

## Report on the Regulatory Flexibility Act, FY 2022

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### Purpose

The Regulatory Flexibility Act of 1980 (RFA) was enacted to address the disproportionate impact of regulation on small businesses. The effects of regulatory compliance frequently fall harder on small businesses, who lack the resources of larger corporations. The RFA allows small businesses to have a say in regulatory decisions that affect them. Advocacy is directed by the RFA to monitor how well federal agencies comply with the law. The Chief Counsel for Advocacy reports on those measures through the publication of this report, which covers fiscal year 2022, from October 1, 2021 to September 31, 2022. This report also contains updates regarding agencies' compliance with the requirements of Executive Order 13272, Proper Consideration of Small Entities in Agency Rulemaking, and the Small Business Jobs Act.

### Background

The RFA requires federal agencies to consider the impact of their proposed rules on small entities, which include small businesses, small government jurisdictions, and small nonprofits. Whenever an agency cannot certify that its proposed regulations would not have a significant economic impact on a substantial number of small entities, they are required by law to consider alternative approaches that would minimize that impact while still achieving the purpose of the rule. E.O. 13272 requires agencies to take additional steps demonstrating their consideration of small entities. This year's report includes website links to each agency's procedures for implementing the RFA in their rulemakings, as required by E.O. 13272.

### Activities Promoting RFA Compliance

Advocacy monitors federal rulemakings throughout the year. The office's activities promoting RFA compliance in FY 2022 included:

- Submitting 35 comment letters to federal agencies to publicly register official comments on behalf of small businesses;
- Hosting 30 issue roundtables to discuss the issues facing small businesses; and
- Conducting RFA training at 10 agencies for 257 officials to familiarize themselves with the requirements of the RFA.

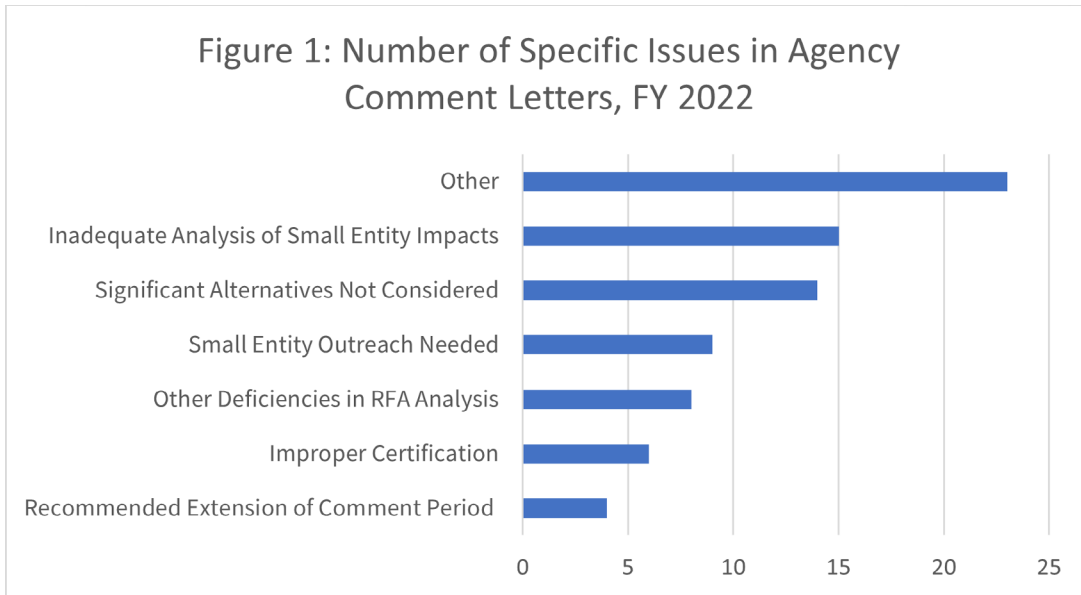
The most frequent concerns, cited in 15 comment letters, were that agencies did not adequately analyze small business impacts. In 14 cases, the agency in question failed to consider significant alternatives.

### Small Business Regulatory Success Stories

Advocacy's overall efforts to promote federal agency compliance with the RFA resulted in several specific changes to rules. These included the following:

- After Advocacy contacted the Department of Defense with concerns about the Cybersecurity Maturity Model Certification, the agency announced in November 2021 that the original framework for the model would not be implemented. These led to roughly \$62.7 million in estimated cost savings.
- Another success surrounded the Environmental Protection Agency (EPA) allowance allocation and trading program for hydrofluorocarbons (HFC). During the public comment period, Advocacy raised concerns about the cost and feasibility of the proposed ban

Figure 1: Number of Specific Issues in Agency Comment Letters, FY 2022



on disposable HFC cylinders and a new HFC reporting and tracking system.

- The Department of the Interior prepared an Equity Action Plan in response to an Advocacy letter encouraging the agency to better comply with Executive Order 13985. The plan outlines DOI’s efforts to remove barriers to access in agency programs, and per Advocacy’s request, directly provides revisions targeted toward ensuring greater equity for small entities.
- Advocacy recommended that EPA conduct a small business advocacy review panel regarding reporting requirements for perfluoroalkyl and polyfluoroalkyl substances. The EPA agreed to convene a panel to solicit feedback from impacted small businesses. The panel was completed on August 2, 2022, and EPA plans to issue an initial regulatory flexibility analysis for public comment.
- Advocacy commented on a Federal Communications Commission rule regarding improving broadband competition in multi-tenant environments. Advocacy’s letter suggested specific policies for reducing barriers to entry for broadband providers. The Federal Communications Commission adopted these suggestions, citing Advocacy’s comments in the final proceeding.

### Cost Savings Methodology

Advocacy generally bases its small business regulatory compliance cost savings estimates on agency estimates. Cost savings estimates are derived independently for each rule from the agency’s data, and accounting methods and analytical assumptions for calculating costs may vary by agency. Regulatory cost savings for a given rule are captured in the fiscal year in which the agency finalizes changes in the rule. These are best estimates to illustrate reductions in regulatory costs to small businesses as a result of Advocacy’s intervention. Initial cost savings consist of capital or recurring costs foregone that may have been incurred in the rule’s first year of implementation by small businesses. Recurring cost savings are listed where applicable as annual or annualized values as presented by the agency.

### READ THE FULL REPORT ONLINE

This report is available on the Office of Advocacy’s webpage at <https://advocacy.sba.gov>. To stay informed of Advocacy’s activities, please follow us on LinkedIn (<https://www.linkedin.com/company/u-s-small-business-administration-office-of-advocacy/>), Facebook (<https://www.facebook.com/AdvocacySBA>), or Twitter (<https://www.twitter.com/AdvocacySBA>).

