

Opening Statement of the Honorable Fred Upton
Subcommittee on Energy and Power
Hearing on “H.R. 3797, the Satisfying Energy Needs and Saving the Environment
(SENSE) Act and H.R. ___, the Blocking Regulatory Interference from Closing Kilns
(BRICK) Act”
February 3, 2016

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EPA regulations impact nearly every facet of the American economy, especially manufacturers and energy producers. When unnecessary or duplicative, they can have a devastating impact, particularly in small communities where job opportunities are limited. That is why Congress needs to make targeted corrections when we believe the agency has gone too far. The SENSE Act and the BRICK Act are two bills that restore balance to EPA rulemaking and merit our support.

The problem of coal refuse – the piles of unusable coal mixed with other materials near abandoned mines - is a very serious one in rural Pennsylvania and other coal mining areas. Coal refuse is a cause of air, water, and ground contamination problems in these communities.

Fortunately, a solution has emerged. Coal refuse-to-energy plants have been developed that can use this waste material to generate electricity. About 20 such facilities are currently in operation, mostly in Pennsylvania. These power plants have thus far removed 214 million tons of coal refuse from the environment, while producing energy and jobs.

Given the proven environmental benefits of these facilities, one would hope EPA would support them, but instead the agency has issued two rules that threaten to close many of them down. Both the Cross State Air Pollution Rule (CSAPR) and the Mercury and Air Toxics Standards (MATS) apply to all types of coal-fired power plants, but are ill-suited to the unique features of coal refuse-to-energy operations. Many owners of such facilities say that these rules may force them to shut their doors.

Rep. Keith Rothfus has sponsored the SENSE Act that would provide relief for these much-needed facilities. This bill would make limited changes to the CSAPR and MATS rules in order to provide coal refuse-to-energy plants with an alternative means of compliance. It's a win for the environment and a win for affordable energy and jobs in coal country.

EPA has also targeted the brickmaking industry with stringent new emissions standards, commonly called Brick MACT. Meeting these standards is simply unrealistic for most brick makers, especially those that are small businesses. America's 131 brick facilities are major employers in their communities, like Forterra Brick in Corunna, Michigan.

It is not clear that Brick MACT will survive judicial scrutiny either – EPA's previous version of the rule in 2003 did not - but it may take several years before a final decision is handed down by the federal courts.

The BRICK Act would provide a measure of relief for this industry. The bill would delay EPA's compliance deadlines for the rule until after judicial review is completed. This will provide both additional time and much needed regulatory certainty for this sector. I thank my colleague Bill Johnson for his work on this draft bill.

The SENSE Act and BRICK Act are two reasonable measures to help ensure that jobs are protected in two important sectors of the economy. I urge my colleagues to support this legislation.

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