



EPA Proposes TSCA Fee Rule

US EPA, TSCA, RULEMAKING, GREEN CHEMISTRY

By ROGER PEARSON, March 4, 2018

On February 8, U.S. EPA issued a proposed rule establishing fees to be paid by chemical manufacturers or importers for actions covered by the recently amended Toxic Substances Control Act. This "fees rule" is the fourth and final "framework" rule that EPA is required to adopt pursuant to the new law.

Although EPA has yet to publish this proposed fees rule in the Federal Register. When it does interested parties will have 60 days to comment, it **has released a prepublication copy of the proposed rule¹⁾**.

The new law authorizes EPA to require payments from manufacturers and processors who:

- Are required to submit information by test rule, test order, or enforceable consent decree pursuant to TSCA Section 4(a);
- Submit notification of or information related to intent to manufacture a new chemical or significant new use of a chemical pursuant to TSCA Section 5; or
- Manufacture or process a chemical substance that is subject to a risk evaluation, including a risk evaluation conducted at the request of a manufacturer pursuant to TSCA Section 6(b).

Beginning in fiscal year 2019 (October 1, 2018 through September 30, 2019) EPA is required to adjust fees as necessary every three years to reflect inflation and to ensure that fees are sufficient to collect 25% of the costs incurred by EPA in administering TSCA sections 4, 5, 6 and 14. The proposed rule provides a description of the proposed fees and fee categories for fiscal years 2019, 2020, and 2021. The proposal also explains the methodology by which the proposed TSCA user fees were determined and would be determined for subsequent fiscal years. In proposing these new TSCA user fees, EPA is also proposing amending long-standing user fee regulations governing the review of Section 5 premanufacture notices (PMNs), exemption applications and notices, and significant new use notices (SNUNs).

Although EPA has the authority to collect fees from both manufacturers and processors, it is proposing to focus fee collection on manufacturers. The agency is only proposing to collect fees from processors when they submit a SNUN under Section 5 or when a Section 4 activity is tied to a SNUN submission by a processor.

The fees rule is the fourth and final of four "framework" rules that EPA is required to adopt pursuant to the new law. EPA has previously finalized the other three framework rules:

- The Prioritization Process Rule, which establishes a framework and criteria for identifying high-priority chemicals for EPA risk evaluation [see **EPA Releases Ideas for Identifying Candidates for TSCA Prioritization**²⁾ , November 21, 2017];
- The Risk Evaluation Process Rule, which establishes a framework for evaluating high priority chemicals to determine whether or not they present an "unreasonable risk" to human health or the environment [see **EPA Releases Risk Evaluation Scope Documents for First Ten Chemicals under New TSCA Law**³⁾ , July 13, 2017]; and
- The Inventory Rule, which requires industry reporting of chemicals manufactured, imported, or processed in the U.S. over the past 10 years to identify which substances on the TSCA Inventory are still active in U.S. commerce [see **EPA Finalizes TSCA Inventory Reset Rule**⁴⁾ , September 3, 2017].

The law firm of Bergeson and Campbell wrote a **detailed summary of the proposal**⁵⁾ .

Resources for this article

1. has released a prepublication copy of the proposed rule

<https://prop65clearinghouse.com/documents/25866>

2. EPA Releases Ideas for Identifying Candidates for TSCA Prioritization

<https://prop65clearinghouse.com/articles/13249>

3. EPA Releases Risk Evaluation Scope Documents for First Ten Chemicals under New TSCA Law

<https://prop65clearinghouse.com/articles/13121>

4. EPA Finalizes TSCA Inventory Reset Rule

<https://prop65clearinghouse.com/articles/13176>

5. detailed summary of the proposal

<http://www.lawbc.com/regulatory-developments/entry/administrator-pruitt-signs-tsca-user-fee-proposal>