

August 8, 1997

Ms. Carol M. Browner
Administrator
United States Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Administrator Browner:

Enclosed for your consideration is the Report of the Small Business Advocacy Review Panel convened for EPA's proposed rulemaking entitled **"Effluent Limitations Guidelines and Pretreatment Standards for the Industrial Laundries Point Source Category."** These proposed regulations are currently being developed by the Environmental Protection Agency (EPA) under Clean Water Act sections 304 and 307. They will control the discharge of pollutants that pass through or interfere with the operation of publicly owned treatment works (POTWs) by establishing, for the first time, pretreatment standards for industrial laundries.

The Panel was convened on June 6, 1997, by EPA's Small Business Advocacy Chairperson (Thomas E. Kelly) under Section 609(b) of the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition to its chairperson, the Panel consists of Sally Katzen, Administrator of the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs; Jere W. Glover, Chief Counsel for Advocacy of the Small Business Administration (SBA); and Tudor Davies, Director of the Office of Science and Technology in EPA's Office of Water.

It is important to note that the Panel's findings and discussion are based on the information available at the time this report was drafted. EPA is continuing to conduct analyses relevant to the proposed rule, and additional information may be developed or obtained during the remainder of the rule development process and from public comment on the proposed rule. Any options the Panel identifies for reducing the rule's regulatory impact on small entities may require further analysis and/or data collection to ensure that the options are practicable, enforceable, environmentally sound and consistent with the Clean Water Act.

Summary of Small Entity Outreach

The proposed pretreatment standards for industrial laundries would apply to facilities that launder industrial textile items from off site as a business activity (i.e., launder industrial textiles items for other business entities for a fee or through a cooperative arrangement), unless they are covered by one

of the specific exclusions discussed below.

Industrial textile items include, but are not limited to: shop towels, printer towels, furniture towels, rags, mops, mats, rugs, tool covers, fender covers, dust-control items, gloves, buffing pads, absorbents, uniforms, filters and clean room garments. This rule would not apply to laundering exclusively through dry cleaning; laundering exclusively of linen items (such as sheets or blankets), denim prewash or other new items; oil-only treatment of mops; or to on-site laundering at industrial facilities (e.g., laundering of industrial textile items originating from the same business entity).

Since the inception of this project in 1992, EPA has solicited input from the industry, other federal agencies, the States, municipalities, and the environmental community to ensure the quality of information, understand potential implementation issues, and explore regulatory alternatives. EPA has performed over 35 site visits to industrial laundry facilities, including small businesses, and has participated in numerous meetings, seminars and workshops that included substantial small business representation. A more complete summary of EPA's outreach activities is contained in the final Panel report.

In January of this year, EPA decided that it would convene a Small Business Advocacy Review Panel for this proposal due to the large number of small businesses potentially affected by the regulation. In February, seven small entity representatives (SERs) were identified by EPA to formally advise the Panel on this proposed rulemaking. Throughout the development of the proposed rule, EPA has involved these SERs in many aspects of regulatory development from questionnaire design to identification of regulatory options and compliance issues. An additional SER identified by the SBA Chief Counsel for Advocacy and one identified through a public meeting in March were included in recent outreach activities directed toward reviewing the projected impacts of the proposal on small businesses and advising the Panel on regulatory alternatives to minimize these impacts. The SERs were sent extensive background materials about the industrial laundries industry and the proposed regulation. A meeting for the SERs was held on April 15, 1997, to discuss the background materials and provide an opportunity to submit initial comments. Specific times were set aside during their eleven week review and comment period to answer questions and provide clarification as needed. Additional information that was requested by the Panel was also provided to the SERs in early June. They were given another opportunity to provide their comments directly to Panel members during a conference call on June 19, 1997. At the request of the Panel, EPA then performed additional analysis of regulatory alternatives and provided this analysis to the SERs for comment on June 27, 1997.

Altogether, six SERs provided written comments to the Panel. The full Panel Report lists the SERs; summarizes their comments, oral and written; and appends their written comments and the materials provided to the SERs. In light of these comments, the Panel considered the regulatory flexibility issues specified by RFA/ SBREFA and developed the findings and discussion summarized below.

Panel Findings and Discussion

Under the RFA, the Panel is to consider four regulatory flexibility issues related to the preparation of an Initial Regulatory Flexibility Analysis (IRFA) to determine potential impact of the rule on small entities: (1) the type and number of small entities to which the rule will apply; (2) record keeping, reporting and other compliance requirements applicable to those small entities; (3) the rule's interaction with other Federal rules; and (4) regulatory alternatives that would minimize the impact on small entities consistent with the stated objectives of the statute authorizing the rule. The Panel's findings and discussion with respect to each of these issues are summarized below.

Type and Number of Affected Small Entities. As indicated above, the types of small entities to which the rule would apply include small entities that launder industrial textile items from off site as a business activity. Based upon a survey of the industry, EPA anticipates that an estimated 903 firms, representing approximately 1,747 facilities are involved in the commercial laundering of industrial textile items. Of these 903 firms, 837 (93%) are small businesses under SBA's small business definition for this industry. These 837 small firms operate 900 facilities. SBA's size standards define "small business" for SIC 7218 and 7213 as firms with less than \$10.0 and \$10.5 million in annual revenues, respectively. EPA's IRFA for the industrial laundries regulation uses the higher of these two revenue thresholds.

EPA examined possible exclusions from the regulation to eliminate significant and disproportionate adverse economic impact on the smallest facilities (in terms of production and processing of heavily contaminated textiles) without compromising environmental benefits, and suggested an exclusion for facilities with less than 1 million pounds of total production and less than 255,000 pounds of "heavy" items (shop/printer towels) annually. Under this option, 141 of the 1,747 facilities, accounting for about 2% of the pollutant removals that would be achieved without an exclusion, would be exempted. An estimated 69 small firms would still incur compliance costs exceeding three percent of revenues (one of the criteria used by EPA in its small entity impact assessment), and 33 individual facilities affiliated with small firms would still be projected to close. SERs generally favored such an exclusion, but recommended that it apply to a larger number of facilities. The SERs also expressed concern about increased competition as a result of the rule from on-site laundries (e.g., self-laundering by industrial facilities of their own textile items) and disposable items, neither of which is covered by the proposed rule. The Panel notes that EPA generally regulates on-site laundries as part of the facility-wide effluent guidelines of the industries that operate them, and disposable items under its solid waste program. At the same time, the Panel agrees that the existence of these alternatives contributes to the need to consider regulatory relief for those small facilities that are contributing relatively little of the total pollutant loadings and can least afford expensive new treatment technology.

Record keeping, Reporting and other Compliance Requirements. The proposed rule contains no specific record keeping or reporting requirements. Monitoring for compliance with the limitations

being established on eleven pollutant parameters will be determined under existing Title 40 of the Code of Federal Regulations Part 403.

Interaction with Other Federal Rules. The Panel received comments that the proposed rule may impose or involve new Resource Conservation and Recovery Act (RCRA), Superfund and Clean Air Act liabilities, compliance costs, and burden for laundries. The Office of Solid Waste (OSW) is currently examining the use of shop towels and the disposal of “disposable” shop towels for potential regulation as a hazardous waste under RCRA. The Panel recommends that any new requirements imposed on customers of laundries as a result of this proposed rule and the OSW effort be coordinated.

Regulatory Alternatives. The Panel received comments supporting the exclusion of small industrial laundries (using various definitions of small), as well as some suggesting that no further regulation of the industry is needed because it is already subject to oversight by local POTWs. During the course of the Panel discussions, EPA evaluated various small business exclusion options, including its preferred option based on 1 million pounds of total production and 255,000 pounds of shop/printer towel production annually. In light of the range of predicted economic and environmental effects, and concerns that EPA may have overestimated pollutant loadings from and underestimated economic impact on small businesses (see report for more detail), the Panel discussed several production based exclusion options with higher thresholds than the one initially suggested by EPA. In discussing these options the Panel considered, among other factors, the total pollutant loadings from the industry, the cost effectiveness of pollutant removals, and the fact that all facilities are indirect dischargers and thus already potentially subject to local limits set by POTWs. Throughout the Panel discussions, EPA maintained that the 1 million/255,000 pound combination was the most appropriate for the proposed rule based upon analysis to date. EPA agreed with other Panel members that exclusion options based upon higher production thresholds are worthy of serious consideration, but expressed concerns that further analyses might not be completed in time for consideration in advance of proposal, given its Court ordered deadline of September 30, 1997. The Panel thus recommends that EPA summarize its analysis of alternative exclusion options in the preamble to the proposed rule and solicit comment on a range of alternative small business exclusions, specifically including total production limits of from 3 to 5 million pounds annually and “heavy” (or shop/printer towel) production limits of from 250,000 to 500,000 pounds. The Panel also recommends that EPA complete analyses evaluating five specific additional small business exclusion options (described in the report) and other appropriate options for future consideration in the regulatory development process. The Panel further recommends that EPA solicit comment on the option of not regulating all or part of this industry.

Finally, the Panel report discusses several methodological issues involved in the determination of economic impacts on small businesses. SBA and OMB recommend that EPA consider additional or alternative methodologies for projecting facility closures, for determining facility cash flow, and for evaluating the full impacts of the regulation on facilities that appear not to be profitable even without the additional compliance costs imposed by the regulation. EPA maintains that its current analysis is sound,

but agrees to explore these issues further. It also plans to consider alternate calculations of compliance costs, including the use of alternate interest rates and amortization periods, and will modify analytical assumptions, as appropriate, based upon data received subsequent to proposal.

In addition to the above package of regulatory alternatives, the Panel believes EPA should carefully consider all comments received during this outreach process on these and other issues of concern to small entities. A full discussion of comments received and Panel recommendations are included in the final report.

Sincerely,

/S/

Thomas E. Kelly, Chair
Small Business Advocacy
U.S. Environmental Protection Agency

/S/

Sally Katzen, Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

/S/

Jere W. Glover
Chief Counsel for Advocacy
U.S. Small Business Administration

/S/

Tudor T. Davies, Director
Office of Science and Technology
Office of Water
U.S. Environmental Protection Agency

Enclosure