

Advocacy comments on EPA’s Initial Regulatory Flexibility Analysis for its Proposed Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances under the Toxic Substance Control Act

On December 19, 2022, Advocacy submitted comments on the Environmental Protection Agency’s (EPA) published Initial Regulatory Flexibility Analysis (IRFA) and updated economic analysis. EPA completed a Small Business Advocacy Review (SBREFA) panel for its previously proposed rule for reporting and recordkeeping requirements for per- and polyfluoroalkyl substances (PFAS) under the Toxic Substance Control Act (TSCA). EPA is now seeking public comments on its IRFA, published after the proposed rule.

EPA previously certified that the proposed rule would not have a significant impact on a substantial number of small entities under the RFA. Advocacy provided public comments on the proposal to raise concerns about EPA’s RFA certification. These concerns were related to the agency’s incomplete impact estimates, expressed concerns about small businesses’ ability to comply, and recommended the agency convene a SBREFA panel to solicit small business feedback. Based on public comments and additional data sources on PFAS-containing article importers, EPA convened the SBREFA panel for the proposed rule and evaluated the economic impact of the proposed rule on small entities.

Advocacy’s is concerned that the compliance costs included in the IRFA are underestimated. In addition, EPA does not identify whether it will consider any of the regulatory flexibility alternatives discussed in the IRFA as viable policy options to address small business compliance concerns. As a result, Advocacy recommends that EPA provide less burdensome alternatives to address the disproportionate impact on small businesses in the final rule, including small manufacturer exemptions, extended compliance timelines and other flexibilities discussed in the IRFA.

A complete copy of [Advocacy’s letter to EPA](#) is available. For more information, please contact Tabby Zeb, Assistant Chief Counsel, at (202) 205-6790 or via email at Tayyaba.zeb@sba.gov.

