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United States Senate

COMMITTEE ON SMALL BUSINESS
WASHINGTON, DC 20510-6350

October 28, 1999

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

Dear Mr. Walker:

The purpose of this letter is to request that the General Accounting Office (GAO) examine the adequacy of efforts by the U.S. Environmental Protection Agency's (EPA/Agency) Office of Prevention, Pesticides and Toxic Substances (OPPTS) to consider the small business impacts of its proposed regulations. The Red Tape Reduction Act and EPA's own guidance and policies obligate the Agency to consider a proposed rule's impacts on small businesses and tailor the rule to minimize those impacts while still meeting the rule's environmental goals.

The Committee on Small Business (Committee) uncovered troubling findings while reviewing OPPTS's small business efforts during promulgation of the Toxic Release Inventory (TRI) Lead rule. OPPTS appears to have short-circuited and circumvented its small business obligations while researching and drafting the rule. OPPTS failed to conduct outreach to small businesses for this rule. OPPTS contacted only a handful of small business groups to gather information for its impact analysis. Most seriously, the assumptions and methodology OPPTS used to certify the lack of significant small business impact by this rule were so fundamentally flawed as to make an accurate determination of small business impacts impossible.

While EPA has now committed to further small business outreach and consultation for the TRI Lead rule which may lead to decertification and reproposal of the rule, an initial examination of OPPTS performance during other rulemakings suggests a systemic failure to meet small business obligations during rule promulgation may exist. The TRI Persistent Bioaccumulative Toxics rule finalized recently by OPPTS shares the same fundamentally flawed impact analysis as the TRI Lead rule. Additionally, OPPTS has yet to conduct a single Small Business Advocacy Review Panel for any of its rules.

For these reasons, the Committee requests that GAO review the adequacy of OPPTS efforts to meet their small business obligations under the Red Tape Reduction Act and EPA small business guidance and policy. Please contact Marc Freedman or John Stoodly of the Committee at 224-5175 if you have any questions regarding this request. Thank you in advance for your assistance in this important matter.

Sincerely,



Christopher S. Bond
Chairman