SUBCHAPTER R—TOXIC SUBSTANCES CONTROL ACT

PART 700—GENERAL

Subpart A—Addresses

Subpart B [Reserved]

Subpart C—Fees

AUTHORITY: 15 U.S.C. 2625 and 2665, 44 U.S.C. 3504.

SOURCE: 53 FR 31252, Aug. 17, 1988, unless otherwise noted.

Subpart A—Addresses

SOURCE: 77 FR 46292, Aug. 3, 2012, unless otherwise noted.

§ 700.17 Addresses for the Office of Pollution Prevention and Toxics.

The official addresses, unless otherwise noted, are as follows:

(a) *Correspondence and non-docket materials*—(1) *United States Postal Service mailing address*. Office of Pollution Prevention and Toxics (7401M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

(2) *Hand/courier delivery address*. Office of Pollution Prevention and Toxics, Environmental Protection Agency, EPA East Bldg., 1201 Constitution Ave. NW., Washington, DC 20004. This is not a mailing address. You must make arrangements with the person receiving your delivery.

(b) *Office of Pollution Prevention and Toxics Docket (OPPT Docket)*—(1) *Electronic docket address*. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*. Although listed in the docket index at regulations.gov, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only at the OPPT Docket.

(2) *Physical location*. Environmental Protection Agency Docket Center (EPA/DC), Environmental Protection Agency, EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The telephone number for the OPPT Docket is (202) 566–0280. This is not a mailing address. For instructions on visiting the docket, go to *http://www.epa.gov/dockets/contacts.htm*.

(3) *United States Postal Service mailing address*. Document Control Office (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

(4) *Hand/courier delivery address*. Document Control Office, Office of Pollution Prevention and Toxics, Environmental Protection Agency, EPA East Bldg., Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. Deliveries are only accepted between 8:30 a.m. and 4 p.m., and special arrangements should be made for deliveries of boxed information. The telephone number for the Document Control Office is (202) 564–8930.

Subpart B [Reserved]

Subpart C—Fees

§ 700.40 Purpose and applicability.

(a) *Purpose*. The purpose of this subpart is to establish and collect fees from manufacturers and processors to defray part of EPA's cost of administering the Toxic Substances Control Act (15 U.S.C. 2601–2692), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114–182).

(b) *Applicability*. This subpart applies to all manufacturers who are required to submit information under section 4 of the Act, who submit certain notices and exemption requests to EPA under section 5 of the Act, who manufacture a chemical substance that is subject to a risk evaluation under TSCA section 6(b)(4) of the Act, and who process a

chemical substance that is the subject of a Significant New Use Notice (SNUN) or Test Market Exemption (TME) under section 5 of the Act and who are required to submit information under section 4 of the Act related to a SNUN submission.

(c) *Effective date.* After October 18, 2018, all persons specified in §700.45 and paragraph (a) of this section must comply with this subpart.

[83 FR 52713, Oct. 17, 2018]

§ 700.41 Radon user fees.

User fees relating to radon proficiency programs authorized under the Toxic Substances Control Act appear at 40 CFR part 195.

[59 FR 13177, Mar. 18, 1994]

§ 700.43 Definitions applicable to this subpart.

Definitions in section 3 of the Act (15 U.S.C. 2602), as well as definitions contained in §§704.3, 720.3, 723.175(b), 725.3, and 790.3 of this chapter, apply to this subpart unless otherwise specified in this section. In addition, the following definitions apply:

Consolidated microbial commercial activity notice or *consolidated MCAN* means any MCAN submitted to EPA that covers more than one microorganism (each being assigned a separate MCAN number by EPA) as a result of a prenotice agreement with EPA.

Consolidated premanufacture notice or *consolidated PMN* means any PMN submitted to EPA that covers more than one chemical substance (each being assigned a separate PMN number by EPA) as a result of a prenotice agreement with EPA (*See* 48 FR 21734).

Consortium means an association of manufacturers and/or processors who have made an agreement to jointly split the cost of applicable fees.

Enforceable consent agreement means a consent agreement used by EPA to accomplish testing where a consensus exists among EPA and interested parties (as identified in §790.22(b)(2)) concerning the need for and scope of testing under section 4 of the Act.

EPA-initiated risk evaluation means any risk evaluation conducted pursuant to section 6(b)(4)(C)(i) of the Act.

Exemption notice means any notice submitted to EPA under §723.175 of this chapter.

Final product means a new chemical substance (as ''new chemical substance'' is defined in §720.3 of this chapter) that is manufactured by a person for distribution in commerce, or for use by the person other than as an intermediate.

Joint submitters mean two or more persons who submit a TSCA section 5 notice together.

Manufacturer-requested risk evaluation means any chemical substance risk evaluation conducted at the request of one or more manufacturers of that chemical substance pursuant to section 6(b)(4)(C)(ii) of the Act.

Microbial commercial activity notice or *MCAN* means any notice for microorganisms submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with subpart D of part 725 of this chapter.

Person means a manufacturer or processor.

Premanufacture notice or *PMN* means any notice submitted to EPA pursuant to section 5(a)(1)(A) of the Act in accordance with part 720 of this chapter or §723.250 of this chapter.

Principal sponsor means a person who assumes primary responsibility for the direction of study, the payment of fees to EPA, and for oral and written communication with EPA.

Risk evaluation means any risk evaluation conducted pursuant to section 6(b) of the Act.

Section 5 notice means any PMN, consolidated PMN, intermediate PMN, significant new use notice, exemption notice, exemption application, any MCAN or consolidated MCAN submitted under section 5 of the Act.

Significant new use notice or *SNUN* means any notice submitted to EPA pursuant to section 5(a)(1)(B) of the Act in accordance with part 721 of this chapter.

Small business concern means a manufacturer or processor who meets the size standards identified in the following table. The number of employees indicates the maximum allowed for a manufacturer or processor to be considered small. If the North American Industry Classification System

(NAICS) code of a manufacturer or processor is not represented in the table, it will be considered small if it has 500 or fewer employees. When calculating the number of employees, a manufacturer or processor must include the employees of all of its ''parent companies'' (if any) and all companies it ''owns or controls,'' as defined by 40 CFR 704.3. The number of employees are calculated as the average number of people employed for each pay period of the business' latest 12 calendar months, regardless of hours worked or temporary status.

Potentially affected NAICS	NAICS description	Small business concern size standards (number of employees)
324110	Petroleum Refineries	1,500 or fewer.
325110	Petrochemical Manufacturing	1,000 or fewer.
325120	Industrial Gas Manufacturing	1,000 or fewer.
325130	Synthetic Dye and Pigment Manufacturing	1,000 or fewer.
325180	Other Basic Inorganic Chemical Manufacturing	1,000 or fewer.
325193	Ethyl Alcohol Manufacturing	1,000 or fewer.
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing.	1,250 or fewer.
325199	All Other Basic Organic Chemical Manufacturing	1,250 or fewer.
325211	Plastics Material and Resin Manufacturing	1,250 or fewer.
325212	Synthetic Rubber Manufacturing	1,000 or fewer.
325220	Artificial and Synthetic Fibers and Filaments Manufacturing	1,000 or fewer.
325311	Nitrogenous Fertilizer Manufacturing	1,000 or fewer.
325312	Phosphatic Fertilizer Manufacturing	750 or fewer.
325314	Fertilizer (Mixing Only) Manufacturing	500 or fewer.
325320	Pesticide and Other Agricultural Chemical Manufacturing	1,000 or fewer.
325411	Medicinal and Botanical Manufacturing	1,000 or fewer.
325412	Pharmaceutical Preparation Manufacturing	1,250 or fewer.
325413	InVitro Diagnostic Substance Manufacturing	1,250 or fewer.
325414	Biological Product (except Diagnostic) Manufacturing	1,250 or fewer.
325510	Paint and Coating Manufacturing	1,000 or fewer.
325520	Adhesive Manufacturing	500 or fewer.
325611	Soap and Other Detergent Manufacturing	1,000 or fewer.
325612	Polish and Other Sanitation Good Manufacturing	750 or fewer.
325613	Surface Active Agent Manufacturing	750 or fewer.
325620	Toilet Preparation Manufacturing	1,250 or fewer.
325910	Printing Ink Manufacturing	500 or fewer.
325920	Explosives Manufacturing	750 or fewer.
325991	Custom Compounding of Purchased Resins	500 or fewer.
325992	Photographic Film, Paper, Plate and Chemical Manufacturing	1,500 or fewer.
325998	All Other Miscellaneous Chemical Product and Preparation Manufacturing.	500 or fewer.
424690	Other Chemical and Allied Products Merchant Wholesalers	150 or fewer.
424710	Petroleum Bulk Stations and Terminals	200 or fewer.
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals).	200 or fewer.

Test order means an order to develop information pursuant to section 4(a) of the Act.

Test rule refers to a regulation requiring the development of information pursuant to section 4(a) of the Act.

[53 FR 31252, Aug. 17, 1988, as amended at 62 FR 17931, Apr. 11, 1997; 83 FR 52713, Oct. 17, 2018]

§ 700.45 Fee payments.

(a) *Persons who must pay fees.* (1) Manufacturers submitting a TSCA section 5 notice to EPA shall remit for each such notice the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(2) Manufacturers of chemical substances and mixtures required to test these chemical substance and mixtures under a TSCA section 4(a) test rule, test order, or enforceable consent agreement shall remit for each such test rule, order, or enforceable consent agreement the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(3) Manufacturers of a chemical substance that is subject to a risk evaluation under section 6(b) of the Act, shall

remit for each such chemical risk evaluation the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(4) Processors submitting a SNUN or TME under TSCA section 5 to EPA shall remit for each such notice the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(5) Processors of chemical substances and mixtures subject to a TSCA section 4(a) test rule, test order, or enforceable consent agreement in association with a SNUN submission referenced in paragraph (a)(4) of this section shall remit for each such test rule, order, or enforceable consent agreement the applicable fee identified in paragraph (c) of this section in accordance with the procedures in paragraphs (f) and (g) of this section.

(b) *Identifying manufacturers subject to fees*—(1) *In general.* For purposes of identifying manufacturers subject to fees for section 4 test rules and section 6 EPA-initiated risk evaluations, EPA will publish a preliminary list of manufacturers identified through a review of data sources described in paragraph (b)(2) of this subsection; provide an opportunity for public comment; and publish a final list specifying the manufacturers responsible for payment.

(2) *Data sources.* To compile the preliminary list, EPA will rely on information submitted to the Agency (such as the information submitted under sections 5(a), 8(a), 8(b), and to the Toxics Release Inventory) as well as other information available to the Agency, including publicly available information or information submitted to other agencies to which EPA has access. To be able to include the most recent CDR data and to account for annual or other typical fluctuations in manufacturing, EPA will use the five most recent years of data submitted or available to the Agency to develop the preliminary list.

(3) *Publication of preliminary list.* (i) For risk evaluations initiated by EPA under section 6, the preliminary list will be published at the time of final designation of the chemical substance as a High-Priority Substance.

(ii) For test rules under section 4, the preliminary list will be published with the proposed test rule.

(4) *Public comment period.* Following publication of the preliminary list, EPA will provide a period of public comment that is no less than 30 days.

(5) *Self-identification.* All manufacturers who have manufactured or imported the chemical substance in the previous five years, must submit notice to EPA, irrespective of whether they are included in the preliminary list specified in paragraph (b)(3) of this section. The notice must be submitted electronically via EPA's Central Data Exchange (CDX), the Agency's electronic reporting portal, using the Chemical Information Submission System (CISS) reporting tool, and must contain the following information:

(i) *Contact information.* The name and address of the submitting company, the name and address of the authorized official for the submitting company, and the name and telephone number of a person who will serve as technical contact for the submitting company and who will be able to answer questions about the information submitted by the company to EPA.

(ii) *Certification of cessation.* If a manufacturer has manufactured in the five-year period preceding publication of the preliminary list, but has ceased manufacturer prior to the certification cutoff dates identified in paragraph (b)(6) of this section and will not manufacture the substance again in the successive five years, the manufacturer may submit a certification statement attesting to these facts. If EPA receives such a certification statement from a manufacturer, the manufacturer will not be obligated to pay the fee under this section.

(iii) *Certification of no manufacture.* If a manufacturer is identified on the preliminary list, but has not manufactured the chemical in the five-year period preceding publication of the preliminary list, the manufacturer may submit a certification statement attesting to these facts. If EPA receives such a certification statement from a manufacturer, the manufacturer will not be obligated to pay the fee under this section.

(6) *Certification cutoff date.* (i) For a section 6 EPA-initiated risk evaluation, the cutoff date for purposes of paragraph (b)(5)(ii) of this section is the day prior to initiation of the prioritization process for the applicable chemical substance.

(ii) For a section 4 test rule, the cutoff date for purposes of paragraph (b)(5)(ii) of this section is the day prior to publication of the proposed test rule for the applicable chemical substance.

(7) *Publication of final list.* EPA expects to publish a final list of manufacturers to identify the specific manufacturers subject to the applicable fee. This list will indicate if additional manufacturers self-identified pursuant to paragraph (b)(5) of this section, if other manufacturers were identified through credible public comment, and if manufacturers submitted certification of cessation or no manufacture pursuant to paragraph (b)(5)(ii) or (iii). The final list will be published no later than concurrently with the final scope document for risk evaluations initiated by EPA under section 6, and with the final test rule for test rules under section 4.

(8) *Effect of final list.* Manufacturers who are listed on the final list are subject to the applicable fee identified in paragraph (c) of this section.

(9) *Identifying manufacturers for other fee categories.* For Section 4 Test Orders and enforceable consent agreements, and Section 6 Manufacturer-Requested Risk Evaluations, EPA will not conduct the identification process described in paragraphs (b)(1) through (8) of this section, as manufacturers self-identify through a submission or are already otherwise known to Agency. However, those manufacturers are required to provide an information submission to EPA for the purposes of fee administration. The notice must be submitted electronically via the Agency's electronic reporting software (*e.g.*, Central Data Exchange (CDX)) and must contain the manufacturers: Full name, address, telephone number and email address. Timing of this submission must be as follows:

(i) For section 4 test orders and enforceable consent agreements, the informational submission in this paragraph (b)(9) must be provided within 30 days following notification from EPA.

(ii) For section 6 manufacturer-requested risk evaluations, the informational submission in this paragraph (b)(9) is required as part of the procedural process for making such requests, and must be completed at the time of making the request.

(c) *Fees for the 2019, 2020 and 2021 fiscal years.* Persons shall remit fee payments to EPA as follows:

(1) *Small business concerns.* Small business concerns shall remit fees as follows:

(i) *Premanufacture notice and consolidated premanufacture notice.* Persons shall remit a fee totaling $2,800 for each premanufacture notice (PMN) or consolidated (PMN) submitted in accordance with part 720 of this chapter.

(ii) *Significant new use notice.* Persons shall remit a fee totaling $2,800 for each significant new use notice (SNUN) submitted in accordance with part 721 of this chapter.

(iii) *Exemption application.* Persons shall remit a fee totaling $940 for each of the following exemption requests submitted under section 5 of the Act:

(A) *Low releases and low exposures exemption* or *LoREX* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(ii) of this chapter.

(B) *Low volume exemption* or *LVE* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(i) of this chapter.

(C) *Test marketing exemption* or *TME* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.300 through 725.355 of this chapter.

(D) *TSCA experimental release application* or *TERA* application submitted to EPA pursuant to section 5 of the Act for research and development activities involving microorganisms in accordance with §§ 725.200 through 725.260 of this chapter.

(E) *Tier II exemption* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.428 through 725.455 of this chapter.

(iv) *Instant photographic film article exemption notice.* Persons shall remit a fee totaling $940 for each instant photographic film article exemption notice

submitted in accordance with § 723.175 of this chapter.

(v) *Microbial commercial activity notice* and *consolidated microbial commercial activity notice*. Persons shall remit a fee totaling $2,800 for each microbial commercial activity notice (MCAN) or consolidated MCAN submitted in accordance with §§ 725.25 through 725.36 of this chapter.

(vi) Persons shall remit a total of twenty percent of the applicable fee under paragraph (c)(2)(vi), (vii) or (viii) of this section for a test rule, test order, or enforceable consent agreement.

(vii) Persons shall remit a total fee of twenty percent of the applicable fee under paragraphs (c)(2)(ix) of this section for an EPA-initiated risk evaluation.

(viii) Persons shall remit the total fee under paragraph (c)(2)(x) or (xi) of this section, as applicable, for a manufacturer-requested risk evaluation.

(2) *Others*. Persons other than small business concerns shall remit fees as follows:

(i) *PMN* and *consolidated PMN*. Persons shall remit a fee totaling $16,000 for each PMN or consolidated PMN submitted in accordance with part 720 of this chapter.

(ii) *SNUN*. Persons shall remit a fee totaling $16,000 for each significant new use notice submitted in accordance with part 721 of this chapter.

(iii) *Exemption applications*. Persons shall remit a fee totaling $4,700 for each of the following exemption requests, and modifications to previous exemption requests, submitted under section 5 of the Act:

(A) *Low releases and low exposures exemption* or *LoREX* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(ii) of this chapter.

(B) *Low volume exemption* or *LVE* request submitted to EPA pursuant to section 5(a)(1) of the Act in accordance with § 723.50(a)(1)(i) of this chapter.

(C) *Test marketing exemption* or *TME* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.300 through 725.355 of this chapter, unless the submitting company has graduated from EPA's Sustainable Futures program, in which case this exemption fee is waived.

(D) *TSCA experimental release application* or *TERA* application submitted to EPA pursuant to section 5 of the Act for research and development activities involving microorganisms in accordance with §§ 725.200 through 725.260 of this chapter.

(E) *Tier II exemption* application submitted to EPA pursuant to section 5 of the Act in accordance with §§ 725.428 through 725.455 of this chapter.

(iv) *Instant photographic film article exemption notice*. Persons shall remit a fee totaling $4,700 for each exemption notice submitted in accordance with § 723.175 of this chapter.

(v) *MCAN and consolidated MCAN*. Persons shall remit a fee totaling $16,000 for each MCAN or consolidated MCAN submitted in accordance with §§ 725.25 through 725.36 of this chapter.

(vi) *Test rule*. Persons shall remit a fee totaling $9,800 for each test rule.

(vii) *Test order*. Persons shall remit a fee totaling $29,500 for each test order.

(viii) *Enforceable consent agreement*. Persons shall remit a fee totaling $22,800 for each enforceable consent agreement.

(ix) *EPA-initiated chemical risk evaluation*. Persons shall remit a fee totaling $1,350,000.

(x) *Manufacturer-requested risk evaluation of a Work Plan Chemical*. Persons shall remit an initial fee of $1,250,000, and final payment to total 50% of the actual costs of this activity, in accordance with the procedures in paragraph (g) of this section. The final payment amount will be determined by EPA, and invoice issued to the requesting manufacturer.

(xi) *Manufacturer-requested risk evaluation of a non-work plan chemical*. Persons shall remit an initial fee of $2,500,000, and final payment to total 100% of the actual costs of the activity, in accordance with the procedures in paragraph (g) of this section. The final payment amount will be determined by EPA, and invoice issued to the requesting manufacturer.

(d) *Fees for 2022 fiscal year and beyond*. (1) Fees for the 2022 and later fiscal years will be adjusted on a three-year cycle by multiplying the fees in paragraph (c) of this section by the current

PPI index value with a base year of 2019 using the following formula:

$FA = F \times I$

Where:

FA = the inflation-adjusted future year fee amount.
F = the fee specified in paragraph (c) of this section.
I = Producer Price Index for Chemicals and Allied Products inflation value with 2019 as a base year.

(2) Updated fee amounts for PMNs, SNUNs, MCANs, exemption applications and manufacturer-requested chemical risk evaluation requests apply to submissions received by the Agency on or after October 1 of every three-year fee adjustment cycle beginning in fiscal year 2022 (October 1, 2021). Updated fee amounts also apply to test rules, test orders, enforceable consent agreements and EPA-initiated chemical evaluations that are ''noticed'' on or after October 1 of every three-year fee adjustment cycle, beginning in fiscal 2022.

(3) The Agency will initiate public consultation through notice-and-comment rulemaking prior to making fee adjustments beyond inflation. If it is determined that no additional adjustment is necessary beyond for inflation, EPA will provide public notice of the inflation-adjusted fee amounts most likely through posting to the Agency's web page by the beginning of each three-year fee adjustment cycle (*i.e.*, October 1, 2021, October 1, 2024, etc.). If the Agency determines that adjustments beyond inflation are necessary, EPA will provide public notice of that determination and the process to be followed to make those adjustments.

(e) *No fee required.* Persons are exempt from remitting any fee for Tier I exemption submissions under § 725.424 and polymer exemption reports submitted under § 723.250 of this chapter.

(f) *Multiple parties, including joint submitters and consortia.* (1) Joint submitters of a TSCA section 5 notice are required to remit the applicable fee identified in paragraph (c) of this section for each section 5 notice submitted. Only one fee is required for each submission, regardless of the number of joint submitters for that notice. To qualify for the fee identified in paragraph (c)(1) of this section, each joint submitter of a TSCA section 5 notice must qualify as a small business concern under § 700.43 of this chapter.

(2) Any consortium formed to split the cost of the applicable fee under section 4 of the Act is required to remit the appropriate fee identified in paragraph (c) of this section for each test rule, test order, or enforceable consent agreement regardless of the number of manufacturers and/or processors in that consortium. For the consortium to qualify for the fee identified in paragraph (c)(1) of this section, each person in the consortium must qualify as a small business concern under § 700.43 of this chapter. Failure to submit fee payment pursuant to this paragraph, or to provide notice of failure to reach agreement pursuant to paragraph (f)(2)(v) of this section constitutes a violation by each consortium member.

(i) The consortium must identify a principal sponsor and provide notification to EPA that a consortium has formed. The notification must be accomplished within 60 days of the publication date of a test rule under section 4 of the Act, or within 60 days of the issuance of a test order under Section 4 of the Act, or within 60 days of the signing of an enforceable consent agreement under section 4 of the Act. EPA may permit additional entities to join an existing consortium prior to the expiration of the notification period if the principal sponsor provides updated notification.

(ii) Notification must be submitted electronically via the Agency's electronic reporting software—Central Data Exchange (CDX)—and include the following information:

(A) Full name, address, telephone number and signature of principal sponsor;

(B) Name(s) and contact information for each manufacturer and/or processor associating with the consortium.

(iii) It is up to the consortium to determine how fees will be split among the persons in the consortium.

(iv) Consortia are strongly encouraged to set lower fees for small business concerns participating in the consortium.

(v) If a consortium is unable to come to terms on how fees will be split among the persons in the consortium,

the principal sponsor must notify EPA in writing before the end of the notification period in paragraph (f)(2)(i) of this section.

(vi) If a consortium provides notice to EPA under paragraph (f)(2)(v) of this section that they failed to reach agreement on payment, EPA will assess fees to all persons as individuals described under paragraph (f)(4) of this section.

(3) Any consortium formed to split the cost of the applicable fee supporting a risk evaluation under section 6(b) of the Act is required to remit the appropriate fee identified in paragraph (c) of this section for each risk evaluation, regardless of the number of manufacturers in that consortium. For the consortium to qualify for the fee identified in paragraph (c)(1)(vii) of this section, each person in the consortium must qualify as a small business concern under § 700.43 of this chapter. Failure to provide notice or submit fee payment pursuant to this paragraph (f)(3) constitutes a violation by each consortium member.

(i) Notification must be provided to EPA that a consortium has formed. The notification must be accomplished within 60 days of the publication of the final scope of a chemical risk evaluation under section 6(b)(4)(D) of the Act or within 60 days of EPA providing notification to a manufacturer that a manufacturer-requested risk evaluation has been granted.

(ii) Notification must be submitted electronically via the Agency's electronic reporting software—Central Data Exchange (CDX)—and include the following information:

(A) Full name, address, telephone number and signature of principal sponsor;

(B) Name(s) and contact information for each manufacturer and/or processor associating with the consortium.

(iii) It is up to the consortium to determine how fees will be split among the persons in the consortium.

(iv) Consortia are strongly encouraged to set lower fees for small business concerns participating in the consortium.

(v) If a consortium is unable to come to terms on how fees will be split among the persons in the consortium, the principal sponsor must notify EPA in writing before the end of the notification period in paragraph (f)(3)(i) of this section.

(vi) If a consortium provides notice to EPA under paragraph (f)(3)(v) of this section that they failed to reach agreement on payment, EPA will assess fees to all persons as individuals as described under paragraph (f)(4) of this section.

(4) If multiple persons are subject to fees triggered by section 4 or 6(b) of the Act and no consortium is formed, EPA will determine the portion of the total applicable fee to be remitted by each person subject to the requirement. Each person's share of the applicable fee specified in paragraph (c) of this section shall be in proportion to the total number of manufacturers and/or processors of the chemical substance, with lower fees for small businesses:

$$P_s = 0.2 \times \left[\frac{F}{M_t}\right]$$

$$P_o = \frac{F - \left\{0.2 \times \left[\frac{F}{M_t}\right] \times M_s\right\}}{(M_t - M_s)}$$

Where:

P_s = the portion of the fee under paragraph (c) of this section that is owed by a person who qualifies as a small business concern under § 700.43 of this chapter.

P_o = the portion of the fee owed by a person other than a small business concern.

F = the total fee required under paragraph (c) of this section.

M_t = the total number of persons subject to the fee requirement.

M_s = the number of persons subject to the fee requirement who qualify as a small business concern.

(5) If multiple persons are subject to fees triggered by section 4 or 6(b) of the Act and some inform EPA of their intent to form a consortium while others choose not to associate with the consortium, EPA will take the following steps to allocate fee amounts:

(i) Count the total number of manufacturers, including the number of manufacturers within any consortia; divide the total fee amount by the total number of manufacturers; and allocate equally on a per capita basis to generate a base fee.

(ii) Provide all small businesses who are either not associated with a consortium, or associated with an all-small business consortium with an 80% discount from the base fee referenced previously.

(iii) Calculate the total remaining fee and total number of remaining manufacturers by subtracting out the discounted fees and the number of small businesses identified;

(iv) Reallocate the remaining fee across those remaining individuals and groups in equal amounts, counting each manufacturer in a consortium as one person; and

(v) Inform consortia and individuals of their requisite fee amount. Small businesses in a successfully-formed consortium, other than a consortium of all small businesses will not be afforded the 80% discount by EPA, but consortia managers are strongly encouraged to provide a discount for small business concerns.

(g) *Remittance procedure*—(1) *Electronic payment.* Each remittance under this section shall be paid electronically in U.S. dollars, using one of the electronic payment methods supported by the Department of the Treasury's *Pay.gov* online electronic payment service, or any applicable additional or successor online electronic payment service offered by the Department of Treasury.

(2) *Fees incurred prior to* October 18, 2018. Timing of payment for fees incurred between October 1, 2018 and October 18, 2018. Fees required by paragraph (c) of this section for which the fee-triggering action or event occurred between October 1, 2018, and October 18, 2018 shall be paid in response to invoices EPA will send within 30 days of October 18, 2018.

(3) *Fees incurred after* October 18, 2018. Timing of payment for fees incurred after October 18, 2018. Fees required by paragraph (c) of this section for which the fee-triggering action or event occurred after October 18, 2018 shall be paid at the following time:

(i) *Test orders and test rules.* The applicable fee specified in paragraph (c) of this section shall be paid in full not later than 120 days after the effective date of a test rule or test order under section 4 of the Act.

(ii) *Enforceable consent agreements.* The applicable fee specified in paragraph (c) of this section shall be paid in full not later than 120 days after the signing of an enforceable consent agreement under section 4 of the Act.

(iii) *Section 5 notice.* The applicable fee specified in paragraph (c) of this section shall be paid in full immediately upon submission of a TSCA section 5 notice.

(iv) *Risk evaluations.* (A) For EPA-initiated risk evaluations, the applicable fee specified in paragraph (c) of this section shall be paid in full not later than 120 days after EPA publishes the final scope of a chemical risk evaluation under section 6(b)(4)(D) of the Act.

(B) For manufacturer-requested risk evaluations under section 6(b)(4)(C)(ii) of the Act, the applicable fees specified in paragraph (c) of this section shall be paid as follows:

(*1*) The first payment towards the applicable fee specified in paragraph (c) of this section shall be paid in full not later than 30 days after EPA provides the submitting manufacture(s) notice that it has granted the request.

(*2*) The final payment towards the applicable fee specific in paragraph (c) of this section shall be paid in full not

later than 30 days after EPA publishes a final risk evaluation in the FEDERAL REGISTER.

(4) *Payment identity*. (i) Persons who submit a TSCA section 5 notice shall place an identifying number and a payment identity number on the front page of each TSCA section 5 notice submitted. The identifying number 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 used to transmit the fee. The same TS number and the submitter's name must appear on the corresponding fee remittance under this section. If a remittance applies to more than one TSCA section 5 notice, the person shall include the name of the submitter and a new TS number for each TSCA section 5 notice to which the remittance applies, and the amount of the remittance that applies to each notice.

(ii) Persons who are required to submit a letter of intent to conduct testing per §790.45 of this chapter shall place a payment identity number on the front page of each letter submitted. The identifying number 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 used to transmit the fee. The same TS number and the submitter's name must appear on the corresponding fee remittance under this section. If a remittance applies to more than one letter of intent to conduct testing, the person shall include the name of the submitter and a new TS number for each letter of intent to conduct testing to which the remittance applies, and the amount of the remittance that applies to each letter of intent.

(iii) Persons who sign an enforceable consent agreement per §790.60 of this chapter shall place a payment identity number within the contents of the signed agreement. The identifying number 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 used to transmit the fee. The same TS number and the submitter's name must appear on the corresponding fee remittance under this section. If a remittance applies to more than one enforceable consent agreement, the party or parties shall include the name of the submitter(s) and a new TS number for each enforceable consent agreement to which the remittance applies, and the amount of the remittance that applies to each enforceable consent agreement.

(5) *Small business certification*. (i) Each person who remits the fee identified in paragraph (c)(1) of this section for a PMN, consolidated PMN, or SNUN shall insert a check mark for the statement, ''The company named in part 1, section A is a small business concern under 40 CFR 700.43 and has remitted a fee of $2,800 in accordance with 40 CFR 700.45(c).'' under ''CERTIFICATION'' on page 2 of the Premanufacture Notice for New Chemical Substances (EPA Form 7710–25). This form is available on EPA's website at *https://cdx.epa.gov/SSL/PMN/Outbound/Electronic_PMN_Form_version2.pdf*.

(ii) Each person who remits the fee identified in paragraph (c)(1) of this section for a LVE, LoREX, TERA, TMEA, or Tier II exemption request under TSCA section 5 shall insert a check mark for the statement, ''The company named in part 1, section A is a small business concern under 40 CFR 700.43 and has remitted a fee of $940 in accordance with 40 CFR 700.45(c).'' in the exemption application.

(iii) Each person who remits the fee identified in paragraph (c)(1) of this section for an exemption notice under §723.175 of this chapter shall include the words, ''The company or companies identified in this notice is/are a small business concern under 40 CFR 700.43 and has/have remitted a fee of $940 in accordance with 40 CFR 700.45(c).'' in the certification required in §723.175(i)(1)(x) of this chapter.

(iv) Each person who remits the fee identified in paragraph (c)(1) of this section for a MCAN or consolidated MCAN for a microorganism shall insert a check mark for the statement, ''The company named in part 1, section A is a small business concern under 40 CFR 700.43 and has remitted a fee of $2,800 in accordance with 40 CFR 700.45(c).'' in

the certification required in § 725.25(b) of this chapter.

(6) *Payment certification statement.* (i) Each person who remits a fee identified in paragraph (c)(2) of this section for a PMN, consolidated PMN, or SNUN shall insert a check mark for the statement, ''The company named in part 1, section A has remitted the fee of $16,000 specified in 40 CFR 700.45(c).'' under ''CERTIFICATION'' on page 2 of the Premanufacture Notice for New Chemical Substances (EPA Form 7710–25).

(ii) Each person who remits a fee identified in paragraph (c)(2) of this section for a LVE, LoREX, TERA, TMEA, or Tier II exemption request under TSCA section 5 shall insert a check mark for the statement, ''The company named in part 1, section A has remitted the fee of $4,700 specified in 40 CFR 700.45(c).'' in the exemption application.

(iii) Each person who remits the fee identified in paragraph (c)(2) of this section for an exemption notice under § 723.175 of this chapter shall include the words, ''The company or companies identified in this notice has/have remitted a fee of $4,700 in accordance with 40 CFR 700.45(c).'' in the certification required in § 723.175(i)(1)(x) of this chapter.

(iv) Each person who remits the fee identified in paragraph (c)(2) of this section for a MCAN for a microorganism shall insert a check mark for the statement, ''The company named in part 1, section A has remitted the fee of $16,000 in accordance with 40 CFR 700.45(c).'' in the certification required in § 725.25(b) of this chapter.

(h) *Full fee refunds.* EPA will refund, in totality, any fee paid for a section 5 notice whenever the Agency determines:

(1) That the chemical substance that is the subject of a PMN, consolidated PMN, exemption request, or exemption notice, is not a new chemical substance as of the date of submission of the notice,

(2) In the case of a SNUN, that the notice was not required,

(3) That as of the date of submission of the notice: The microorganism that is the subject of a MCAN or consolidated MCAN is not a new microorganism; nor is the use involving the microorganism a significant new use; or

(4) When the Agency fails to make a determination on a notice by the end of the applicable notice review period under § 720.75 or § 725.50 of this chapter, unless the Agency determines that the submitter unduly delayed the process, or

(5) When the Agency fails to approve, or deny an exemption request within the applicable period under § 720.38(d), § 723.50(g), or § 725.50(b) of this chapter, unless the Agency determines that the submitter unduly delayed the process.

(i) *Partial fee refunds.* (1) If a TSCA section 5 notice is withdrawn during the first 10 business days after the beginning of the applicable review period under § 720.75(a) of this chapter, the Agency will refund all but 25% of the fee as soon as practicable.

(2) Once withdrawn, any future submission related to the TSCA section 5 notice must be submitted as a new notice.

(3) If EPA determines that the initial payment for a manufacturer-requested risk evaluation exceed the applicable fee in paragraph (c) of this section, EPA will refund the difference.

[83 FR 52714, Oct. 17, 2018]

§ 700.49 Failure to remit fees.

(a) EPA will not consider a TSCA section 5 notice to be complete unless the appropriate certification under § 700.45(g) is included and until the appropriate remittance under § 700.45(c) has been submitted as provided in § 700.45(g). EPA will notify the submitter of a section 5 notice that it is incomplete in accordance with §§ 720.65(c) and 725.33(b)(1) of this chapter.

(b) Failure to submit the appropriate remittance specified under § 700.45(c) for a test order, test rule, enforceable consent agreement, or EPA-initiated risk evaluation as provided in § 700.45(g) is a violation of TSCA and enforceable under section 15 of the Act.

(c) EPA will not initiate a manufacturer-requested risk evaluation the request for which the Agency has otherwise determined to be complete unless

EPA has determined to grant the request and the appropriate initial remittance under §700.45(c) has been submitted as provided in §700.45(g).

(d) Failure to submit the appropriate final remittance specified under §700.45(c) for a manufacturer-requested risk evaluation as provided in §700.45(g) is a violation of TSCA and enforceable under section 15 of the Act.

[83 FR 52719, Oct. 17, 2018]

PART 702—GENERAL PRACTICES AND PROCEDURES

Subpart A—Procedures for Prioritization of Chemical Substances for Risk Evaluation

Subpart B—Procedures for Chemical Substance Risk Evaluations

Subpart C—Citizen Suit

AUTHORITY: 15 U.S.C. 2605 and 2619.

SOURCE: 47 FR 2773, Jan. 19, 1982, unless otherwise noted.

Subpart A—Procedures for Prioritization of Chemical Substances for Risk Evaluation

SOURCE: 82 FR 33762, July 20, 2017, unless otherwise noted.

§702.1 General provisions.

(a) *Purpose.* This regulation establishes the risk-based screening process for designating chemical substances as a High-Priority Substance or a Low-Priority Substance for risk evaluation as required under section 6(b) of the Toxic Substances Control Act, as amended (15 U.S.C. 2605(b)).

(b) *Scope of designations.* EPA will make priority designations pursuant to these procedures for a chemical substance, not for a specific condition or conditions of uses of a chemical substance.

(c) *Categories of chemical substances.* Nothing in this subpart shall be interpreted as a limitation on EPA's authority under 15 U.S.C. 2625(c) to take action, including the actions contemplated in this subpart, on a category of chemical substances.

(d) *Prioritization timeframe.* The Agency will publish a final priority designation for a chemical substance in no fewer than 9 months and no longer than 1 year following initiation of prioritization pursuant to §702.7.

(e) *Metals or metal compounds.* EPA will identify priorities for chemical substances that are metals or metal compounds in accordance with 15 U.S.C. 2605(b)(2)(E).

(f) *Applicability.* These regulations do not apply to any chemical substance for which a manufacturer requests a risk evaluation under 15 U.S.C. 2605(b)(4)(C).

(g) *Scientific standards and weight of the scientific evidence.* EPA's proposed priority designations under §702.9 and final priority designations under §702.11 will be consistent with the scientific standards provision in 15 U.S.C. 2625(h) and the weight of the scientific evidence provision in 15 U.S.C. 2625(i).

(h) *Interagency collaboration.* EPA will consult with other relevant Federal Agencies during the administration of this subpart.