

Via Electronic Mail

March 17, 2005

Mr. Alexander Cristofaro (MC-1804A)  
Small Business Advocacy Chair  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

**Subject: SBAR Panel for Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone and Section 126 Petition from North Carolina to Reduce Interstate Transport of Fine Particulate Matter and Ozone rules (a.k.a., CAIR FIP/126)**

Dear Mr. Cristofaro:

I have received your letter dated March 2, 2005 regarding the Environmental Protection Agency's intent to convene two concurrent Small Business Advocacy Review Panels for forthcoming regulatory proposals entitled Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone and Section 126 Petition from North Carolina to Reduce Interstate Transport of Fine Particulate Matter and Ozone rules (a.k.a., CAIR FIP/126), under § 609(b) of the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Having examined the list of suggested small entity representatives, Advocacy suggests that you contact other potential small entity representatives to obtain some additional geographic coverage. In addition, we suggest the addition of Theresa Pugh, representing the American Public Power Association (see attachment).

**Next Steps**

We understand that the agency plans to re-evaluate whether the proposals would have a significant impact on a substantial number of small entities. If the agency finds no such impact, a Panel would not be required under SBREFA. In order to make such a finding, the agency would need to provide a factual basis for such a certification in the proposed rule, as required under § 605(b) of the RFA. If a Panel were convened, a final Panel report would be prepared.

If a Panel is warranted, we ask that EPA provide, in advance of the convening of the Panel, supporting materials and possibly a draft regulatory analysis and/or draft rule (see RFA §609(b)(4)), in order to allow sufficient review time by Panel members. We also strongly recommend that the agency hold several pre-Panel meetings in accordance with the most current EPA SBREFA guidance to assure that adequate and timely information and data is provided to the small entity representatives and the panel representatives.

Sincerely,

Thomas M. Sullivan  
Chief Counsel for Advocacy

Enclosure

cc: The Honorable John Graham,  
Administrator, Office of Information and Regulatory Affairs  
Office of Management and Budget

**ADDITION:**

Theresa Pugh  
Director  
Environmental Services  
American Public Power Association (APPA)  
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