

September 8, 2017

The Honorable R. Alexander Acosta
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Secretary Acosta:

On behalf of the U.S. metalcasting industry, the six trade associations signed below strongly urge the Department of Labor to re-open the rulemaking record on the Occupational Safety and Health Administration's (OSHA) final rule on Occupational Exposure to Respirable Crystalline Silica, 81 FR 16286 (March 25, 2016).

We represent the 1,950 U.S. metalcasting facilities located in all 50 states. Metalcasting has long been a central part of the American economy. In fact, seven of the signers of the Declaration of Independence were metalcasters. The industry is even more essential to national defense and economic security today.

Specifically, metal castings are integral to virtually all U.S. manufacturing activities. Castings are used to produce 90 percent of all durable goods and nearly all manufacturing machinery. Metalcasters produce essential castings for national defense, aerospace, automotive, construction, agriculture, transportation, medical, mining, plumbing, gas and electrical transmission, renewable energy, water infrastructure, and other sectors.

Foundries are predominately small businesses, as 80 percent of domestic metalcasters have fewer than 100 employees. Many are family-owned. Our industry employs nearly 200,000 men and women directly and supports thousands of other jobs indirectly. Imported castings now comprise 20 percent of the market, mostly from China.

The metalcasting industry applauds the Trump Administration's overall focus on encouraging manufacturing and job creation in the United States. OSHA's silica rule represents the most economically and technologically challenging regulation that has faced the metalcasting industry in decades.

Enforcement of the rule is slated to begin in June 2018. If the rule is not changed, the economic impact will include the closure of many small and mid-size foundries in numerous states, coupled with a number of larger foundries closing their U.S. plants and moving those operations to Asia, Europe, and other parts of the world.

During the rulemaking process, as well as in the American Foundry Society's August 23, 2017 meeting with OSHA staff, we outlined the following points:

- The rule is technologically and economically infeasible for the foundry industry;
- OSHA drastically understated the compliance costs;
- The engineering and work-practice controls mandated by the rule represent a less-than-optimal regulatory approach; and,
- New, highly relevant data has become available since the rule was issued that casts further doubt on the feasibility of the rule.

Technological and Economic Infeasibility

Since the closure of the original record, many of our members have attempted to comply with the rule, which would reduce the permissible exposure level (PEL) for silica in workplaces to 50 micrograms per cubic meter (from the current 100) and impose other requirements, such as exposure assessment, respiratory protection, and medical surveillance. Despite the investment of significant efforts and resources, members are finding it impossible to reliably reach the new PEL. There are certain foundry operations, where no matter how much is spent on controls, compliance will not be achieved. These areas include grinding and knock-off/sorting. Typically, these are the same areas where foundries spend millions of dollars annually to protect workers and comply with the original PEL.

Here are some recent examples of compliance efforts by foundries:

- New Capital Investments for Engineering Controls – Several large foundries recently implemented a variety of engineering controls for several operations, including new ventilation systems, at a cost of over \$2 million and they are still unsuccessful at ensuring exposures below 50 $\mu\text{g}/\text{m}^3$. This initial investment does not include meeting the ancillary provisions of the rule and the annual costs of meeting the rule.
- Grinding Operation – Several foundries are unable to reach the PEL despite implementation of local exhaust ventilation; increased CFM; installation of new ductwork and new collection systems; replacement of sand conveyors with an auger system; and, the installation of new grinding enclosures. Another foundry reports that its grinding room is enclosed and ventilated. Air-supplied helmets are used by all of the grinders for eye protection and cooling, as well as for respiratory protection. Exposures outside the air supplied hood exceed the current PEL and will not meet the new 50 $\mu\text{g}/\text{m}^3$. They have tried other controls, but they are not feasible, and their employees would refuse to give up their air-supplied hoods.
- Knockout Area – Several large foundries report they are unable to reach the new PEL despite new ventilation installed on opposite sides of the vibrating shaker; installation of hydraulic spreaders; redirection of make-up air and subsequent reconfiguration; and installation of electrostatic misters at a cost of over \$2 million per foundry.

Inaccurate OSHA Cost Estimates

Imagine a federal regulation that each year would cost 276 percent of the industry's profits. That is the scenario here. OSHA has vastly underestimated the annual cost of the rule. Our smaller and medium-sized foundries are working with outside consultants and are now receiving cost estimates for the installation of engineering controls for well over \$1 million, without assurances of meeting the new PEL.

Essentially, foundries will have to go through a trial-and-error process to exhaust all feasible engineering and work-practice controls. In most cases, they still will be unable to meet the new PEL. These expenditures will simply bankrupt many foundries.

OSHA's own cost estimates are many times below realistic costs. In the final rule, OSHA estimated the cost of the engineering/ancillary provisions for the entire foundry industry at \$47

million, which equates to \$24,000 per foundry. Yet, a new HEPA sweeper alone costs \$70,000. As noted above, engineering-control investments will average more than \$1 million per foundry.

Based on our members' own experiences and data, OSHA's rule is simply infeasible and the new PEL of 50 $\mu\text{g}/\text{m}^3$ cannot be met in most operations most of the time throughout the foundry industry. Our membership will simply not be able to comply with the rule in its current form. As a result, we are requesting that the Agency re-open the rulemaking record on the issue of feasibility.

Conclusion

The six associations listed below support worker protections that are based on sound science and that are technologically and economically feasible. The OSHA crystalline silica rule does not meet that test. It is based on outdated, decades-old data. In fact, the last Small Business Regulatory Enforcement Fairness Act review on the issue was conducted in 2003.

The rule requires foundries to adopt extensive engineering and work-practice controls that will not result in compliance with the new PEL and that will not prove feasible for the facilities that make up this vital American industry. Moreover, the rule, in its present form, will likely result in the closure of foundries in numerous states, with a considerable amount of metalcasting work shifting out of the United States to Asia, Europe, and other countries. We therefore request that the Agency re-examine the rule through additional notice and comment.

Thank you for your attention to this critical issue. We stand ready to work with you to find a positive and feasible path forward.

Sincerely,

*American Foundry Society
Casting Industry Suppliers Association
Ductile Iron Society
Iron Casting Research Institute
Non-Ferrous Founders' Society
Steel Founders Society of America*

cc:

The Honorable President Donald Trump
The Honorable Vice President Mike Pence
The Honorable Speaker Paul Ryan
The Honorable House Majority Leader Kevin McCarthy
The Honorable House Majority Whip Steve Scalise
The Honorable House Minority Leader Nancy Pelosi
The Honorable Senate Majority Leader Mitch McConnell
The Honorable Senate Majority Whip John Cornyn
The Honorable Senate Minority Leader Charles Schumer
The Honorable Roy Blunt
The Honorable Tom Cole
The Honorable Lamar Alexander
The Honorable Virginia Foxx