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Bad Rules Can Cost Money Even Before Being Implemented

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Beryllium is not exactly the sexiest of the elements, but I feel compelled to write about it just the same.

While it is relatively rare in the universe and has only a few useful applications, it does happen to be incredibly useful in those applications. For instance, because it is so light (its atomic number is 4) and forms a strong alloy with other metals, it is essential in the construction of satellites and spaceships.

It turns out the the metal is also harmful to humans should they ingest it. For nearly all of us that is not remotely possible, but for some people who work in the industries and occupations that produce or use beryllium, especially those that do abrasive blasting work, exposure can be a concern.

As it happens, workers in such industries also face potential exposure from other possible contaminants as well, a reality that some time ago led to OSHA to require that that companies take multiple steps to protect these workers in some way.

Abrasive blasting is already subject to over two dozen OSHA rules governing worker safety, including preventative measures to avoid undue exposure to airborne chemicals. As a result, illnesses from exposure to beryllium in these industries have been all but nonexistent in the U.S.

The Occupational Safety and Health Administration several years considering whether to reduce the already-low exposure standards for beryllium. It had preliminarily decided to exempt abrasive manufacturers, since it did not appear that new regulations would not result in any discernible safety improvements, but its final regulation, issued in the waning days of the Obama Administration, contained no such exemption.

I argued at the time that this last-minute increase in the rule's scope made no sense at all; it was done without public input on those changes to the rule, it was unnecessarily intrusive on an industry that had no instances of beryllium-related illnesses, and it certainly flunked any objective cost-benefit analysis.

The Trump administration agreed that the haste with which OSHA made those last minute changes was unwarranted, and in March 2017 it announced a delay of the rule to give it time to reconsider its scope.

However, while the postponement may have allowed companies that would have been affected by its implementation to avoid--or at least delay--spending on costly methods to reduce beryllium exposure, OSHA's actions may nonetheless cost them.

Some abrasive manufacturers have begun to seize on the proposed rule to market their products as "beryllium free." The implication is that glass abrasives are supposedly safer and less costly than other abrasives, like coal slag, because they happen to already comply with the proposed OSHA rule.

The problem is that such a statement is patently false. The only published study on beryllium content in different abrasive types finds that all abrasives contain enough beryllium to hit OSHA's new exposure limits, but that exposure is mitigated by pre-existing OSHA safety rules, like the requirement that blasters wear personal protective equipment.

When Washington imposes confusing, unnecessary and burdensome regulations there are always unanticipated winners and losers that go beyond mere compliance costs. Private companies exploit the confusion created by redundant and complicated rules to denigrate its competitors and boost market share.

A similar phenomenon occurred when the Clinton Administration dramatically reduced the allowable exposure limits to arsenic beyond what could be justified by any cost-benefit analysis at the end of that administration. People were made to fear even the most minute exposure to the element, which led to people foolishly spending thousands of dollars to tear down perfectly good decks made with pressure-treated wood that had a coating containing small amounts of arsenic simply because of some mistaken perception that they could get arsenic poisoning from sitting on it.

Further reducing exposure to potentially hazardous elements is not an automatically sensible thing to do. If it is costly to do so and does little to benefit public health, then forbearance is the better approach. In a world of finite resources it is a dictum that bears repeating.

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