



American Foundry Society

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February 22, 2017

The Honorable John Barrasso
307 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

On behalf of the American Foundry Society (AFS), thank you for your interest in the impact of the wave of federal regulatory mandates facing the U.S. metalcasting industry. Unnecessarily burdensome regulations place manufacturers of all sizes at a competitive disadvantage with our global counterparts. AFS believes our ability as an industry to compete in a global market, and preserve and create good paying domestic manufacturing jobs is directly related to our ability as a nation to strike the right balance with respect to government regulation.

Our industry recognizes that regulations are critical and necessary to protect the environment, health and safety, but we need a regulatory system that effectively meets its objectives while supporting innovation and economic growth. Metalcasters work diligently to comply with regulations handed down from Washington. Too often, these rules are too complex and not technologically and/or economically feasible. The burden of environmental regulation falls disproportionately on manufacturers, and it is heaviest on small manufacturers because their compliance costs often are not affected by economies of scale.

AFS is the leading trade and technical association for the North American metalcasting industry with over 7,000 members. Metal castings are the foundation for all other manufacturing. In fact, 90 percent of all manufactured goods incorporate engineered castings into their makeup. We produce castings which are made from iron, steel and/or aluminum. These critical components, have thousands of applications and are used in cars, trucks, airplanes, ships, defense, all types of machinery, air conditioners, street lights, refrigerators, lawn mowers, medical devices, oil and gas field equipment, water works, railroads, mining and agricultural equipment. There are nearly 2,000 foundries in the U.S. employing over 200,000 employees. Over 80 percent of our members employ less than 100 employees.

AFS is eager to work with the Congress and new Administration and urge you to review following burdensome regulations expeditiously to help ensure the vitality of the metalcasting industry:

Top Regulatory Burdens Facing the U.S. Metalcasting Industry

Workforce

- **OSHA's Crystalline Silica Rule** – In March 2016, the Occupational Safety and Health Administration (OSHA) issued a final rule which will negatively harm the metalcasting industry, as well as the construction, ship building brick and hydraulic fracturing, and the economy, while doing little to improve the health and safety of industry workers. The rule will cost our alone industry more than \$2.2 billion annually—more than 50 times OSHA's inaccurate estimates. This rule should be withdrawn, and OSHA should instead fully implement and enforce the current law.

Energy

- **EPA Greenhouse Gas (GHG) Emissions from Electric Generating Utilities** – In 2015, the U.S. Environmental Protection Agency (EPA) finalized new rules designed to limit GHG reductions from both existing and new power plants. The rule for existing plants mandates a 32 percent reduction in CO₂ emissions from the electric power sector by 2030, compared to 2005 levels. The final rule for newly constructed power plants will effectively require use of carbon capture and sequestration (CCS) technology to achieve these emissions goals, even though these control technologies have not yet been demonstrated to be commercially viable. As a significant energy consumer, the rules could substantially increase energy costs for metalcasters and potentially disrupt the reliability of the energy grid. Both rules are currently under litigation and subject to a stay issued by the U.S. Supreme Court pending judicial review. EPA should withdraw the rule and develop a more cost effective, reliable and feasible approach to reduce CO₂ emissions to an appropriate level.

Environment

- **Residual Risk and Technology Review (RTR) for Iron and Steel Foundry NESHAP for Major Sources** – Air emissions from iron and steel foundry major sources are subject to the national emissions standards for hazardous air pollutants (NESHAP). EPA must conduct a residual risk and technology review (RTR) for all NESHAPs eight years after promulgation.

The iron and steel foundry NESHAP is now due for this review. Recently, EPA has issued more stringent revised NESHAPs for several industry source categories, even though the RTR process determined that the risks associated with the controlled emissions from these sources were acceptable and that no new control technologies were identified. This regulatory overreach is not consistent with the letter and intent of the Clean Air Act (CAA), but nonetheless have been upheld by federal appeals courts applying the Chevron doctrine giving great deference to the actions of federal agencies, including EPA. AFS requests that Congress urge the EPA to implement the RTR process for iron and steel foundries that is consistent with the letter and intent of the CAA.

- **Stormwater Management** – Metalcasters, operate under a multi-sector general permit, as is the case for most industrial stormwater dischargers, and must implement best management practices (BMPs) to meet stormwater benchmark concentration levels. If a benchmark level is exceeded, facilities must review their BMPs and determine if additional BMPs must be implemented or if other corrective measures are needed. Many of the benchmark concentration levels for metals have been set so low that it may not be possible for metalcasting operations to meet the benchmarks. In fact, many are so low that nearly all residential and commercial stormwater discharges would exceed them. As a result, many metalcasting operations could face unnecessary enforcement issues, even though their stormwater discharges are effectively controlled with BMPs. EPA needs to provide for flexibility in and for enforcing them as permit levels. If left unchecked this permit process will be never-ending, extremely burdensome, and very expensive for our industry.
- **Startup, Shutdown and Malfunction (SSM) Provisions** – The CAA provides for some affirmative defenses for facilities that may exceed air emission limits during temporary periods of startup, shutdown and malfunction (SSM). The U.S. Court of Appeals for the D.C. Circuit vacated the rule that allows facilities to exceed applicable hazardous air pollutant emissions standards during periods of startup, shutdown and equipment malfunctions (SSM).

EPA is also in the process of removing these SSM provisions as part of its residual risk and technology reviews (RTRs) for NESHAPs. In June 2015, EPA issued a final rule requiring states to revise their state implementation plans (SIPs) to control excess air emissions during periods of SSM and submit revised plans that address new SSM provisions to EPA for approval by November 22, 2016 (SIP Call Rule), and this rule has been challenged in federal court. States and industry groups claim that: 1) EPA does not have the authority to ban affirmative defense for SSM, 2) it is not practical for facilities to comply with emissions standards during periods of SSM, and 3) it will lead to unnecessary violations for emissions over which facilities have no control. The problem for metalcasting facilities is that even with the best control technologies, emissions may exceed the regulatory standard temporarily during these periods of startup, shutdown and malfunction, despite the fact that facilities may have an SSM plan in place to address these occurrences. Without some relief, facilities will be subject to enforcement actions that are beyond their control and state regulatory authorities may be faced with an unnecessary and unwanted administrative burden of enforcing such events.

- **National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM_{2.5}) Air Emissions** – In Dec. 2012, EPA finalized its update to the PM_{2.5} rule. The recent changes to the PM_{2.5} standards were set so low that many areas in the country, including some rural areas with no industrial operations, have background PM_{2.5} levels that are at, or near the NAAQS for PM_{2.5}. As a result, some foundries are unable to obtain air permits to build new, state-of-the-art metalcasting operations or to expand or update their existing facilities because such activities would have the potential to emit PM_{2.5} over the NAAQS. PM_{2.5} air emissions are managed at metalcasting facilities with the use of baghouses and other pollution control devices. In most cases, more than 99 percent of the fine particulates are captured and not emitted into the environment. Such results are not consistent with needed increased production, sound economic growth, and improved environmental performance in the metalcasting

industry. Flexibility is needed for metalcasters in implementing the PM_{2.5} NAAQS.

- **Waters of the United States** – This rule redefines the scope of the CWA to state which waters (such as cooling ponds, catch basins) need to meet CWA standards to protect aquatic life. It is currently stayed while going through litigation, and so is not being implemented. If implemented, it would force foundries to meet CWA standards at waters on their facilities that are currently unregulated and impact upgrades and plant expansions.
- **Ozone NAAQS Revision from October 2015** – This rule set a very stringent emission standard for ozone emissions all stationary sources in the U.S. This standard is just now starting to be implemented, and is expected to result in significant costs for communities. We are concerned that plants will not be able to expand without a reduction of emission or shut down of operations from other businesses in the area. With new restrictions, plans for expansion may be delayed or shelved.

AFS appreciates your attention to the regulatory burdens that are impacting the competitiveness and growth of our industry. We look forward to working with you in the 115th Congress to ease the burdens of these regulations. In the meantime, do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Kurkul". The signature is fluid and cursive, with a large initial "D" and a stylized "K".

Doug Kurkul
CEO
American Foundry Society