

May 31, 2001

Thomas E. Kelly (MC-2131)  
Small Business Advocacy Chair  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460

**Subject: Effluent Elimination Guidelines and Standards for the Construction and Development Category; Small Entity Representative Recommendations**

Dear Mr. Kelly:

I received your letter on May 16, 2001 regarding **Effluent Elimination Guidelines and Standards for the Construction and Development Category**, notifying us of the possibility of convening a Small Business Advocacy Review Panel under §609(b) of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996.

After discussions with EPA about the list of small business representatives, we agree with the list that EPA has provided as an attachment to the formal notice letter. We believe that EPA should consider adding several more representatives to insure adequate geographic representation, because the stormwater controls would vary for different climates within the United States.

**Next Steps**

We understand that the agency plans to re-evaluate whether the proposal 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. 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 look forward to reviewing the outreach materials now being drafted by the agency. It is important that adequate and timely information and data is provided to the small entity representatives and the panel representatives. We hope to work with the agency to finalize the information for the formal small entity representatives before the convening of the panel, now expected in early July.

Sincerely,

Susan M. Walthall

Thomas E. Kelly

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Acting Chief Counsel for Advocacy

cc: Art Fraas, OMB