

Advocacy Comments on EPA's Proposed Asbestos Reporting Rule

On May 6, 2022, the Environmental Protection Agency (EPA) published a proposed rulemaking on reporting and recordkeeping requirements for asbestos under the Toxic Substance Control Act (TSCA). This proposed rule would impose a one-time requirement to electronically report information regarding quantity of asbestos, types of use, and employee data. The rule would apply to entities that manufactured (including imported) or processed asbestos and asbestos-containing articles (including as an impurity) in the four years prior to the date of publication of the final rule.

On July 5, 2022, the Office of Advocacy (Advocacy) filed public comments on this proposed rule. First, Advocacy is concerned that the agency has improperly certified under the Regulatory Flexibility Act (RFA). Second, Advocacy is concerned with small businesses' ability to comply with the rule due to the uncertainty in the scope and applicability. Third, Advocacy is concerned about the lack of awareness and public notice about EPA's proposed definition for small processors and the required SBA consultation.

Advocacy recommends EPA:

1. Supplement its RFA analysis to support its certification or either conduct a small business advocacy review panel or exempt small businesses from reporting for the presence of asbestos as an impurity, if unable to certify under the RFA.
2. Provide clarification with regard to the scope of the rule and consider burden-reducing compliance flexibilities for the affected small businesses.
3. Reopen the docket to allow small entities to provide feedback on its consultation with SBA on its proposed definition for small processors.

A complete copy of [Advocacy's letter to EPA](#) is available. For more information, please contact Tayyaba Zeb, Assistant Chief Counsel, at tayyaba.zeb@sba.gov.

