Stage 1 Cost Recovery Impact Statement

Proposal for a Hazardous Substances and New Organisms Levy

Status quo

1. Since 2017, the Environmental Protection Authority (EPA) has struggled to fund its approval processes under the Hazardous Substances and New Organisms Act 1996 (HSNO). Currently, the EPA receives approximately 90% of its funding from the Crown. From this funding, about 18% is allocated to the HSNO system overall. This includes resourcing, retention and recruitment. Currently the regulatory system is under significant strain, as highlighted by reports from Sapere, MartinJenkins, and the Ministry for the Environment. A recent review has also been undertaken by the Ministry for Regulation.

2. The strain on the regulatory HSNO system is based on the discrepancy between the fees recovery undertaken by the EPA, and the amount of effort, expertise and time needed to undertake day-to-day functions while also conducting application assessments, emergency responses, and managing risk from non-compliance.

3. In August 2024, the Ministry for Regulation commenced the Agricultural and Horticultural Products Regulatory Review[1] (MfR review). The review was triggered by concerns raised about access to new horticultural and agricultural products and New Zealand's international competitiveness. The MfR review was completed in November 2024, with the approval of joint Ministers for the Environment, Food Safety and Regulation sought in December 2024. Further information on the MfR review, including its recommendations can be found on the MfR website. The regulatory impact statement associated with the attendant Cabinet paper outlines MfE's view and response to these recommendations.

4. This cost recovery impact statement (CRIS) responds to both the need outlined by previously commissioned reports, and recommendation 11 in the MfR review: ***We recommend that consideration be given to (but options should not be limited to): whether the current level of cost recovery from industry is appropriate; and an annual levy to support general regulatory functions which do not provide applicant specific benefits.***

5. MfR concluded that an annual levy as part of an overall cost recovery assessment could "*…improve proportionality and transparency. Investing cost recovered funds in improved tools like risk assessment models could improve efficiency and effectiveness…*" (Agricultural and Horticultural products regulatory review – February 2025, page 88).

[1] https://www.regulation.govt.nz/regulatory-reviews/agricultural-and-horticultural-products-regulatory-review/

6. Currently, importers and manufacturers who benefit from hazardous substances and new organisms have their applications assessed by the EPA. The cost for the EPA to provide these services is far greater (around five times higher) than the fees paid by these importers and/or manufacturers.

7. Importers and manufacturers are the direct recipients of the services provided by the EPA in assessing their application, but there are also indirect benefits which accrue to farmers, growers, the New Zealand public, and biosecurity. As the lead policy agency, the Ministry for the Environment (MfE) believes the introduction of the Omnibus Bill following from MfR's review provides an opportunity to address the need for how the EPA's costs are recovered.

8. This is the first time in 29 years that MfE have been able to undertake substantive changes to the HSNO Act. MfE proposes to ensure that the risk of adverse effects from the use of hazardous substances and new organisms is managed and mitigated. This level of risk is influenced by both the intrinsic properties of chemical substances and how and where they are used. The HSNO regime is not about simply setting controls – it is concerned with regulating and monitoring how and where hazardous substances are used i.e., in workplaces, homes, gardens and everyday locations, and managing the effect on human health and the environment.

9. Most of the EPA's services are considered 'club goods,' meaning they provide public benefits without being rivalrous. For instance, mitigating the effects of hazardous substances and new organisms benefits the environment and human health without excluding others from enjoying these benefits. Similarly, the EPA's efforts in educating and providing information to importers and suppliers of HSNO substances are non-rivalrous.

10. There is a 'private good' component, particularly in the application of Group Standards. Approximately 30,000 chemicals, contained in over 150,000 hazardous substances, are approved for use in New Zealand, with around 3,700 having individual approvals. Most domestic and workplace chemicals are covered by about 210 group standards, which the EPA is responsible for. Many of these approvals date back to the 1960s, leading to a free rider effect where a significant part of the chemical industry does not pay for regulation costs, creating an asymmetry between those who pay and those who do not.
    The EPA faces challenges in adequately funding its hazardous substances regulatory functions. This has been documented over the past few years in a variety of reports. The key indicators of this include:
    - **Resource limitations**: The EPA has fewer resources dedicated to hazardous substances assessments compared to similar regulators in other countries. This under-resourcing impacts its ability to process applications and reassess the safety of in-use chemicals.
    - **Comparative spending**: New Zealand spends considerably less on hazardous substances functions than benchmarked countries such as Australia, Canada, the United Kingdom, the United States, and the European Union.
    - **Impacts of past underfunding**: The lack of adequate funding previously has led to significant wait times for processing applications. This limits the EPA's capacity to reassess chemicals, as noted in the concerns raised by industry, this has both environmental and economic impacts.

- **Outdated tools**: The EPA relies on outdated ecotoxicological modelling tools, (some of which are more than 20 years old) which hampers its ability to effectively assess and manage hazardous substances.

11. One indicator of the strain on the system is the current backlog of applications being processed by the EPA. While this queue has reduced by 13% as a direct consequence of funding allocated to the EPA in the last budget, industry bodies have raised concerns about the time taken to get products approved in New Zealand, particularly focused on those products with new active chemical ingredients.

What are the policy outcomes charging a levy will achieve?

12. The proposed levy would create funding specific to the EPA's hazardous substances and new organisms' function and contribute to transparency and accountability for levy payers within the HSNO system.

13. Currently the funding for the HSNO area forms part of the EPA's overall funding envelope. This means there is no prioritisation for HSNO funding. Ministerial directives, public feedback and the MfR review have all pointed to a need to change this. Providing a specific funding stream would ensure both prioritisation of HSNO funding and transparency of funding allocation as this would be ringfenced to the HSNO system.

14. Fees alone will never fully recover the cost of processing HSNO applications, or the other costs – such as assessment, and the recruitment of specific technical expertise related to the ongoing maintenance of the HSNO regulatory system.

15. Fees for hazardous substance approvals are currently set at between 20% and 26% cost recovery. This reflects the need to ensure charges or fees are not a barrier to other outcomes such as economic growth, innovation, and environmental protection. We have made the assumption that fees will continue to rise in recognition of ongoing costs for the EPA, subject to fee reviews. We will need to work through the criteria needed for exemptions under the levy.

16. We have used the following policy principles to determine the need for a levy:
    - universal, so that the EPA's costs are generally shared among all who benefit from the potential to use their services;
    - 'polluter pays' to ensure alignment with the principles already applied in the Waste Levy, and the ACVM levy;
    - equitable, so that policyholders should generally pay a levy at a level commensurate with their use of the EPA's services;
    - set at a level that recognises the risks associated with the activities that applicants to the EPA carry out;
    - and to provide predictability for both the EPA and levy payers.

This proposal is for a new levy

17. This proposal is for a new levy to support the HSNO system overall. Our broad proposal is to ensure a stable source of funding to support the EPA in the performance of functions and duties and exercise of powers under the HSNO Act.

18. Currently the EPA relies solely on Crown funding and fees. Given the growing distance between the fees charged and the cost of the service, the HSNO system's responsiveness and resilience will continue to degrade. Creating enabling provisions for a levy in the HSNO Act will allow surety for the EPA to continue to develop resources and tools. Referring to both the MartinJenkins and Sapere reports, a levy is the most effective approach to addressing the ongoing funding issue. Fees were reviewed in 2018 and 2023 in line with the above.

19. Applications for new active ingredients are becoming increasingly complex and time consuming as scientific data improves. Some applications involve reviewing hundreds of pieces of scientific literature by highly technical staff, with specialist knowledge. The cost of processing these applications is a major challenge for the EPA and international equivalent bodies.

20. It is clear that there is an ongoing risk to the overall regulatory system's ability to deliver on expectations and requirements. For these reasons, and given this is the first opportunity in nearly 30 years to undertake substantive changes to the HSNO Act, MfE do not believe there is a case for deferring the levy.

21. During targeted engagement, some parties supported the levy, while others, such as Animal and Plant Health NZ (APHANZ), opposed it, particularly if there was no opportunity for further engagement. In our next steps work we have some significant questions to work through including how long the levy will run before review, the specifics of how the levy will be applied to ensure the polluter pays principle and its alignment with the Waste Levy and the ACVM levy.

22. The HSNO Act does not include provisions for the regulatory administration of its functions through any levy funding.

23. In contrast, the Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM) imposes a levy on the sale of agricultural compounds and veterinary medicines to help fund MPI's regulatory activities and ensure that those who benefit from the use of these products contribute to the costs of their regulation. The HSNO Act and ACVM are cross-over regulatory systems, with inter-linked application processes through 'joint' approvals for chemicals and biological controls.

24. While the EPA's remit within the HSNO Act is broader with respect to hazardous substances than the ACVM's focus on risks associated with the use of agricultural compounds and veterinary medicines, the common objectives of both systems are to ensure effective regulatory requirements of their respective Acts are met.

The MartinJenkins reports 2020 and 2022[2]:

25. In 2020[3], MartinJenkins conducted a review of the EPA's cost recovery arrangements and evaluated an EPA proposal to introduce a levy on importers and manufacturers of hazardous substances to cover the costs of reassessment and monitoring activities. Although practical issues prevented the immediate implementation of the levy, the review recommended that the EPA and MfE collaborate to improve the regulatory system including how to enable a levy in future.

26. The EPA commissioned a further MartinJenkins report in 2022 to assess the efficiency and effectiveness of its systems in the HSNO area. The report noted that the EPA, as a Crown entity, has its own cash reserves from an initial cash injection when it was formed, and some surpluses in its early years. Since 2017/18, the combination of additional functions and associated staff, as well as inflationary pressures, has resulted in costs exceeding revenues for operational activities.

27. The 2022 MartinJenkins report made the overall assessment that the EPA is making good use of its available resources, but funding constraints pose risks of not delivering on required outcomes. The report also noted "*Over time, it also risks inefficiency if systems and processes are not upgraded and more automated…*" (Martin Jenkins executive summary, page 3).

The Sapere report[4] 2023:

28. MfE and the Treasury provided funding for further examination of the EPA's funding and performance, and a further independent report was completed in 2023. The paper benchmarked the funding and performance of the EPA against regulators in Australia, Canada, the United Kingdom, the United States and the European Union.

29. One of the findings of the report was that New Zealand spends considerably less on hazardous substances functions than benchmarked countries. In 2022/23, New Zealand invested approximately $3.9m to assess applications to manufacture or import hazardous substances and to reassess the safety of already approved chemicals. This level of funding is considerably less than the countries benchmarked against, even after adjusting for population, GDP, and key sectors.

30. Lengthening assessment times has been a key focus of both chemical Industry groups and the Minister for the Environment.

31. MfE agrees with the conclusions of the Sapere report that resourcing, models and tools are key to addressing both the costs of service and the level of private benefits through the approval of hazardous substances and new organisms.

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[2] https://www.epa.govt.nz/resources-and-publications/our-2022-independent-functional-and-funding-reviewnew-page/

[3] https://environment.govt.nz/publications/the-epas-cost-recovery-arrangements/

[4] https://srgexpert.com/resource/the-epas-role-and-performance-in-assessing-hazardous-substances/

32. In 2022/23 New Zealand invested approximately $3.9m to assess applications to manufacture or import hazardous substances and to reassess the safety of already approved chemicals.

33. **Relevant Policy decisions:** Cabinet Minute, Ministry for Regulation: CAB-25-MIN-0036, showing the decisions from Joint Ministers, and MfE Briefing #5986 which sought policy decisions from the Minister for the Environment on the introduction of a levy. The Minister confirmed these decisions on 8 April 2025.

Policy Rationale: Why a user charge? And what type is most appropriate?

34. The policy rationale for a HSNO levy is multifaceted and aims to support the regulatory framework for the hazardous substances regime under the HSNO Act. The rationale includes:
    i. The need to fund Regulatory Activities: the levy is intended to provide essential funding for the EPA to carry out its regulatory functions, including the assessment, approval, and compliance of hazardous substances.
    ii. Equitable Cost Distribution: A tiered levy structure will ensure the cost of regulation is distributed equitably among companies based on their import volumes. This means that larger companies with larger volumes will contribute more, reflecting their greater impact on the market and the environment.
    iii. Encouraging Compliance: The imposition of a levy will incentivise companies to comply with regulatory requirements. The levy will likely be based on import volumes and will encourage companies to maintain and report accurate records.
    iv. Risk Management: The levy will help the EPA to manage potential risks associated with the use of hazardous substances. By funding compliance and enforcement activities, the EPA can act against non-compliant products, thereby protecting public health and the environment.

A partial cost recovery levy is proposed

35. The levy is currently proposed to recover a percentage of the EPA's operating and capital costs over an initial levy period, after which a funding review will be undertaken. MfE believe that a levy is necessary due to the declining capacity of the EPA to deliver its functions in the HSNO area. The decline in capacity and functionality has been documented by the MartinJenkins reports, the Sapere report, MfE's internal reports and the MfR review.

36. Currently the EPA has costs of around 20% ($8.6m) of its total operating budget for the HSNO regime. Fees recovered are around 10% of the total amount, ($887,000). It is important to note that costs vary year on year depending on the number of applications received and how complex these applications are. Some applications may have around 800 separate pieces of scientific literature and case studies to be reviewed. We are assuming that the levy would partially recover fees to recognise the public good component undertaken by the EPA's work in protecting the environment and human health, as well as their role in emergency responses and biosecurity emergencies.

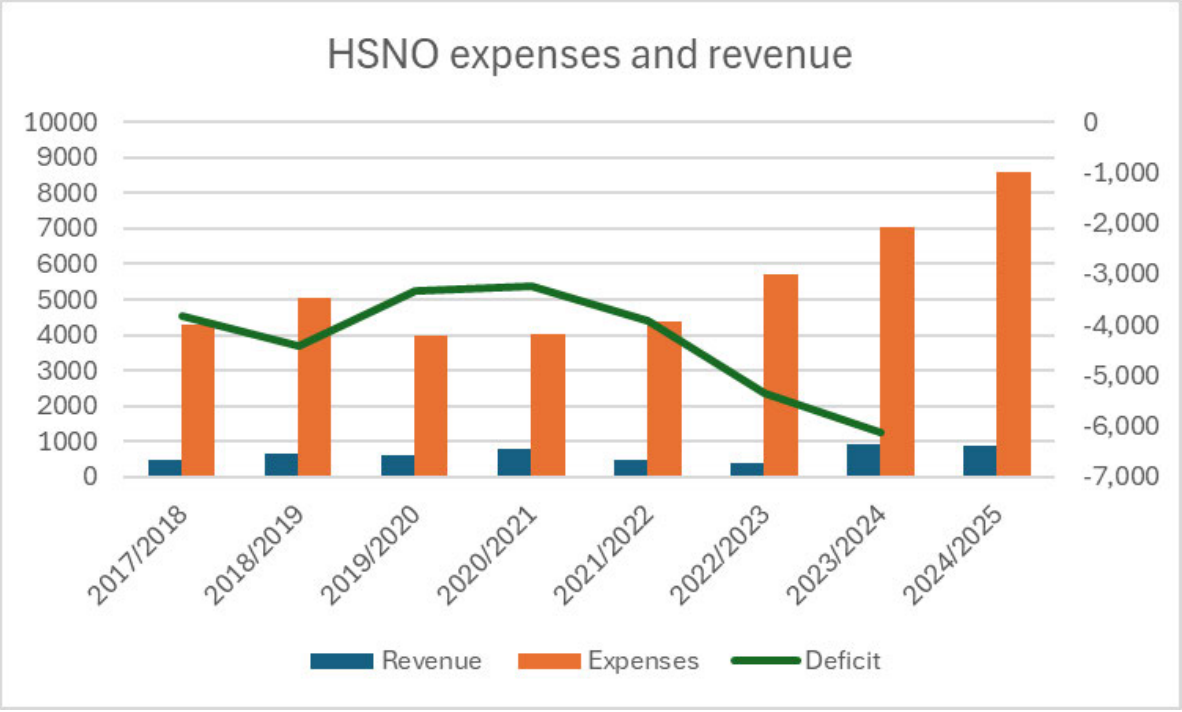
37. We reviewed the fees of internationally comparable jurisdictions. We used this comparison to inform our proposed percentage recovery through the levy. For further information see the table of international comparison countries at **appendix one**. While we have done our best to do a 'direct' comparison, this is difficult as some countries have one combined authority for ACVM and HSNO functions, while others focus on very different outcomes to the HSNO Act.

38. MfE propose, subject to further analysis and consultation, the levy should provide for 65% of the EPAs hazardous substances costs, while the final 35% of the EPA's HSNO costs would remain government funded to recognise the public good component of the services. We anticipate this will equate to costs of approximately $5.6m per year recovered through the levy and this will be ring-fenced to functions and duties under the HSNO system. MfE anticipate that the breakdowns proposed here will be further researched during consultation.

39. The table below details the rounded figures for EPA outgoings and cost recovery from 2017. The figures focus on the operational component as overall system figures are not available. This is because HSNO finances are included within the EPA's overall financial totals. Note: the fees recovered below covered the period of two fee increases, in 2020 and 2023.

HSNO revenue and expenses (deficit figures not yet available for 2025)								
$000	2017/2018	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023	2023/2024	2024/2025
Revenue	480	645	629	784	476	370	928	887
Expenses	4,292	5,047	3,967	4,031	4,389	5,709	7,039	8,600
Deficit	(3,812)	(4,403)	(3,337)	(3,246)	(3,912)	(5,339)	(6,111)	---

The graph below shows that despite the EPA's fee increases, revenue continues trending down against expenses.



High level cost recovery model (the level of the proposed fee and its cost components)

40. The current fee for a statutory determination is $1,000 excluding GST ($1,150 including GST). The Sapere report shows costs to the EPA are about $6,000 to progress an application. This means that applicants are paying around 16% of the cost to process their application, and government funding pays the remaining 84% of the cost. We are not proposing that a levy would replace the current statutory fees charged.

41. In determining who should bear the costs, the activities required to deliver on the HSNO functions were assessed against the Treasury framework, considering whether the activities are excludable and rivalrous. The assessment aligns with approaches taken by other agencies such as the Ministry for Primary Industries (MPI), the Ministry of Business, Innovation and Employment (MBIE), transport Crown entities, and the New Zealand Customs Service.

42. For the purposes of this CRIS, and without prejudice to any future consultation, an example of how such a levy could be set and who would pay it could be along the following lines The charges for the hazardous substances levy could be primarily determined based on the risk posed by the substances to human health and the environment. The method involves prescribing a leviable rate based on the hazard class of each substance. This approach would result in substances with higher hazard classifications and those applied directly to the environment being charged higher rates. The levy rates would be set on a per volume or weight basis, allowing for a proportional relationship between the amount of substance and the levy charged.

43. In addition to the changes currently being enacted through the Omnibus bill, we believe a levy would benefit those subject to the levy. This is because it would create a dedicated resource within the EPA which would be accountable to the Minister for the use and outcomes arising from the levy.

44. Depending on the duration approved for the levy e.g. one or three or five years, we expect the EPA will focus more on engagement and education as the administrative demands of the HSNO system reduce. This assumption forms part of the underpinning for our policy rationale within the regulatory impact statement (RIS). The RIS supports clearer and more direct application pathways and the levy would form a component of this. The funding from the levy would enable better automation, updates to the ecotoxicological models used to ensure up-to-date information to inform the assessment of new active ingredients, which would lead to better and faster outcomes for low-risk new active ingredients, and clearer timeframes for more complex active ingredients. For these reasons, we believe the levy would be a net benefit for levy payers.

45. Regulations would specify which hazardous substances are subject to the levy and the corresponding rates. This process would involve assessing the hazard class, environmental fate, and other relevant criteria to prevent unintended consequences. Data from approvals, hazard classifications, and controls would be used to help determine the appropriate levy amounts. Additionally, information collected from the EPA's Importers and Manufacturers

Notice would likely help estimate potential revenue and ensure accurate levy payments.

46. A threshold system, which charges a flat fee per volume or weight, could also be considered, but might prove less practical due to the need for bespoke leviable amounts for each substance. Targeting all hazardous substances is also likely to be impractical due to the sheer number of substances approved under group standards or individual approvals.

47. The levy will likely be primarily targeted at importers and manufacturers of hazardous substances. This approach aligns with the HSNO Act, which issues approvals to import and manufacture these substances. Data on these parties would be provided under the Importers and Manufacturers Notice, ensuring that the levy is imposed on those directly responsible for bringing hazardous substances into New Zealand.

48. It is expected that importers and manufacturers will pass the costs down the supply chain to suppliers and end users, effectively distributing the financial burden across all parties involved in generating risks associated with hazardous substances.

49. Targeting parties further down the supply chain, such as retailers or end users, could be considered but would increase complexity due to the larger number of organisations that would need to be managed. By focusing on importers and manufacturers, the levy system would remain more straightforward and manageable, ensuring that those who introduce hazardous substances into the market bear the primary responsibility for the associated risks.

Next steps

50. We propose that further work be undertaken in the stage 2 CRIS to determine the circumstances for levy exemptions, including where and under which circumstances. We will also explore the exact proportions of the levy relating to fees.

51. We will undertake further consultation including the need to engage more widely and with different types of users of the HSNO system. During the consultation we will test how and where the levy revenue will be targeted within the HSNO system.

52. Given the issues identified within the current regulatory system, our design for the levy will be informed by working through a detailed model of the current application, emergency response and risk pathways with the EPA. Our key aim is to ensure this is tied to outcomes and ringfenced to HSNO regulatory system functions.

Previous consultation

53. From the 11 to 24 March 2025, MfE officials undertook a series of meetings with targeted stakeholders, with meetings geared towards either hazardous substances, new organisms or both. The participating stakeholders received a slide deck outlining the proposals amendments and these were discussed at each meeting. The following organisations took part in the targeted stakeholder engagement:

Table 1: Organisations taking part in targeted engagement		
Hazardous substances	New organisms	Both
Animal and Plant Health NZ (APHANZ) Federated Farmers Horticulture New Zealand A Lighter Touch	Manaaki Whenua Landcare Research Plant and Food Research AgResearch Scion New Zealand Plant Producers Incorporated	AgriZeroNZ Te Rūnanga o Ngāi Tahu (HSNO Kōmiti)

54. Many of the stakeholders consulted were part of the MfR Reference Group and were supportive of the recommendations from the review. MfE intend further consultation in the development of the Stage 2 CRIS to ensure all parties who may be affected by the levy will have the chance to provide their views.

55. Officials received a variety of feedback, both during the meetings and through written feedback following this. The major themes of the feedback were:
    i. **Regulatory efficiency, cost and transparency**: There was an emphasis on improving the EPA's application processing efficiency and ensuring transparency in performance reporting and the use of time waivers. There was some opposition to a potential levy, especially when the current application process efficiency was considered. However, not all organisations were opposed to the levy.
    ii. **Use of the international regulator assessments:** There was a desire for increased use of the current rapid international pathway. There was also concern that the conditional approval proposal lacked clear criteria.
    iii. **Statutory timeframes**: There was a desire for clear statutory timeframes in primary legislation. These should be of a reasonable timeframe and many stakeholders were interested in being involved through consultation.
    iv. **New organisms proposals**: There was generally positive feedback regarding these proposals, with some suggestions and concerns given around certain proposals.
    v. **Out of scope of the proposals: Precautionary approach and biopesticide pathway**: There were calls to review the precautionary approach, along with a call for joint reviews with international regulatory agencies. There was also a request for a specific biopesticide pathway.

56. Where possible we amended proposals to include the feedback received in the targeted consultation. This is noted in the companion regulatory impact statement to this CRIS. While some of the targeted stakeholders were supportive of the introduction of a levy, the

submission from Animal and Plant Health NZ (APHANZ) indicated their opposition to the introduction of a levy at the current time, especially if there was no opportunity for further engagement. Officials note it has not been determined whether the stakeholders represented by APHANZ would be subject to such a levy. Future work on the scope of a levy and the activities it may fund would be subject to further consultation with all parties regulated under the HSNO Act.

57. Officials note that some of the feedback received related to matters beyond the current proposals within the remit of the Omnibus Bill. As part of our next steps phase to develop the specifics of the levy, we will engage with industry and the public for feedback on the detailed design of the levy.

APPENDIX ONE: COMPARISION OF INTERNATIONAL EPA EXAMPLES

Country	Regulatory Body	Legislation/Framework	Levy/Fee Structure
Australia	Australian Industrial Chemicals Introduction Scheme (AICIS)	Industrial Chemicals Act	Annual levy based on the value of chemicals imported or manufactured. Registration charges vary by revenue levels.
	Australian Pesticides and Veterinary Medicines Authority (APVMA)	Agricultural and Veterinary Chemicals Code Act	Annual levy based on sales of registered products. Fees for registering new products and active constituents.
United States	Environmental Protection Agency (EPA)	Toxic Substances Control Act (TSCA)	Fees to cover up to 25% of the costs associated with TSCA activities. Examples include $16,000 for PMN, SNUN, and MCAN, and $1,350,000 for risk evaluation.
		Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)	Fees for registering pesticides and annual maintenance fees. Examples include $830,274 for new active ingredient with food use and $4,875 for annual maintenance fee.
		Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	Tax on the chemical and petroleum industries to fund the cleanup of hazardous waste sites.
European Union	European Chemicals Agency (ECHA)	REACH (Registration, Evaluation, Authorisation, and Restriction of Chemicals)	Fees based on the size of the company and the volume of the substance. Examples include 33,699 EUR for large company new registration (over 1,000 tonnes) and 54,100 EUR for authorisation application for a large company.
		Biocidal Products Regulation (BPR)	Fees for authorisation vary depending on the member state and the type of authorisation.
South Korea	Ministry of Environment	K-REACH (Korea REACH)	Registration fees for chemicals based on tonnage bands and hazard characteristics.
Canada	Environment and Climate Change Canada (ECCC)	Canadian Environmental Protection Act (CEPA)	Fees for new substance assessments, with a maximum fee of $4,021 CAD.
	Pest Management Regulatory Agency (PMRA)	Pest Control Products Act	Fees for pesticide registration and other regulatory activities, with a maximum fee of $258,867 CAD for complex applications.
United Kingdom	Health and Safety Executive (HSE)	REACH and Biocidal Products Regulation	Charges bespoke fees for chemical regulation services, including biocides and REACH authorisation. Examples include £25,000 for a single product authorisation and £160,000 for active substance approval.