Advocacy Urges FAA to Further Analyze Small Entity Impact of the Proposed Rule on Drug and Alcohol Misuse Prevention Programs

On August 16, 2004, the U.S. Small Business Administration's Office of Advocacy (Advocacy) filed comments on the Federal Aviation Administration's (FAA) proposed rule requiring contractors and subcontractors at any tier to establish mandatory alcohol and drug testing programs for employees performing maintenance functions for the aviation industry. A copy of Advocacy's letter can be found at: www.sba.gov/advo/laws/comments.

- In a supplemental notice of proposed rulemaking, the FAA makes clear that the proposed rule requires repair stations, contractors, and subcontractors at any tier to establish mandatory drug and alcohol testing programs if their work is "safety-sensitive," resulting in a far broader application of current requirements.

- Under the new rule, many small shops, such as machine shops, parts fabricators, chrome plating and other metal finishing shops, and others will be required to establish expensive testing programs.

- The FAA did not take into account these other industries in its economic analysis of the rule and certified that the proposed rule would not have a significant economic impact on a substantial number of small entities.

- The full extent of the economic impact is uncertain because of data inadequacies in the certification.

- Advocacy recommends that the FAA do a full initial regulatory flexibility analysis, expand the analysis to small entities outside the aviation industry, provide more specific data on the economic impacts on these small entities, and further explain the criteria by which it determined that the rule would not have a significant economic impact on a substantial number of small entities.

For more information, visit Advocacy's webpage at: www.sba.gov/advo or contact Charles Maresca at 202-205-6978.