

CHRISTOPHER S. BOND, MISSOURI, CHAIRMAN

CONRAD R. BURNS, MONTANA  
PAUL COVERDELL, GEORGIA  
ROBERT F. BENNETT, UTAH  
OLYMPIA J. SNOWE, MAINE  
MICHAEL ENZI, WYOMING  
PETER G. FITZGERALD, ILLINOIS  
MIKE CRAPO, IDAHO  
GEORGE V. VOINOVICH, OHIO  
SPENCER ABRAHAM, MICHIGAN

JOHN F. KERRY, MASSACHUSETTS  
CARL LEVIN, MICHIGAN  
TOM HARKIN, IOWA  
JOSEPH I. LIEBERMAN, CONNECTICUT  
PAUL D. WELLSTONE, MINNESOTA  
MAX CLELAND, GEORGIA  
MARY LANDRIEU, LOUISIANA  
JOHN EDWARDS, NORTH CAROLINA

# United States Senate

COMMITTEE ON SMALL BUSINESS  
WASHINGTON, DC 20510-6350

EMILIA DISANTO, STAFF DIRECTOR  
PATRICIA R. FORBES, DEMOCRATIC STAFF DIRECTOR

May 20, 1999

The Honorable David M. Walker  
Comptroller General  
of the United States  
Washington, D.C. 20548

Dear Mr. Walker:

My purpose in sending this letter is to request the General Accounting Office (GAO) to examine the operation and activities of the Environmental Protection Agency's (EPA/Agency) Regional offices.

EPA operates and maintains 10 Regional offices in addition to its Headquarters office. The Regional offices are intended to be sensitive to local environmental concerns. Over time they have developed a certain degree of autonomy amongst their fellow Regional offices and Headquarters counterpart. At the same time, the Agency has increased its usage of performance partnership agreements and grants giving states increased flexibility in how they use Federally provided resources to address environmental problems in their own state. However, with the inherent advantages arising from autonomy and flexibility comes the added EPA burden and duty to apply environmental standards and requirements fairly and consistently across the country. Put more basically, EPA must ensure that like violations and regulatory issues are treated similarly regardless of location or agency boundaries.

Over time EPA's Inspector General (IG) has documented numerous cases of inconsistent Regional enforcement activities resulting in varied penalty sizes and numbers of enforcement actions taken, as well as, differences in reporting serious violations. The IG cited the air, Superfund and water programs in 1998 alone. Inconsistent enforcement can result in (1) reduced levels of environmental protection that puts public health and the environment at increased risk of damage, and (2) unfair treatment of industry, where enforcement consequences are more a function of locale than conduct. In the latter case, small businesses are particularly vulnerable to inconsistent Federal regulation given their relatively limited level of resources with which to respond to such treatment.

Additionally, I request that the GAO evaluate the timeliness and effectiveness of EPA efforts to address identified problems in its Regional enforcement program area. In 1996, EPA's IG reported on oversight problems between Region III and Pennsylvania resulting in underreporting of significant air violators in that state. The Assistant Administrator of the Enforcement and Compliance Assurance program stated at the time that "if unaddressed, the problems identified by the IG would gravely injure our ability to protect human health and the environment."

The Honorable David M. Walker

Page 2

Unfortunately, a spate of meetings, conference calls and senior management visits did not correct the problems. In 1998, the IG found the same problems in Region X's handling of Washington and Idaho. According to the IG, EPA failed to take any of the actions developed and planned by EPA to address the underreporting problems - fully 18 months after EPA developed the plan.

The scope and depth of these problems requires that GAO place a priority on conducting this review. The EPA IG has performed very able evaluations of individual programs across country. A more holistic program evaluation is now required of all the EPA Regions including a review of consistency in the application and interpretation of applicable law in terms of Regions and states, enforcement activities, policy and regulatory disputes, and media programs affected. I request further that GAO evaluate the EPA actions taken or not taken to address already identified inconsistencies, as well as, program wide efforts to change culture, attitude or ways of doing business to ensure new problems do not occur. GAO should also provide examples of successful strategies either implemented already or which the Agency could implement to resolve these inconsistencies.

This review is critically important to the small business community, regulated communities at large as well as EPA's state partners. Consequently, please ensure completion of this report for a hearing to be scheduled on or about February 1, 2000. Please contact either Suey Howe or John Stoodly at 224-5175 if you have any questions regarding this request. Thank you in advance for your assistance in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive style.

Christopher S. Bond  
Chairman