



North American Metals Council
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May 24, 2018

Via Docket Submission

Document Control Office (7407M)
Office of Pollution Prevention and Toxics (OPPT)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Re: Comments on User Fees for Administration of Toxic Substances
Control Act; Docket ID Number EPA-HQ-OPPT-2016-0401

Dear Sir or Madam:

The North American Metals Council (NAMC)¹ and the National Mining Association (NMA)² are pleased to submit these comments in response to the U.S. Environmental Protection Agency's (EPA) proposed user fees for the administration of the Toxic Substances Control Act (TSCA) (83 Fed. Reg. 8212 (Feb. 26, 2018)). In addition to the specific issue raised below, NAMC and NMA support fully the comments submitted by B&C® Consortia Management, L.L.C. (BCCM), which highlight the need for EPA recognition of the challenges related to the reliance on consortia for the collection and payment of fees.

**EPA Needs to Develop an Alternative Risk Assessment Fee
for Small Market Chemicals**

NAMC and NMA urge EPA to consider an alternative risk assessment fee approach for domestic producers of small market chemicals. The current proposed fee of \$1.3

¹ NAMC is an unincorporated, not-for-profit organization serving as a collective voice for the North American metals producers and users. NAMC is a leader for the metals industry on science- and policy-based issues affecting metals.

² NMA is a national trade association whose members produce most of the nation's coal, metals, and industrial and agricultural minerals; are the manufacturers of mining and mineral processing machinery, equipment, and supplies; and are the engineering and consulting firms, financial institutions, and other firms serving the mining industry.



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million could be cost-prohibitive for a single or limited number of manufacturers that do not generate significant revenue from these small market chemicals. NAMC and NMA member companies produce a wide variety of metals and minerals, including a number of commodities that are either sold in low volumes or profit margins. In fact, most of the critical minerals on the U.S. Department of Interior's "[Final List of Critical Minerals 2018](#)" are produced in low volumes in the United States. So, while the manufacturers of these specialty materials would not necessarily meet the proposed small business criteria, the revenue generated from the materials may not be sufficient to support the proposed fees.

The U.S. government has recognized that its reliance on imports of certain vital minerals creates a vulnerability for both its economy and military. Rather than potentially losing the domestic production of these critical materials for defense, energy, and other key economic and security applications, as well as other small market chemicals, EPA should consider alternative approaches to assessing fees for the risk assessment of such materials. We suggest a process in which a manufacturer or small group of manufacturers could petition EPA to apply the small business fees for these small market chemicals. In the petition, manufacturers could provide EPA with information on the production volumes (historical and anticipated), sales information, and use sectors that would be impacted if domestic manufacturing ceased. While NAMC and NMA do not believe these circumstances will occur regularly as EPA proceeds with chemical risk evaluation under Section 6, we nonetheless urge EPA to recognize that such situations will arise and to develop a process now to address them properly.

Thank you for the opportunity to submit these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen M. Roberts".

Kathleen M. Roberts
NAMC Executive Director

A handwritten signature in black ink, appearing to read "Tawny A. Bridgeford".

Tawny A. Bridgeford
NMA Deputy General Counsel