Manufacturers Need a Partner in Washington, Not Ineffective Regulations

In the first six months of 2013, Agencies published in the Federal Register nearly 2,000 final rules, proposed another 1,500, and issued 13,000 notices. This leaves small and medium sized businesses combing through nearly 50,000 pages of new federal rules before even reaching the mid-year point. Often the regulators know that many of the rules they propose will fall far short of reaching their goals, while significantly adding to the burden and costs of manufacturing in America.

For example, according to the Environmental Protection Agency (EPA), regulating greenhouse gases (GHGs) under the Clean Air Act would subject an additional 6 million small facilities – including hospitals, small farms, restaurants, hotels and office buildings – to an onerous and costly permitting process. In the EPA’s own words, such an expensive expansion of its mission would "paralyze" and "overwhelm" permitting authorities. This process also leaves businesses waiting months or even years to receive the permits needed to keep operating. It is clear the EPA lacks the authority to regulate GHGs and should rely on elected officials in Congress to develop sound policy in this area.

In some cases, the existing rules are working, eliminating the need for more regulations. Members of the North American Die Casting Association (NADCA) point to EPA data which found that Particulate Matter (PM) values have dropped by 27% from 2000 to 2010. Additional unnecessary air quality regulations make manufacturing in America more expensive and less attractive for investors.

These ineffective rules stifle business expansion in, or even near, non-attainment areas which are subject to restrictive permitting requirements with enhanced EPA oversight. For example, new or upgraded operations must include, regardless of cost, the most effective PM2.5 emissions reduction technology and must offset PM2.5 emissions by funding costly reductions at existing facilities. If no cost-effective offsets are found, the new project cannot proceed, disrupting the entire supply chain in that sector.

Further exacerbating the problem, the EPA continues to issue rules behind closed doors. The federal government refuses to publicly release data used by regulators to promulgate Clean Air Act rules. This includes the cost/benefit analysis required under current law and any scientific data used. Agencies should adhere to the President’s promise of more transparency in government. While the EPA’s decision to make public weekly Notices of Intent to Sue is an important first step more is needed. Private parties continue to abuse the “Sue and Settle” process whereby they negotiate a private settlement agreement with the EPA who then issues a new rule without an open process.

The North American Die Casting Association (NADCA) has long recognized the need for sensible science-based regulations to ensure workplace safety and protect public health. But government agencies with little understanding of manufacturing have gone too far. Often OSHA agents will conflict one another as they misinterpret a manufacturing process. In an April 2013 NADCA survey, 40% of respondents said they had an OSHA audit or investigator in their manufacturing plant within the past two years.

NADCA believes:

- House members should co-sponsor and pass the bipartisan Administrative Procedure Act (H.R. 2122) to update the 66-year old regulatory process;
- Congress should pass the Sunshine for Regulatory Decrees and Settlements Act of 2013, S. 714 and H.R. 1493, sponsored by Senator Chuck Grassley (R-IA) and Rep. Doug Collins (R-GA);
- OSHA should reinstitute its alliances with industry and trade groups and not revise the Injury and Illness Prevention Program (I2P2) to focus on industries with already strong safety protections;
- All agencies must comply with the Regulatory Flexibility Act, President Obama’s Executive Order 13563 (Improving Regulation and Regulatory Review), and cost/benefit analysis laws;
- The Consumer Products Safety Commission should not take an overly broad view of what constitutes a “toy” as it will capture non-intended products which include aluminum.