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United States Senate

COMMITTEE ON SMALL BUSINESS
WASHINGTON, DC 20510-6350

October 15, 1999

Honorable Carol M. Browner
Administrator
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Administrator Browner:

The purpose of this letter is to request that the U.S. Environmental Protection Agency (EPA/Agency) withdraw its TRI Lead Rule until the Agency gives proper consideration to the rule's impacts on small businesses. In this case, EPA appears to have short-circuited and circumvented its obligation to consider the rule's impacts on small businesses as required by the Red Tape Reduction Act.

The Red Tape Reduction Act, otherwise known as the Small Business Regulatory Enforcement Fairness Act (SBREFA), obligates EPA to consider the impacts of its proposed rulemakings on small businesses. SBREFA requires the Agency to conduct outreach to small businesses and hold a small business panel review process, unless EPA can certify that its proposed rule will not have a "significant economic impact on a substantial number of small entities." In making the decision about whether to certify no significant impact, the Agency has an obligation to collect the information necessary and analyze the data in a way which will honestly determine the level of small business impact.

EPA's certification that not a single small business will be significantly impacted by this rule is based on inadequate information, flawed analysis and frankly defies common sense. Among other things, EPA admits conducting no outreach regarding this rule. EPA contacted only a handful of groups to gather information for its economic analysis of the impacts of this rule. Several among those groups, such as representatives for Ford Motor Company and General Motors, do not represent small businesses. In other cases, the contacts were made months after EPA completed its economic analysis. EPA also made faulty assumptions in its analysis including grouping small businesses together with big manufacturers such as steel mills, iron foundries and petroleum refineries and thereby skewing the results to a finding of no significant impact on small businesses.

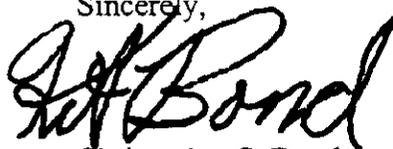
EPA's near total failure in its SBREFA obligations in this case necessitates that EPA withdraw the proposed TRI Lead Rule immediately and perform a thoughtful and comprehensive analysis of the rule's small business impacts consistent with the letter and spirit of SBREFA. In reaction to EPA's decision effectively to disregard SBREFA in this case, I have scheduled tentatively a hearing on EPA's SBREFA Failure for October 28, 1999 before the Small Business Committee. I will go forward with that hearing unless EPA withdraws this rule immediately.

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You, of course, will be given an opportunity to explain fully the Agency's failures in this regard. Your testimony will follow, among others, small businesses which will be significantly impacted by this rule.

EPA has a legal obligation to consider and incorporate the needs of small businesses while meeting our environmental goals. EPA can no longer effectively disregard consideration of the needs of small businesses as mandated by the applicable law. If you have any questions on this matter, please contact John Stody or Marc Freedman of my staff at 224-5175. Thank you in advance for your attention to this issue.

Sincerely,

A handwritten signature in black ink that reads "Jeff Bond". The signature is written in a cursive, slightly slanted style.

Christopher S. Bond
Chairman