

1 **Supporting Statement for an Information Collection Request (ICR)**
2 **Under the Paperwork Reduction Act (PRA)**

3
4 **1. EXECUTIVE SUMMARY**

5 **1(a). Identification of the Information Collection – Title and Numbers**

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

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

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

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

12
13 **1(b). Docket Information**

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

21
22 **1(c). ICR Status**

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

31
32 Before submitting an ICR to OMB for review and approval under the PRA, an agency must
33 solicit comments pursuant to PRA §3506(c)(2)(A) and [5 CFR 1320.8\(d\)\(1\)](#). After considering
34 comments received on the draft ICR, the agency must submit the ICR to OMB for review and
35 approval according to the procedures prescribed in [5 CFR 1320.12](#). In announcing the
36 submission of the final ICR to OMB for review and approval, the agency must provide another
37 opportunity for public review and comments on the revised ICR pursuant to 5 CFR 1320.12(c).

38
39 **1(d). Abstract**

40 The Environmental Protection Agency (EPA) is developing a proposed rule in response to new
41 provisions amending the Toxic Substances Control Act (TSCA) outlined in the Frank R.
42 Lautenberg Chemical Safety of the 21st Century Act passed in June 2016 (Pub. L. 114-182,
43 130 Stat. 448), enacted on June 22, 2016). Section 26(b) of amended TSCA authorizes EPA
44 to establish fees to defray a portion of the costs of administering TSCA sections 4, 5, 6 and 14.

45 The proposed rule would require payment from manufactures, importers and processors of a
46 chemical substance, as appropriate, who: submit information under TSCA section 4; submit a
47 notice, exemption application, or other information under TSCA section 5; and who
48 manufacture a chemical substance that is the subject of a risk evaluation under TSCA section
49 6(b). These fees are intended to achieve the goals articulated by Congress to provide a
50 sustainable source of funds for EPA to fulfill its legal obligations to conduct activities such as
51 risk-based screenings, designation of applicable substances as High- and Low-Priority,
52 conducting risk evaluations to determine whether a chemical substance presents an
53 unreasonable risk of injury to health or the environment, requiring testing of chemical
54 substances and mixtures, and evaluating and reviewing and making determinations on new
55 chemicals, as required under TSCA sections 4, 5 and 6, as well as collection and management
56 of TSCA Confidential Business Information under TSCA section 14.

57
58 *Legal authority:* The Toxic Substances Control Act (TSCA), 15 U.S.C. 2625(b).

59
60 *Respondents/affected entities:* Entities potentially affected by this ICR include persons who
61 manufacture, distribute in commerce, use, dispose, process a chemical substance (or any
62 combination of such activities) and are required to submit information to EPA under TSCA
63 sections 4 and 5, or persons who manufacture (including import) or process a chemical
64 substance that is the subject of a risk evaluation under TSCA section 6(b).

65
66 *Respondent's obligation to respond:* Responses are mandatory under TSCA section 26(b).

67
68 *Confidentiality of responses:* N/A.¹¹

69
70 *Estimated total annual number of potential respondents:* 1,414.

71
72 *Frequency of response:* On occasion to EPA as needed.

73
74 *Estimated total annual burden:* 740 hours. Burden is defined at 5 CFR 1320.3(b).

75
76 *Estimated total annual costs:* \$59,540.

77
78 *Changes in the estimates:* N/A.

79 80 81 **2. NECESSITY OF THE INFORMATION COLLECTION**

82 **2(a). Related Legal and/or Administrative Requirements**

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

89
90 Under the proposed rule, persons subject to fees would be required to make fee payments
91 electronically using Department of Treasury's Pay.gov electronic collection payment services
92 or Fedwire. Fedwire, which is generally used for foreign payments, allows payers to authorize

93 their financial institution to initiate an electronic (wire transfer) payment to the Federal Reserve
94 Bank of New York. Once the payment is made, Federal agencies are allowed to access the
95 payment and associated information. The information submitted to EPA during the payment
96 process includes company contact information, payment amount and method information.
97 Once submitted via Pay.gov or Fedwire, the payment information is sent to EPA.

98
99 The proposed rule will also make several minor changes to existing regulations. The proposal
100 will require certain manufactures, importers and processors to submit an identifying number
101 and payment identity number with their payments for submissions under TSCA sections 4 and
102 6, and exemption applications under TSCA section 5. The Agency will also require
103 manufactures, importers and processors to inform EPA if they choose to associate as a
104 consortium. Under TSCA, a consortium is an association of manufacturers (including
105 importers) and/or processors who have made an agreement to jointly split the cost of
106 applicable user fees.

107

108 **2(b). Necessity of the Information Collection**

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

112

113 **2(c). Uses, Users, and Purpose of the Information Collection**

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

118

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

128

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

136

137 **3. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

138 **3(a). Non-Duplication**

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

142
143 **3(b). Public Notice Required Prior to ICR Submission to OMB**

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

148
149 **3(c). Consultations**

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

160
161 **3(d). Effects of Less Frequent Collection**

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

169
170 **3(e). Small Entity Flexibility**

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

174
175 **3(f). General PRA Related Guidelines**

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

178

179 **3(g). Confidentiality**

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

185
186 **3(h). Sensitive Questions**

187 The information collection activities do not include questions of a sensitive nature.
188

189 **4. AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND**
190 **INFORMATION MANAGEMENT**

191 **4(a). Agency Activities**

192 Agency activities include data management of the fee information.
193

194 **4(b). Estimated Agency Costs**

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

203 **4(b)(i). Collection Schedule**

204 This information collection activity does not have a calendar-based schedule. Fee payments
205 are made when a manufacturer, importer or processor of a chemical triggers the requirements
206 for submitting information about that chemical to EPA or when EPA initiates a risk evaluation.
207 These activities occur on an as-needed, on-occasion basis, initiated by the respondents.
208

209 **4(b)(ii). Use of Technology to Facilitate Collection Activities**

210 EPA will make use of existing technology to collect the information subject to this ICR. Fee
211 payments will be made electronically via Pay.gov or Fedwire. The collection of the identifying
212 number and payment identity number will be made through the Central Data Exchange, EPA's
213 portal for submitting information electronically.
214

215 **5. The RESPONDENTS AND INFORMATION COLLECTION (IC) ACTIVITIES**

216 For each respondent category, this section of the ICR describes the respondents, the
217 information collection activities and related estimates for burden and costs associated with
218 those activities.
219

220 **5(a). Methodology for Estimating Respondent Burden and Costs**

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

- 227
- 228 324 Petroleum and Coal Products
- 229 325 Chemical Manufacturing
- 230 424 Chemical, Petroleum and Merchant Wholesalers

231

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

241

242 Number of Entities Affected

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

254

255 The total number of firms affected per year is the product of the number of firms affected per
256 action and the estimated number of actions per year. EPA estimates the number of TSCA
257 section 4 actions to total 12 actions per year. Certain TSCA section 5 actions are estimated as
258 20% lower than the average number of TSCA section 5 submissions in fiscal year 2016, due to
259 increased fees, for a total of 1,022 submissions per year. Since risk evaluations are new
260 actions under TSCA section 6, EPA based its estimate of the number of actions per year on
261 the statutory requirement of 25 ongoing risk evaluations over a three-year period, resulting in
262 an average of eight TSCA section 6 actions per year. Combined with the number of firms
263 affected per action, the total number of firms impacted per year is 1,414 firms; 336 firms from
264 TSCA section 4 actions, 1,022 firms from TSCA section 5 actions, and 56 firms from TSCA
265 section 6 actions.

266

267 Rule Familiarization Burden

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

276 Discounted Fee Eligibility Determination

278 The proposed rule specifies discounted fees for firms with average annual sales of less than
279 \$91 million in annual sales over the three years preceding the submission. EPA estimates a
280 burden of 0.5 hours of managerial burden to review the proposed rule's threshold for firms
281 eligible for a discounted fee and compare it to the firm's sales figures over the preceding three
282 years to determine eligibility for the discount. EPA estimates that small businesses account for
283 one in four firms for TSCA section 4 actions, 18.5% of affected firms for TSCA section 5
284 actions, and 24 of 56 firms for TSCA section 6 actions. EPA assumes that the proportion of
285 firms that will incur this cost is roughly equivalent to the proportion of affected firms that are
286 small. This may be an overestimate as some small businesses with annual sales far below the
287 threshold will not spend the time to confirm eligibility for the discount, while other firms with
288 annual sales far exceeding the threshold may also not spend the time to determine if they
289 qualify for the discount.

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

294 Fee Payment Burden

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

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

309 CDX Submission Burden

310 Firms subject to TSCA section 4 or 6 actions, who decide to join consortium, must notify EPA
311 with their firm's information and the names of the other members of the consortium via CDX.
312 To simplify this analysis, EPA assumes that all firms will pay in a consortium when possible
313 and that all firms are first-time users of CDX. EPA estimates that this will require 0.25 hours
314 per year of technical burden to submit the information to EPA. The registration and use burden
315 associated with first-time CDX submissions are detailed in the table below, adapted from

316 previous ICRs for the Lead Renovation and Repair program (EPA, 2016). First time users are
 317 estimated to incur 1.46 hours/year of technical burden. EPA estimates this burden to occur
 318 once over the three-year period of this ICR for each affected firm for TSCA section 4 and 6
 319 actions. Thus, the average annual burden is calculated as $(0.25+1.46)/3 = 0.57$ hours/year
 320

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

321

322 Costs

323 EPA assumes that no direct costs are associated with this collection. Labor costs are based on
 324 fully loaded wage rates. EPA obtained wage rates from the Employer Costs for Employee
 325 Compensation (ECEC) Supplementary Tables (BLS, 2016). EPA used the wage rate for
 326 Professional/Technical workers and Managers in private chemical manufacturing industries.
 327 Fringe benefits are calculated based on the ratio of benefits to total compensation from the
 328 2016 BLS Employer Costs for Employee Compensation data series (BLS, 2016). An overhead
 329 rate of 17 percent is used based on assumptions in Wage Rates for Economic Analysis of the
 330 Toxics Release Inventory Program (Rice, 2002) and the Revised Economic Analysis for the
 331 Amended Inventory Update Rule: Final Report (EPA, 2001). The estimated fully loaded hourly
 332 wage rate for a technical worker in this industry is \$78.40. The estimated fully loaded hourly
 333 wage rate for a manager in this industry is \$111.87.

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339

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)

340

341 **5(b). Information Collections**

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

344
 345 Information Collection Activities

346 The proposed rule would impose a fee for specific TSCA actions to cover its implementation
 347 cost. To pay the fee, firms would be required to submit payments via Pay.gov or Fedwire.
 348 Additional burden is also estimated to be incurred for firms to determine their eligibility for fee
 349 discounts and inform EPA of their intent to participate in consortium by notifying EPA via CDX.
 350 In addition, EPA also expects that each firm will incur burden to familiarize themselves with the
 351 requirements of the proposed rule and develop an understanding of what actions are
 352 necessary to comply with the fee payment requirements. Details on the burden estimate
 353 calculations per activity are presented in TSCA section 5(a). The table below presents the
 354 estimated average annual burden for each activity and each respondent type.
 355

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.					

356

357 **6. PRA Burden Statement**

358 Under the PRA, burden is defined at [5 CFR 1320.3\(b\)](#). This is a new, rule-related information
359 collection. The total burden requested for this ICR is 740 hours per year, with a total of 1,414
360 respondents. The total annual cost requested for this ICR is \$59,540. You may submit
361 comments regarding the accuracy of the provided burden estimates and any suggested
362 methods for minimizing respondent burden, including the use of automated collection
363 techniques. Comments, referencing Docket ID No. EPA-HQ-OPPT-2016-0401 and OMB
364 Control No. 2070-NEW (EPA ICR No. 2569.01), may be submitted to EPA electronically
365 through <http://www.regulations.gov> and to OMB, addressed to “OMB Desk Officer for EPA”
366 and referencing OMB Control No. 2070-NEW (EPA ICR No. 2569.01), via email to
367 oir_submission@omb.eop.gov.

368

369 **References**

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386 9974-31). Docket ID: EPA-HQ-OPPT-2016-0401.

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