

October 9, 2002

Mr. Thomas E. Kelly (MC-2131)  
Small Business Advocacy Chair  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

**Subject: Cooling Water Phase III; Small Entity Representative Recommendations**

Dear Mr. Kelly:

I received your letter on September 23, 2002 regarding **Cooling Water Phase III**, 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 the U.S. Environmental Protection Agency (EPA) about the list of small business representatives, we agree with the list that your office has provided as an attachment to the formal notice letter. In addition, as EPA knows, we are still looking for additional representatives from the chemical, paper, and steel industries.

We understand that EPA 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 is convened, a final Panel report will be prepared.

If a Panel is warranted, we ask that EPA provide, in advance of convening 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. 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 EPA to finalize the information for the formal small entity representatives before convening the Panel later this month.

Sincerely,

Thomas M. Sullivan  
Chief Counsel for Advocacy

cc: Arthur G. Fraas, Chief  
Natural Resources, Energy & Agriculture Branch,  
Office of Information and Regulatory Affairs, Office of Management and Budget