

# Governmental Affairs Committee Updates



## OSHA Issues Final Rule for Beryllium

On January 9, 2017, the Occupational Safety and Health Administration's (OSHA) issued a final rule to limit workers' exposure to beryllium. The final rule reduces the permissible exposure limit (PEL) for beryllium to 0.2 micrograms per cubic meter of air over an eight-hour time-weighted average. It also establishes a short-term exposure limit of 2 micrograms per cubic meter of air over a sampling period of 15 minutes. Foundries utilizing beryllium face new requirements for assessing exposure and will have to minimize worker exposure through respiratory protection, personal protective clothing and equipment, housekeeping, medical surveillance, hazard communication and recordkeeping.

The final rule replaces a standard that is over four decades old and becomes effective on March 10, 2017. The standard does provide staggered compliance dates, including allowing employers one year to bring exposure limits within the new boundaries, two years to furnish changing rooms and showers and three years to enact engineering controls. A copy of OSHA's beryllium rule is available here - <https://www.federalregister.gov/documents/2017/01/09/2016-30409/occupational-exposure-to-beryllium>

## Business Groups Launch Another Legal Challenge to OSHA's Electronic Injury Reporting Rule

Industry groups, including the National Association of Home Builders (NAHB) and the U.S. Chamber of Commerce, are suing the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) over its rule, Improve Tracking of Workplace Injuries and Illnesses, that requires most companies, including foundries, to make all of their injury and illness data public on an annual basis.

## House Approves AFS Supported Bills Targeting Excessive Regulations

A pair of bills approved by the House of Representatives last week would give Congress new power to overturn unpopular federal regulations – a longstanding priority of Republican lawmakers on Capitol Hill.

One measure, the Midnight Rules Relief Act (H.R. 21), would make it easier for Congress to use the Congressional Review Act (CRA) to overturn regulations promulgated by an outgoing administration. The CRA currently requires Congress to individually vote on each regulation targeted for repeal, a process that can consume valuable floor time. H.R. 21 would amend the CRA to allow lawmakers to vote to repeal multiple regulations at once, thereby making it much easier for Congress to nullify a host of rules issued by the Obama Administration since last summer.

Also approved last week was H.R. 26, the Regulations from the Executive in Need of Scrutiny (REINS) Act. This bill would require Congress to approve any new major rule before it may take effect. Should Congress fail to vote to approve a major rule (defined as one with an annual economic impact of at least \$100 million) within 70 legislative days of its promulgation, the rule would be null and void. Both bills passed the House on votes that closely mirrored party lines. Both bills will now move on to the Senate, where they will earn Republican support but will face challenges in overcoming Democratic filibusters.

## Update on Silica Litigation

Look for the Occupational Safety and Health Administration (OSHA)/ U.S. Department of Labor (DOL) to submit its reply brief on January 19, 2017 – the very end of the Obama administration. The American Foundry Society (AFS) and the National Association of Manufacturers (NAM), along with several dozen industry and construction groups, filed their opening brief of 131-pages on November 18, 2016. The industry brief urged a federal appeals court to vacate OSHA's recent crystalline silica regulations because the agency failed to provide evidence that the rule is needed or is feasible. The U.S. Chamber of Commerce and two other business groups filed an intervenor brief on December 2, 2016 urging the D.C. Circuit to also reject OSHA's new rules on worker exposure to silica dust in several industries, claiming the tighter standards don't benefit worker health.

The industry reply brief is due March 3, 2017. We will be working closely with our attorneys on the reply brief. AFS will continue to be active in the litigation, as well as working to mitigate the impact of the rule with the new Administration. The briefing phase of the lawsuit concludes March 23, 2017 and oral arguments anticipated in early to mid-summer.

It is important to note that the silica rule was completed outside of the window that will allow the 115th Congress and Trump administration to possibly veto the rule under the Congressional Review Act (CRA). Unfortunately, a Trump administration cannot pull the rule, without going through a formal rulemaking procedure, which will be a lengthy process. AFS will be setting up meetings with the new political appointees within OSHA once they have been appointed.