includes: Company contact information, payment amount and method information. For Pay.gov, acceptable forms of payment include bank account (Automated Clearing House), debit card, and credit card. EPA estimates a burden of 0.5 hours per year of technical burden to collect the required information and fill out the Pay.gov form or initiate a Fedwire payment.

For each affected firm, the burden is estimated to occur once over the three-year period of this ICR. Since EPA assumes that no firm will be subject to any of the TSCA section 4, 5, or 6 actions more than once over the three-year period of this ICR, the average burden per respondent is calculated as 0.5/3 = 0.167 hours/year.

CDX Submission Burden

Firms subject to TSCA section 4 or 6 actions, who decide to join consortium, must notify EPA with their firm’s information and the names of the other members of the consortium via CDX. To simplify this analysis, EPA assumes that all firms will pay in a consortium when possible and that all firms are first-time users of CDX. EPA estimates that this will require 0.25 hours per year of technical burden to submit the information to EPA. The registration and use burden associated with first-time CDX submissions are detailed in the table below, adapted from previous ICRs for the Lead Renovation and Repair program (EPA, 2016). First time users are estimated to incur 1.46 hours/year of technical burden. EPA estimates this burden to occur once over the three-year period of this ICR for each affected firm for TSCA section 4 and 6 actions. Thus, the average annual burden is calculated as (0.25+1.46)/3 = 0.57 hours/year

|  |  |
| --- | --- |
| **Initial Burden of CDX Submissions** | |
| **Activity** | **Burden (hours)** |
| CDX Registration | 0.84 |
| Electronic Subscriber Agreement | 0.25 |
| Help Desk | 0.34 |
| Problem Resolution | 0.03 |
| Report Compromised Signature | - |
| **Total** | 1.46 |

Costs

EPA assumes that no direct costs are associated with this collection. Labor costs are based on fully loaded wage rates. EPA obtained wage rates from the Employer Costs for Employee Compensation (ECEC) Supplementary Tables (BLS, 2016). EPA used the wage rate for Professional/Technical workers and Managers in private chemical manufacturing industries. Fringe benefits are calculated based on the ratio of benefits to total compensation from the 2016 BLS Employer Costs for Employee Compensation data series (BLS, 2016). An overhead rate of 17 percent is used based on assumptions in Wage Rates for Economic Analysis of the Toxics Release Inventory Program (Rice, 2002) and the Revised Economic Analysis for the Amended Inventory Update Rule: Final Report (EPA, 2001). The estimated fully loaded hourly wage rate for a technical worker in this industry is $78.40. The estimated fully loaded hourly wage rate for a manager in this industry is $111.87.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Technical Worker and Manager Industry Wage Rates** | | | | | |
| **Occupation** | **Wage** | **Fringes as % Wage** | **Over-head % wage a** | **Fringe + Overhead Factor** | **Loaded Wages** |
|  | **(a)** | **(b)** | **(c)** | **(d)=(b)+(c)+1** | **(a)×(d)** |
| Technical Worker | $45.66 | 55% | 17% | 1.72 | $78.40 |
| Manger | $66.00 | 53% | 17% | 1.70 | $111.87 |
| **Sources:** Occupational Employment Statistics (OES), May 2016 (BLS, 2017a)  Employer Costs for Employee Compensation (ECEC) Supplementary Tables: December 2016 (BLS 2017b) | | | | | |

## Information Collections

Respondent NAICS codes associated with industries most likely affected by the paperwork requirements are listed in TSCA section 5(a).

Information Collection Activities

The proposed rule would impose a fee for specific TSCA actions to cover its implementation cost. To pay the fee, firms would be required to submit payments via Pay.gov or Fedwire. Additional burden is also estimated to be incurred for firms to determine their eligibility for fee discounts and inform EPA of their intent to participate in consortium by notifying EPA via CDX. In addition, EPA also expects that each firm will incur burden to familiarize themselves with the requirements of the proposed rule and develop an understanding of what actions are necessary to comply with the fee payment requirements. Details on the burden estimate calculations per activity are presented in TSCA section 5(a). The table below presents the estimated average annual burden for each activity and each respondent type.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **IC# 1.**  **TSCA Action Fee Payment activities1** | | | | | | | | | | |
| **Activity/Respondent** | **Number of Respondents** | | | **Burden per Response**  **(hours)** | | **Total Burden (hours)** | | **Cost per Respondent** | | **Total Cost** |
| **Rule Familiarization** | | | | | | | | | | |
| Section 4 Actions | 336 | | | 0.167 | | 56 | | $13.07 | | $4,390 |
| Section 5 Actions | 1,022 | | | 0.167 | | 170 | | $13.07 | | $13,354 |
| Section 6 Actions | 56 | | | 0.167 | | 9 | | $13.07 | | $732 |
| **Discount Eligibility Determination** | | | | | | | | | | |
| Section 4 Actions | 84 | | | 0.167 | | 14 | | $18.65 | | $1,566 |
| Section 5 Actions | 164 | | | 0.167 | | 27 | | $18.65 | | $3,058 |
| Section 6 Actions | 24 | | | 0.167 | | 4 | | $18.65 | | $447 |
| **Fee Payment** | | | | | | | | | | |
| Section 4 Actions | 336 | | | 0.167 | | 56 | | $13.07 | | $4,390 |
| Section 5 Actions | 1,022 | | | 0.167 | | 170 | | $13.07 | | $13,354 |
| Section 6 Actions | 56 | | | 0.167 | | 9 | | $13.07 | | $732 |
| **CDX Submission** | | | | | | | | | | |
| Section 4 Actions | | 336 | 0.57 | | 192 | | $44.69 | | $15,015 | |
| Section 6 Actions | | 56 | 0.57 | | 32 | | $44.69 | | $2,502 | |
| **Total Burden for all Activities by Respondent** | | | | | | | | | | |
| **Section 4 Actions** | 336 | | |  | | 318 | | $75.48 | | **$25,362** |
| **Section 5 Actions** | 1,022 | | |  | | 368 | | $29.12 | | **$29,765** |
| **Section 6 Actions** | 56 | | |  | | 55 | | $78.81 | | **$4,413** |
| **Total** | 1,414 | | |  | | 740 | |  | | **$59,540** |
| 1 Values may not calculate exactly due to rounding. Total burden and cost may be overestimated due to assumptions on the number of firms in consortia and first-time users of CDX. | | | | | | | | | | |

# PRA Burden Statement

Under the PRA, burden is defined at [5 CFR 1320.3(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=67b7f8b06cce47cf338b3b52057016a4&ty=HTML&h=L&n=5y3.0.2.3.9&r=PART#5:3.0.2.3.9.0.48.3). This is a new, rule-related information collection. The total burden requested for this ICR is 740 hours per year, with a total of 1,414 respondents. The total annual cost requested for this ICR is $59,540. You may submit comments regarding the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Comments, referencing Docket ID No. EPA-HQ-OPPT-2016-0401 and OMB Control No. 2070-NEW (EPA ICR No. 2569.01), may be submitted to EPA electronically through *http://www.regulations.gov* and to OMB, addressed to “OMB Desk Officer for EPA” and referencing OMB Control No. 2070-NEW (EPA ICR No. 2569.01), via email to [*oira\_submission@omb.eop.gov*](mailto:oira_submission@omb.eop.gov).

# References

Rice, C. (2002). Wage Rates for Economic Analysis of The Toxics Release Inventory Program. Office of Environmental Information: U.S. Environmental Protection Agency.

U.S. Bureau of Labor Statistics (2017a). Occupational Employment Statistics (OES): Chemical Manufacturing, Sectors 325.

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U.S. Environmental Protection Agency (EPA). (2001). “Revised Economic Analysis for the Amended Inventory Update Rule (IUR).” Research Triangle Park.

U.S. Environmental Protection Agency (EPA) (2016). Information Collection Request: Lead Training, Certification, Accreditation and Authorization Activities. EPA ICR No: 2507.01. OMB Control No: 2070-0195. Docket ID: EPA-HQ-OPPT-2014-0486.

U.S. Environmental Protection Agency (EPA) (2016). Proposed Rule; Fees for the Administration of the Toxic Substances Control Act. (83 FR 8212, February 26, 2018) (FRL-9974-31). Docket ID: EPA-HQ-OPPT-2016-0401.