

## **Advocacy Comments on EPA Proposed Rule to Revise the National Contingency Plan Subpart J Product Schedule Listing Requirements**

On April 21, 2015 the Office of Advocacy (Advocacy) filed public comments with the Environmental Protection Agency (EPA) in response to the proposed rule “**Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements.**” This rule would revise the testing requirements for listing products that may be used to mitigate the effects of oil spills covered by the National Contingency Plan (NCP). EPA also proposes to limit Confidential Business Information (CBI) protections for products submitted to the NCP schedule.

- EPA certified that this rule would not have a significant economic impact on a substantial number of small entities. Advocacy questions the certification because:
  - EPA assumes the availability of financing over 20 years at seven percent interest to cover the costs of re-testing;
  - EPA does not account for the cost of research and development or the cost of being removed from the NCP schedule; and
  - EPA does not account for the value of intellectual property that must be forfeit to maintain listing on the NCP schedule.
  
- Advocacy recommends EPA re-propose this rule, after consultation with affected small businesses and after preparation of an initial regulatory flexibility analysis. Advocacy recommends EPA adopt the following flexibilities:
  - Extend the testing and compliance period.
  - Provide short-term extensions for products recently added to the schedule.
  - Retain existing CBI protections.

For more information, visit Advocacy’s website at <http://www.sba.gov/advocacy> or contact David Rostker at 202-205-6966.