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Fees to Administer Title I of the Toxic Substances Control Act: Authority, Implementation, and Reauthorizing Legislation

In June 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA; P.L. 114-182) amended Title I of the Toxic Substances Control Act (TSCA; 15 U.S.C. 2601 et seq.) to provide the U.S. Environmental Protection Agency (EPA) with more authorities to gather information regarding various industrial and commercial chemicals. EPA uses this information to evaluate risks to human health and the environment and to determine if regulation may be warranted. LCSA supplements the discretionary appropriations for TSCA implementation by authorizing the collection of fees from chemical manufacturers and processors. These fees partially cover EPA's costs for reviewing chemicals for risks. This fee collection authority expires at the end of FY2026. This In Focus discusses the authority to collect fees under TSCA, associated rulemakings, the relationship between discretionary appropriations and fee receipts, selected issues regarding the fees, and proposed reauthorization legislation.

Section 26(b) of the Toxic Substances Control Act, as amended

LCSA amended TSCA Section 26(b) (15 U.S.C. 2625(b)) to authorize the collection of fees from chemical manufacturers and processors to partially cover certain EPA costs of implementing the TSCA amendments. EPA may collect fees in a given fiscal year if appropriations for the Chemical Risk Review and Reduction (CRRR) program project match or exceed what was appropriated in FY2014 to the program project. In EPA's FY2015 budget justification, the agency reported allocating \$58.6 million in FY2014 to the CRRR program project. This allocation was part of the \$93.8 million appropriated for the Toxics Risk Review and Prevention program within the agency's Environmental Programs and Management (EPM) account. Since FY2017, annual appropriations have included a provision that directs EPA to allocate to the CRRR program project an amount not less than the amount EPA allocated for the program project for FY2014.

Fee collections are initially limited to 25% of EPA's annual costs of administering certain TSCA activities and are not to exceed \$25.0 million per year. After 2019 and every three years thereafter, EPA may adjust fees to ensure that collected fees are sufficient to cover 25% of such annual costs. Upon calculating the total amount of fees that EPA may assess, Section 26(b) authorizes EPA to promulgate a rule to set fee amounts associated with certain submissions or activities under TSCA. Specifically, Section 26(b) authorizes EPA to set fees for the submission of testing information under Section 4, the submission of new chemicals and *significant new uses* of chemicals under Section 5, the request to protect certain submitted information as confidential business information under

Section 14, and risk evaluations of existing chemicals under Section 6. Additionally, Section 26(b) directs EPA, after consultation with the Small Business Administration, to promulgate a rule to prescribe standards for determining whether entities may qualify as a *small business concern* for purposes of reduced fee payments.

Section 26(b) requires the deposit of collected fees into the TSCA Service Fee Fund in the U.S. Treasury. Section 26(b) also provides that the TSCA Service Fee Fund be subject to accounting and auditing requirements.

Fee Rulemakings

In October 2018, EPA finalized a rule to collect fees from those entities required to submit information and those that manufacture chemicals subject to an agency risk evaluation under the amended TSCA. Based on an EPA estimate of \$80.2 million per year to carry out Sections 4, 5, 6, and 14, the rule established different fee amounts depending on the type of information being submitted to EPA or whether the risk evaluation was EPA-initiated or manufacturer-requested. For example, the fee for submitting a notice for a new chemical was set at \$16,000 unless the submitter qualified as a small business concern. The fee for an EPA-initiated risk evaluation of an existing chemical was set at a total of \$1.35 million combined for all entities subject to the fee unless the entity qualified as a small business concern. The rule established fee amounts only for FY2019, FY2020, and FY2021, and provided for adjustments to the fees for inflation and other factors once every three years (i.e., after FY2021). When the 2018 rule was promulgated, EPA expected to collect \$20.0 million per fiscal year in TSCA fees under the rule.

In February 2024, EPA finalized a rule to adjust the collection of TSCA fees and make certain other changes. To inform its adjustment of TSCA fees, EPA reevaluated the total annual costs to carry out Sections 4, 5, 6, and 14 as \$146.8 million (an 83% increase from the 2018 estimate). Based on this estimate, EPA adjusted the fees. For example, EPA increased the fee for the submission of a notice for a new chemical to \$37,000 unless the submitter qualified as a small business concern. The fee for an EPA-initiated risk evaluation of an existing chemical was increased to a total of \$4.29 million combined for all entities subject to the fee unless the entity qualified as a small business concern. With the increase in various fees, EPA estimated (in its 2024 rule) that the agency would collect \$36.7 million per year in TSCA fees under the rule.

Discretionary Appropriations and Fee Receipts

Within the past 10 fiscal years, EPA allocations to the CRRR program project have increased. Earlier in this period, between FY2016 and FY2022, EPA reported allocating an average of \$59.7 million per fiscal year to this program project. For FY2023 and FY2024, EPA reported allocating \$82.8 million per fiscal year to this program project. In its FY2026 budget justification, EPA stated that the agency allocated \$96.4 million to the program project in FY2025. Since FY2017, annual appropriations have included a provision that provided funding to the TSCA Service Fee Fund at the beginning of the fiscal year to be offset by fee receipts later in that fiscal year. Funding provided in advance of fee receipts has ranged between \$3.0 million and \$10.0 million.

From FY2019 through FY2024, EPA annually collected between \$2.7 million and \$5.5 million in TSCA fees, except for FY2021, when EPA collected \$28.6 million due to the initiation of risk evaluations for existing chemicals under Section 6. In its FY2026 budget justification, EPA estimates TSCA fee receipts for FY2025 and FY2026 to be \$4.8 million and \$26.2 million, respectively. The expected increase in fee receipts is due to the initiation of the next round of risk evaluations for existing chemicals under Section 6.

Selected Issues

The expiration of TSCA fees at the end of FY2026 provides Congress an opportunity to review EPA's implementation of the TSCA amendments and decide how or whether to reauthorize fees. Additionally, Congress may oversee the accuracy with which EPA estimates fee receipts and the extent to which EPA reviews are timely with its current funding.

Fees Reauthorization

Since 2018, TSCA fees have been intended to supplement discretionary appropriations to cover certain agency costs of implementing TSCA. If Congress were to allow the authority to collect TSCA fees to lapse, funding to carry out TSCA would solely rely on discretionary appropriations, as was the case prior to 2018. If Congress were to reauthorize TSCA fees, policymakers would encounter several decisions. For example, Congress could maintain the same split between fees and discretionary appropriations for covering costs. Alternatively, Congress could change this split to require chemical manufacturers and others to contribute more or less in fees.

Chemical manufacturers have noted that higher levels of user fees may discourage chemical innovation by raising the cost of commercializing chemicals. Generally, chemical manufacturers seek to commercialize new chemicals with more desirable properties and characteristics (e.g., reduced toxicity) that may replace less desirable existing chemicals. EPA acknowledges that higher fees generally correlate with fewer new chemical notifications.

Congress also may consider the distribution of fees across the regulated community, particularly the extent to which fees are discounted for small business concerns. In setting

fees, EPA has determined that small business concerns generally are entitled to an 80% discount on fees. Congress may clarify the standards for EPA to determine whether an entity may qualify as a small business concern or explicitly specify the extent to which EPA must discount fees for small business concerns. Congress may also consider enacting a fee schedule to explicitly set fees for the type of information being submitted to EPA or whether the risk evaluation for a chemical was EPA-initiated or manufacturer-requested.

Timeliness of EPA Decisions with Fees

The timeliness of EPA decisions (e.g., risk evaluations) under TSCA has been a long-standing issue. The extent to which EPA decisions may be expedited with additional resources depends in part on the complexity of decisions that the agency is expected to make. For example, review of chemicals associated with relatively limited exposure scenarios or low toxicity may be more straightforward and take less time than review of chemicals associated with many complex exposure scenarios or relatively greater toxicity. Additional funding may not necessarily expedite reviews, especially those that are more complex.

Prior to 2016, EPA's statutory responsibilities for the review of new chemicals under TSCA were different. EPA had discretion in reviewing new chemicals for unreasonable risk under Section 5. In practice, EPA screened new chemicals to focus on reviewing those that were more likely to present unreasonable risk than others. LCSA amended TSCA to require EPA to review every new chemical for unreasonable risk. EPA asserts that this amendment significantly increased its workload. As the 90-day time frame for review was retained, EPA has reported delays in new chemicals review.

Reauthorizing Legislation

The House Committee on Energy and Commerce discussion draft, dated January 14, 2026, would reauthorize TSCA fees for another 10 years upon enactment. Additionally, the House discussion draft would direct EPA to submit more detailed accounting information on the TSCA Service Fee Fund—such as the amount of funding for each category of activity in which fees receipts were used and the number of actions EPA took per category of activity—to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Also, the House discussion draft would require EPA's annual audit of the TSCA Service Fee Fund to include an analysis of the number of rules, orders, and consent agreements issued under Section 4, and the number of notices received, reviewed, and pending under Section 5. The Senate Committee on Environment and Public Works discussion draft, dated February 26, 2026, would reauthorize TSCA fees until the end of the fiscal year that is 20 years after the enactment of LCSA (i.e., September 30, 2036).

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