



Summary of the American Chemistry Council (ACC) Oral Comments Provided by Kat Gale, Director, Regulatory & Scientific Affairs, on the Need for the Environmental Protection Agency (EPA) to Substantiate the Toxic Substances Control Act (TSCA) Program Costs Presented During the Office of Management and Budget (OMB) Meeting (July 21, 2022)

Hello. My Name is Kat Gale. I am a Director in the Regulatory & Scientific Affairs Department at ACC and the issue lead on the TSCA Fees. Thank you for taking the time to meet with us. Today, my colleagues and I would like to take you on a deeper dive into a couple of the key proposals identified in our March 2021 Fees comments. But first, we would like to highlight a few of the proposed updates identified in the 2021 Revision to the TSCA Fees rule that we think would have a positive impact on the future success of the TSCA Fees program. These proposals are inclusion of the six proposed exemptions for entities subject to fees, the proposed modifications to both the time allowed for payment and the revised structure for making payments, and proposed modifications for consortia to identify formation.

Substantiation of Program Costs

Next, we wanted to talk about the EPA's statutory requirement to substantiate the costs of the TSCA program generally but specifically when proposing increases to the TSCA fees. ACC and its members have consistently supported and continue to support the effective and efficient implementation of TSCA, including the reasonable collection of fees. That support does not negate EPA's requirement to provide this office, Congress, and stakeholders with a reliable substantiation of how the costs associated with the TSCA program are allocated and spent.

The proposed 2021 Revision to the TSCA Fees Rule included increases to the budgets of each section of the TSCA program, but only proposed to increase fees for the section 6 programs. The proposed increase for the TSCA section 6 program included increasing the industry fee for an EPA-Initiated Risk Evaluation from \$1.35 million per risk evaluation to \$2.56 million per risk evaluation. This is an 89% increase. The only explanation for the increase to these fees and the increases to the TSCA program overall was that EPA did not account for the intramural and extramural costs associated with running this program. However, it remains unclear how EPA generated their calculations and EPA has not provided any supporting documentation. To date, the Office of Chemical Safety & Pollution Prevention and the Office of Pollution Prevention and Toxics have failed to provide Congress with the required detailed accounting of operating costs of the TSCA program.

These concerns were further exacerbated earlier this year when Assistant Administrator Freedhoff began mentioning that a deficit in the TSCA budget resulted from EPA's inability to collect fees on the first 10 risk evaluations and that industry should be prepared for "sticker shock." Then, in June 2022, a FY 2021 EPA Program Evaluations document from December

2021 was released. This document reported that an EPA analysis found that each existing chemical risk evaluation costs approximately \$8.4 million over 3.5 years. This is an increase from the original estimate of \$3.7 million or a 127% increase. Again, EPA has not provided a detailed substantiation for this increase.

As I mentioned earlier, ACC and its members have supported and continue to support the effective and efficient implementation of TSCA, which includes the reasonable collection of fees. This support, however, does not negate EPA's statutory responsibilities to substantiate the need for increased fees and to provide Congress and stakeholders with a detailed accounting of the operating costs of the TSCA program. Further, the 2018 TSCA Fees rule stated that EPA would not be collecting fees for the first 10 risk evaluations. EPA should not be authorized to retroactively collect fees for work that has been done or work that it has decided should be redone. We ask that your review of this proposed rule ensures that the Supplement to the Revised proposed rule includes the required detailed substantiation of program costs and increases to all fees.

Thank you for your time. Please feel free to contact me if you have any questions about these comments.