

## **Advocacy Comments on EPA's Proposed Hazardous Substance Designations for PFOA and PFOS under CERCLA**

On September 6, 2022, EPA proposed the designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). According to EPA, adverse human health effects, mobility, persistence, prevalence, and other factors related to PFOA and PFOS support its proposed finding that these substances, when released into the environment, may present substantial danger to the public health or welfare or the environment. The hazardous substance designation triggers a reporting requirement. Entities must immediately report releases of PFOA and PFOS that meet or exceed the reportable quantity of 1 pound or more in a 24-hour period. The entities potentially affected by this proposed action include PFOA and/or PFOS manufacturers (including importers and importers of articles), processors, downstream users of products containing PFOA and/or PFOS, waste management and wastewater treatment facilities, farms, and municipalities.

The agency provides direct costs from the rulemaking, including the reporting obligation noted above. EPA also qualitatively discusses what the agency is describing as indirect costs that include clean up and recovery costs from contaminated sites. Based only on the costs associated with reporting releases for PFOA and PFOS, EPA certifies that the rule will not have a significant economic impact on small entities.

Advocacy is concerned that EPA does not provide an adequate factual basis to support its certification under the RFA. The agency does not include all the costs associated with direct impacts of the rule. Based on feedback from small entities, Advocacy believes that those impacts will likely pose a significant economic burden on a substantial number of small entities. Therefore, Advocacy recommends that EPA convene a SBREFA panel to assess all direct costs, including those the agency mis-identifies as indirect costs, of the rule on small entities and to consider less burdensome alternatives.

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

