

Congress of the United States

Washington, DC 20515

Sign Letter urging EPA to follow their original guidelines and exempt foundries from NSPS rules

Dear Colleague,

Recently, Region V of the EPA has begun enforcement action against foundries for being in violation of New Source Performance Standards (NSPS), Subpart UUU. This recent and selective enforcement is in direct contradiction to the previous EPA position of specifically exempting foundries from regulation under this rule. The cost of compliance and the uncertainty of enforcement create significant obstacles for foundries, many of which are small businesses. To help protect the foundries that contribute to the economy in our districts, we urge you to join us signing the below letter urging the EPA to exempt foundries from NSPS Subpart UUU regulations.

Roughly 2000 foundries throughout the United States produce critical materials used in over 90% of manufactured products, from components for the defense and energy sectors to medical equipment and consumer goods. Despite their importance to the American economy, most foundries remain small businesses, with roughly 80% of foundries having 100 employees or less. In order to operate, foundries use considerable amounts of sand, reusing when possible, and often recycling used sand into cement, mortar, and asphalt. NSPS, Subpart UUU specifically applies to mineral processing industries, and the original rule in 1992 never listed foundries as a regulated industry. During the 2008 rulemaking, the EPA specifically proposed to exempt foundries. In 2009 the EPA decided against making a final determination on this issue. However the EPA decided against initiating any enforcement action against foundries.

The recent EPA action against foundries threatens many of these small businesses, who are seeking clarification and are concerned about the costs of enforcement. We urge you to join us in signing the attached letter to Administrator Perciasepe, and if you have any questions you may contact Alek Vey in Rep. Fleischmann's office at alek.vey@mail.house.gov or Jordan Wells in Rep. Peters' office at Jordan.wells@mail.house.gov.

Sincerely,



Chuck Fleischmann
Member of Congress



Gary Peters
Member of Congress

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Acting Administrator:

We are seeking clarification regarding the Environmental Protection Agency's (EPA) New Source Performance Standard (NSPS), Subpart UUU (40CFR, Part 60) for Calciners and Dryers in Mineral Processing Industries and recent enforcement actions against U.S. foundries. Specifically, we are concerned about why: a) EPA is enforcing the provisions of Subpart UUU against foundries when it never intended to include these type of facilities as a source category since metalcasting is not a mineral processing industry; and, b) why EPA has failed to promulgate an exemption for foundries from NSPS, Subpart UUU consistent with the original intent of the rule.

It is our understanding that it was not the EPA's intention to subject the foundry industry to this NSPS rule as metal casting is a separate industry from the mineral processors that Subpart UUU was intended to regulate. Furthermore, the original NSPS, Subpart UUU rule which was finalized in September 1992, did not list foundries as an affected industry nor did it designate applicable foundry Standard Industrial Classification (SIC) codes.

On April 22, 2008 (73 Fed. Reg. 21559), EPA proposed a regulation to specifically exempt foundries from the requirements of Subpart UUU (in part because the Agency never intended to cover foundries). The proposed regulatory language that EPA agreed to stated that, "processes used solely for the reclamation and reuse of industrial sand from metal foundries" shall be exempt from the requirements of Subpart UUU in the final rule. In April 2009 (74 Fed. Reg. 19294), EPA issued the final rule for Subpart OOO and noted in the preamble that it was not taking final action on the proposed revisions to Subpart UUU. It is our understanding that in subsequent discussions with EPA officials following the decision to take no final action on the exemption for foundries, EPA enforcement officials agreed that the Agency would not initiate enforcement actions against foundries for Subpart UUU requirements and would address the issue with individual facilities at the time of permit renewal.

In addition, EPA regions across the country have taken inconsistent positions on whether Subpart UUU should apply to foundry sand reclamation and reuse processes at foundries. Recently EPA Region V has initiated enforcement actions against foundries that included violations of Subpart UUU requirements. Although the recent enforcement actions are currently limited in geographic scope to this region, we have significant concerns that enforcement efforts will be expanded to other areas in the country. As the EPA originally intended to exempt foundries from this regulation, we believe this new enforcement action is misguided.

EPA's recent efforts to impose Subpart UUU requirements on units used solely for the reclamation and reuse of industrial sand from foundries creates an unnecessary regulatory burden, uncertainty and increased costs for foundries. EPA Region V has initiated enforcement actions, even though the record is clear that Subpart UUU should not apply to foundries.

By way of background, foundries are essential to the U.S. economy. Every sector relies on metal castings, with 90 percent of all manufactured goods and capital equipment incorporating engineered castings into their makeup. They produce castings that are integral to the automotive, construction, energy, aerospace, agriculture, plumbing, manufacturing, and national defense sectors. The American foundry industry provides employment for over 200,000 men and women directly and sustains thousands of other jobs indirectly. The industry supports a payroll of more than \$8 billion and sales of more than \$36 billion annually. Metalcasting plants are found in every state, and the industry is made up of predominately small businesses. Approximately 80 percent of domestic metalcasters have fewer than 100 employees.

Foundries utilize millions of tons of sand each year – these processing units serve to reclaim and reuse the sand. This process should be encouraged because they provide significant environmental benefits. Additionally, sand systems at foundries are already controlled by other air regulations.

It is clear to us that EPA's original rule did not intend for foundries to have to comply with NSPS, Subpart UUU. Consistent with its original intent of Subpart UUU, EPA must finalize a regulation to exempt foundries from the applicability of this regulation. Please provide a detailed explanation of how and when EPA plans to promulgate an exemption for foundries from NSPS, Subpart UUU. We appreciate your attention to this matter and look forward to your timely response.

Sincerely,