

Testimony of

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On behalf of the American Foundry Society

Before the

**Committee on Small Business, Subcommittee on Oversight, Investigations
and Regulations, U.S. House of Representatives**
Green Isn't Always Gold: Are EPA Regulations Harming Small Businesses?

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Chairman Coffman, Ranking Member Altmire, and Members of the Subcommittee, thank you for the opportunity to testify before you today on the question of whether the U.S. Environmental Protection Agency (EPA) Regulations are harming small businesses, in particular U.S. manufacturers and the metalcasting industry. The answer is unequivocally yes.

My name is Brad Muller, and I am Vice President of Marketing for Charlotte Pipe and Foundry Company of Charlotte, North Carolina. Since 1901, this family-owned fourth generation business has been manufacturing cast iron pipe and fittings for plumbing systems. Charlotte Pipe is one of only three U.S. foundries left in America that makes these products, with dozens of competing foundries having closed their doors over the last two decades.

We employ 450 associates at our foundry, many have 20, 30, even 40 plus years of service. In recent years, Charlotte Pipe and the entire metalcasting industry has been hard hit by the recession. The manufacturing sector lost 2.2 million jobs since the recession began in December 2007. Unfortunately, 150 metalcasters have shut their doors since then forcing thousands to lose their jobs. In fact, today in America there are nearly twice as many people working for the government (22.5 million) than in all of manufacturing (11.5 million). According to the April job numbers released by the U.S. Department of Labor, unemployment in Florida, Nevada, Colorado and my home state of North Carolina all remain above the 9 percent mark.

Charlotte Pipe has had a very difficult two years. Commercial construction – the primary market for our cast iron pipe and fittings – was down 64% from its peak in 2006, before beginning a slight rebound this year. Despite such a massive loss of volume, we have not laid off any associates, sacrificing our profitability to keep our people working as many hours as possible while keeping their

benefits and health insurance intact. In fact, we have not had a lay-off in our Cast Iron Division since the early 1950s when we mechanized the plant, despite several significant recessions since that time.

I also serve as a member of the American Foundry Society (AFS) and am pleased to testify on their behalf today. Headquartered in Schaumburg, Illinois, AFS is the major trade and technical association for the North American metalcasting industry. It is comprised of more than 8,500 members in every state in the country. The U.S. industry consists of 2,040 operating casting facilities, of which approximately 700 produce ferrous castings and 1,400 produce nonferrous castings.

Background on Metalcasting Industry

The metalcasting industry is critical to the U.S. economy. More than 90% of all manufactured goods and capital equipment use metal castings as engineered components or rely on castings for their manufacture. From critical components for aircrafts and automobiles to home appliances and surgical equipment, cast metal products are integral to our economy and our way of life.

The U.S. metalcasting industry is the sixth largest industry in America and is the second largest supplier of castings in world, after China. U.S. metalcasters ship cast products valued at more than \$20 billion annually and directly employs over 200,000 people. Our industry is dominated by small businesses, with over eighty percent of U.S. metalcasters employing 100 workers or less. In fact, many are still family-owned. We offer good-paying, blue-collar jobs with benefits that have allowed our employees to support their families and send their children to college. The industry is widely dispersed throughout the country with the highest geographic concentration of facilities is in Alabama, Ohio, Pennsylvania, Indiana, Illinois, Michigan, California, Texas, and Wisconsin.

However, today the U.S. metal casting industry is facing unprecedented challenges - the most intense global competition in its history and by the increasing costs associated with regulations and other actions by the government, energy prices and health care. Imported castings comprise of over 23% of the marketplace. Many of the competitors to the American metalcasting industry are free from complex regulations, high labor costs, and enjoy subsidies and government trade protections. Manufacturers need a level playing field.

Our industry is diverse, employing a variety of casting processes and alloys to make a wide range of products. Metalcasters produce both simple and complex components of infinite variety. We produce more than 600 lbs of cast metal (aluminum, iron, steel, zinc and/or magnesium) for every vehicle on the road. Automobiles and other transportation equipment utilize 31% of all castings produced in the U.S. - including engine blocks, crankshafts, camshafts, cylinder heads, brake drums or calipers, intake manifolds, transmission housings, differential casings, U-joints, suspension parts,

flywheels, engine mount brackets, front-wheel steering knuckles, hydraulic valves, and a multitude of other castings.

We are the mainstay of national defense. All sectors of the U.S. military are reliant on metal castings for jet fighters, ships, tanks, trucks, weapon systems and other vital components. In fact, the U.S. Department of Defense has established formal programs to convert fabricated components to single-piece castings, improving our military's ability to cost-effectively produce such equipment in the least amount of time.

Without castings, society would not be able to draw oil, propel aircrafts and space vehicles or economically plant and harvest crops to feed the world's population.

Impact of Regulations on Metalcasting Industry

Overregulation is stifling our industry and the economy. A staggering 3,503 final rules were promulgated alone in 2009. Excessive regulations cost the U.S. trillions of dollars and over a million jobs in the past few years. In fact, federal regulation is estimated to cost the economy more than \$1.75 trillion annually, according to a recent report by the Small Business Administration¹. The study found that U.S. manufacturing shouldered \$193 billion of the \$907 billion burden of environmental, economic, workplace and tax-compliance regulation. The average regulatory cost for each employee of a mid-size manufacturer now exceeds \$13,000 per year.

Some of the most economically threatening regulatory proposals are coming from EPA. Because manufacturing is such a dynamic process, involving the transformation of raw materials into finished products, it creates more environmental and safety issues than other businesses. Thus, environmental and workplace health and safety regulations have a disparate impact on metalcasters, especially our small shops, because the compliance costs are not affected by economies of scale.

Even our smallest member companies require one or two staff dedicated full-time to regulatory compliance, especially for environmental regulations. Many must hire additional expensive consultants to help stay abreast of all the new and changing requirements.

U.S. metalcasters need a regulatory system that works. Charlotte Pipe and the metalcasting industry prides themselves on providing well-paying jobs in their communities and ensuring that they are in compliance with all necessary health, safety and environmental regulations. Charlotte Pipe has an environmental engineer on staff and employs consultants and environmental attorneys in order to ensure our compliance. We spend several million dollars a year in staff, equipment and programs to

¹ "The Impact of Regulatory Costs on Small Firms," by Nicole and W. Mark Crain – Lafayette College – Easton, PA – September 2010 - <http://archive.sba.gov/advo/research/rs371tot.pdf>.

remain compliant with state and federal environmental regulations.

Appropriate regulations that improve health, safety and the environment are a necessary part of doing business. However, when the regulatory process produces new regulations that do not provide additional benefits and far outweigh their costs, and the manufacturing supply chain has little to no opportunity to participate in that process, the system is broken.

Impact of EPA Regulations on Metalcasting Industry

Unfortunately, over the last two years, there are numerous specific examples of regulations and proposed rules by EPA that have a particularly burdensome impact on our industry, with little regard for their impact on job creation and the manufacturing supply chain. There also seems to be no recognition of the cumulative impact of these regulations. Currently, the agency is advancing 29 major rules and 173 others.

Here are some specific examples of current and proposed regulations that we believe will negatively impact our company's and our industry's ability to compete in the U.S.

EPA Regulation of GHG Emissions

EPA has been embarked on a decades-long process to implement the Clean Air Act and its amendments. There is no doubt that important benefits have been brought to our nation from efforts to improve air quality. But the continued ratcheting down of emission limits produces diminishing returns at far higher marginal costs. This means that each new air rule will have a greater impact on job creation than those in the past.

At the beginning of this year, the EPA began regulating greenhouse gas (GHG) emissions from stationary sources under the Clean Air Act. While only the largest facilities will be regulated at first, this action sets the stage for future regulation of much smaller sources. While the GHG Tailoring rule will not directly affect the foundry industry right away; it will affect it indirectly through increased utility costs. This in turn will drive up the costs to produce our raw material inputs when combined with higher electric rates will only hurt our competitiveness. When jobs are sent overseas to less efficient foundries; the cost is more GHGs per ton of product produced.

We are also concerned that states are unprepared for the new permitting requirements, which will cause significant delays. This permitting gridlock will discourage manufacturers from building new facilities or expanding their current facilities, hurting competitiveness and discouraging job creation. Furthermore, additional facilities – including foundries – will be phased into the onerous permitting requirements in the near future.

So, while on one hand the Administration and others proclaim the need for increased use of

alternative energy sources, agency regulatory proposals would make the very U.S. manufacturers necessary to build those alternative sources less competitive. Similarly, regulations aimed at the oil and gas industry or the automotive industries are often proposed, without regard to the potentially destructive downstream effects on their suppliers.

We cannot produce castings without adequate and affordable supplies of natural gas and electricity. For many metalcasters energy is a huge expense, only behind raw materials and labor in terms of costs of doing business. Melting is the most energy-intensive operation in metal casting operations, accounting for about 55% of the total energy use. Energy costs are highest in iron foundries such as Charlotte Pipe.

In addition, we are concerned that the rules will create winners and losers within our industry in different states. For example, two competing companies in two different states could have different state imposed GHG regulations with different costs directly impacting their competitiveness and jobs.

EPA has not done an analysis on what this regulation will cost industry. This is not the time to implement never-before used regulations for which we have no idea what they cost. EPA is now in charge of US energy policy. EPA's GHG regulation has the latitude to mandate industrial and electric utility fuel switching from coal, a low cost and low volatile energy source to natural gas, an energy source with high price volatility. Higher natural gas demand means higher natural gas and electricity prices. All of the higher energy and compliance costs placed on the electric utility industry, by State law, will be automatically passed on to ratepayers.

The EPA could even mandate use of combined heat and power or waste heat recovery when it is not cost effective. At the end of the day, the EPA regulations would have a direct impact on metalcasters – they would squeeze already thin profit margins, drive metalcasters out of the country, and out of business altogether. We appreciate the lawmakers on the Committee that voted in April to block EPA's regulation of GHGs by supporting the Energy Tax Prevention Act (HR 910).

National Ambient Air Quality Standards (NAAQS) for Ozone

EPA is expected to further tighten its ozone standard by this summer (July 2011). We remain very concerned about proposed new regulations that will set the ozone standard in a range between 60 and 70 parts per billion (ppb). The agency just tightened the NAAQS standards in 2008 from 84 to 75 ppb.

Any point in the EPA's proposed range will cause the number of "non-attainment areas" to dramatically increase across the country where metalcasters are located. Even before EPA revised the ozone standard in 2008, 442 U.S. counties were "non-attainment" for the previous standard. If EPA promulgates a standard in the proposed ozone range of 0.60 to 0.70 ppm, few, if any, counties

would be able attain the new levels, essentially shutting down economic development across the country.

This despite EPA's own studies show that ozone levels have dropped by 14% since 1990 (EPA's report, Our Nation's Air — Status and Trends Through 2008). Because the implementation of NAAQS standards is done through the regulation and approval of state implementation plans, there are said to be NO direct effects on small entities because states are not small entities. This is clearly contrary to what Congress intended when it passed the Regulatory Flexibility Act.

And the Administration's reconsideration of the Ozone Standard will be very significant to local communities and their small business economies. One study by the Manufacturers Alliance/MAPI estimated the agency's most stringent proposal would result in the loss of 7.3 million jobs by 2020 and add \$1 trillion in new regulatory costs per year between 2020 and 2030.

These costs would include increased capital expenditures for new emissions controls and higher electricity prices, making it more costly for metalcasters to operate. Furthermore, it will likely put many more counties into non-attainment areas — thus, triggering restrictions on expansions and/or building of new manufacturing facilities or at worst plant closures.

Congress must work with the EPA to maintain the current NAAQS standards stop the EPA from making a \$1 trillion mistake.

Particulate Matter (PM 2.5)

PM 2.5 standards are also under review by the EPA. PM 2.5 limits are currently set at 15 parts per billion (ppb). The new levels being considered are between 12 to 14 ppb, which are approaching naturally occurring background levels.

A few years ago, Charlotte Pipe and Foundry bought a significant amount of land in rural North Carolina with the hopes of some day building a new, state-of-the-art, high efficiency foundry. Not only would the new foundry allow us to operate more efficiently, it would remove a large stationary source of emissions from downtown Charlotte (where our current foundry is located), along with auto emissions from our workers commuting into the city (many of our associates live in the rural counties surrounding Charlotte).

After we drew up plans for the new facility, we submitted our air permit and paid an extra fee to have it fast tracked in 9 months. A year and a half later, the permit sat unapproved. Our state regulators eventually told us that while previous air dispersion models only had to account for filterable particulate, new air permits now require condensables to be included in the total PM 2.5 emissions, making the standard that much more difficult to meet. Rather than model for the new requirement, changed in mid-stream, we pulled the air permit application and suspended the

project. We could not pass the model – not even close when adding in condensables. The state also came back to us and said since we would be relocating our plant to a poorer area-we would have to include environmental justice. This means we would have to look at how we would have impacted the local community, with the added pollution, when in reality we were bringing new jobs to their area. Not to mention the ripple effect of other businesses that would have surrounded us.

If lower standards are implemented, it will be difficult for metalcasters to expand and/or build new operations. In our example, naturally occurring levels in rural North Carolina, where we were considering building our new state-of-art foundry, are at 12.8 ppb. Clearly we cannot locate a plant on the area of real estate we own and meet these naturally-occurring background levels. Even if the standards remain unchanged, we have a window of 2.2 ppb to work with. Instead of 450 acres we would need 4,500 acres to comply with the proposed PM 2.5 regulation. There isn't that much land to purchase and the cost would be prohibitive. In addition, all of the city streets would have to be abandoned for the property line to be considered contiguous for modeling.

Boiler MACT Rule

On March 21, EPA published the final Boiler MACT rule setting very strict emission standards from industrial boilers and process heaters, as well as three related rules – the *Commercial and Industrial Solid Waste Incinerator (CISWI) rule* (setting limits for non-hazardous solid waste incinerators); the *definition of Non-Hazardous Secondary Materials* (a Resource Conservation Recovery Act rule determining which materials are wastes and thus covered under the CISWI rule when burned); and *Boiler GACT* (Generally Achievable Control Technology for boilers at smaller sites).

The new Boiler MACT regulation is a replacement for an earlier regulation that was vacated in 2007 when a court determined that elements of the rule were flawed. Although there were some improvements from the proposed rules, the final rules are still a long way from being achievable or affordable for our industry. Although most boilers already are well controlled for key pollutants, the Boiler MACT rule will require more than 90% of boilers to make significant changes. Furthermore, MACT rules require EPA to use the top 12% of environmental control performers in a particular industry when setting the new standards. EPA used the top 6 individual performers which is just plain wrong.

Thousands of power plants and facilities depend on affordable energy from boilers. Literally millions of jobs rely on affordable energy from these facilities, and those jobs are put at risk if those boilers can no longer be installed and run in a cost effective manner.

As part of the Boiler MACT rules, the EPA promulgated definitions for non-hazardous secondary materials for the first time. This rule has the potential to significantly alter the energy sources many facilities count on. This will have the effect of forcing facilities to switch to more traditional fuels,

avoid alternative fuels and generate more solid waste. These potential impacts appear to be in direct conflict with stated energy goals within other parts of the Administration.

Our industry has a serious problem with the rules that came out on March 21 from the Boiler MACT – the thermal reclamation units some foundries use to reuse sand would now have to be classified thus permitted as incinerators. This is a complete about face from the current policy.

This broad-reaching proposal could cost manufacturers, including the metalcasting industry, more than \$20 billion in compliance costs and place hundreds of thousands of jobs in jeopardy. We urge this Congress to legislatively stay the Boiler MACT and the three related rulemakings and give EPA the time they themselves said was necessary to properly develop the rules.

Draft Guidance Defining Waters Subject to Clean Water Jurisdiction

In April, the EPA and the Army Corps of Engineers (Army Corps) released a draft version of legally nonbinding guidance that is intended to clarify what bodies of water are subject to the jurisdiction of EPA and the Army Corps under the Clean Water Act (CWA).

The guidance will affect the scope of all programs in the CWA that apply to “waters of the United States,” including EPA’s recently proposed section 316(b) standards for cooling water intake structures and pollution discharge permits for point sources (such as power plants and manufacturing facilities). According to the guidance, the agencies propose to exert CWA jurisdiction over interstate waters, non-navigable tributaries leading to navigable waters or interstate waters, and wetlands adjacent to jurisdictional waters.

The EPA and the Army Corps can expect to receive tens of thousands of additional jurisdictional determination requests and permit applications, with the potential to create significant permitting delays, impose billions of dollars in costs and endanger job growth opportunities. The draft guidance is not a rule, and therefore it is not binding and lacks the force of law. However, its use by EPA and the Corps in enforcement actions, permitting decisions, and jurisdictional determinations will give the guidance legal effect. EPA and the Corps have estimated approximately \$79 to \$151 million per year in indirect mitigation costs.

Conclusion

Charlotte Pipe and AFS member companies understand and support the need for reasonable regulations to protect the environment, worker safety and health, and a host of other workplace issues. But we also recognize that our industry and the entire manufacturing sector are facing unprecedented pressures in their efforts to remain competitive in the global economy. To regain manufacturing momentum and encourage hiring, the United States needs not just improved

economic conditions but also government policies more attuned to the realities of global competition.

The key is to find the balance between ensuring a safe and healthy workplace and allowing that workplace to compete in order to be able to continue to provide employment. That is where the current U.S. regulatory process is lacking. I believe that our current government looks upon manufacturers not as partners that would alleviate unemployment and generate tax revenues, but as targets to regulate, intimidate and chastise to justify the expanding government regulatory work force.

The cumulative burden of these new and costly EPA regulations is nearing a tipping point. The 112th Congress has the ability to recognize the dangerous course we are on and to change it before it is too late for our economy and the American worker. More than ever, it is critically important that we regulate only that which requires regulation, and only after a thorough vetting of potential benefits, impacts and costs of that regulation on small businesses and the manufacturing supply chain.

In this current economy, it is clear that unnecessary or cost-ineffective EPA regulations dampen economic growth and will continue to hold down job creation. For some foundries, it will be the final straw that destroys their whole business.

Thank you again for the opportunity to appear before you today to provide information on the U.S. metalcasting industry, and our views on the cumulative impact of EPA regulations on our sector. I would be happy to respond to any questions.