

## ***Advocacy Petitions EPA to Reconsider Final Rule for Stormwater Discharges for Construction and Development Sites***

On April 20, 2010, the Office of Advocacy (“Advocacy”) submitted a rulemaking petition to the Environmental Protection Agency (EPA) asking the agency to reconsider the final rule, *Effluent Limitations Guidelines (ELG) and Standards for the Construction and Development Point Sources Category*, Docket ID No. EPA-HQ-OW-2008-0465, 74 Fed. Reg. 62996 (December 1, 2009), and issue a new standard. Advocacy also suggested that EPA could take notice and comment on a new ELG, after consideration of this new information, instead of re-promulgating a new standard.

A copy of Advocacy’s letter to EPA can be found at [www.sba.gov/advo/laws/comments](http://www.sba.gov/advo/laws/comments). EPA’s proposed rule regulates stormwater discharges for construction and development sites. Small firms make up 97.7 percent of the construction and development industry.

- EPA’s final rule is extremely costly to small construction firms, provides minimal environmental improvement, and adversely affects housing affordability for millions of Americans.
- Advocacy identified errors in the data review and analysis that contributed to a stringent numeric standard of 280 nephelometric turbidity units (NTU). Public comment on the data and methodology would have helped improve the rule.
- The most significant concern is that EPA misinterpreted vendor data from a construction site in Seattle, Washington, as representing 15, instead of 3, pretreatment systems. This correction alone would drive the limit to approximately 500 NTU.
- On February 26, 2009, Advocacy submitted comments on the proposed rule. Advocacy endorsed an “action level” approach as one of two desirable regulatory outcomes. An action level does not require the site to achieve any specific numeric limit, but would require the facility to take further action to minimize sediment runoff once the action level is exceeded. Advocacy still supports the action level approach as the most appropriate alternative to the final ELG. A copy of Advocacy’s letter to EPA can also be found at [www.sba.gov/advo/laws/comments](http://www.sba.gov/advo/laws/comments).

For more information, visit SBA’s website at [www.sba.gov/advo](http://www.sba.gov/advo) or contact Assistant Chief Counsel Kevin Bromberg by email at [Kevin.Bromberg@sba.gov](mailto:Kevin.Bromberg@sba.gov) or by phone at (202) 205-6964.