

**Testimony of
Creighton McAvoy
President
McAvoy Brick
Phoenixville, Pennsylvania**

**U.S House of Representatives
Energy and Commerce Committee
Subcommittee Energy and Power**

**Date: February 3, 2016
Time: 10:00 A.M.
Location: Room 2123
Rayburn House Office Building
Washington, D.C.**

**Title: 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**

Chairman Ed Whitfield, Ranking Member Bobby Rush, and distinguished Members of the Subcommittee, good morning and thank you for inviting me to testify on this issue that could have potentially devastating consequences to my company and to the brick industry. My name is Creighton McAvoy. I am the President of The McAvoy Brick, which has manufactured clay brick and pavers in Phoenixville, Pennsylvania for over 120 years. However, my family history with brick making goes back five generations to 1866 when my great grandfather started a brick plant in Philadelphia with his brother-in-law. He eventually started two more brick yards in South Philadelphia with his sons. In 1895, he and his sons started a new corporation to make vitrified street pavers in Phoenixville and we are still making brick on that location today.

In 2006 McAvoy Brick employed 26 hourly union workers and 6 salaried employees working year round and had sales of over \$5.5 million. In 2012 due to the effects of the Great Recession on our industry, McAvoy Brick's sales bottomed out at just under \$2.5 million and we employed 4 salaried employees and 20 hourly employees, most of which were laid off 5 to 6 months. Last year business slightly improved to just under \$2.8 million in sales and employment increased to 5 salaried employees and 21 hourly employees, most of which were employed over 8 months. Throughout all of this downturn McAvoy Brick has been able to pay all its bills and for the most part stay in the black. As you can see we are a very small business, even for the brick industry.

I am here today because while we were not required to put on controls in the last round of this regulation, it appears we will need to under this new rule. We are concerned that this regulation could become the moving target that the last Brick MACT did and that regulatory uncertainty could cripple my ability to remain in business. We are here to ask your help to ensure that what has happened to companies like Henry Brick does not happen again. We believe the BRICK Act can give us the certainty we need.

I am not only here on behalf of my company; I am here on behalf of my industry, as I serve on the Board of Directors of the Brick Industry Association. Approximately seventy-five percent of the companies in the brick industry are small businesses and like McAvoy Brick, they have been making brick for a hundred years or more and have been good employers and neighbors in their local communities. Our industry is committed to doing our share and to doing the right thing for our employees, our vendors, customers and communities. However, as our industry continues to struggle to come out of the Great Recession, we like all industry, have limited resources. It is imperative that these limited resources be used judiciously and on the most important issues. It is important that there is some benefit to every dollar spent and that the money not be spent needlessly or prematurely.

We were actually one of the fortunate companies when it came to the 2003 Brick MACT as we were able to take a production limit from 12 tons of brick per hour through our kiln, down to just below 10 tons per hour, making our kiln a small kiln and not subject to those regulations. That did not come without a cost, as we could have sold some of the product from that surrendered capacity in a few of the years before the recession. However, we were still better off than what compliance did to our fellow brick manufacturers with large kilns.

The 2015 Brick MACT does include some innovative requirements, including health-based standards for over 99 percent of the hazardous air pollutant emissions from our industry's kilns. Unfortunately, the requirements for the remaining 1% emissions, mercury and non-mercury metals, will require the same multi-million dollar controls that would have been required before the health based standards were conceived.

Under the 2015 Brick MACT, we would likely be required to install controls on our kiln. We will be conducting tests to determine our specific situation. According to EPA's cost estimates, they expect that we will install and operate a control device that will cost approximately \$1.5 million and become a synthetic minor source, thus avoiding the Brick MACT requirements. This control device is the same one that Henry Brick installed on their kilns. If that control is incapable of helping us get out of this rule, as it was incapable for Henry Brick, we believe have to install a control system that EPA estimates as costing \$2.7 million to control 3-5 pounds of mercury and 100-200 pounds of metals each year. We are simply not sure anyone will loan us the money to purchase these controls or that we will be able to pay this money back, particularly if it is for the more expensive system that has never been demonstrated to work on brick kiln emissions.

While we did not have experience complying with control limits for the 2003 Brick MACT, another small brick company similar to our does have experience trying to borrow money from a financial institution. In their case, the money was for renovation of one of their kilns – an investment that would make them more efficient and more productive. They spent the last two years trying to obtain financing for a renovation of one of their kilns. This renovation would reduce their energy cost by approximately \$500,000 per year and it took two years to find a financial institution willing to lend them the money. That company is one of the few brick companies to have had a steady profit since 2007. Their financial status was very good for all these loan applications, with plenty of collateral; however it still took two years to find an institution willing to lend them the funds.

After their experience in the current financial lending environment, I cannot say for certain that we would ever be able to borrow the money required to finance air quality controls that will increase our costs dramatically without adding to our efficiency, revenue or product quality. Especially since these controls will do very little to improve the air quality near our plant.

You may think that the loss of one small brick company will not make any difference in our overall economy. However, if McAvoy is required to close our doors, more than \$2.8 million will be lost from our local community. We pay over \$1 million in wages for 26 families. Many of our employees would have difficulty finding other employment due to their low level of education.

The BRICK Act would allow us some time to see exactly what is needed to comply with the Brick MACT and ensure that we are not investing in equipment that is not needed to protect the environment. The brick industry's past experience with the 2003 MACT compliance showed us how easily millions of dollars in investment for air controls can be made obsolete. Let us not repeat the past errors which could cause many small businesses in our industry to close their doors unnecessarily. Our industry association's technical task force believes that there are some mistakes in how EPA set the limits and that these may be fixable. If so, we may not need the same control equipment to meet the standard. This could save our company and the jobs of our 26 employees.

I thank the Committee for introducing the BRICK Act and allowing me the time to speak on behalf of my company and my industry. I will be more than happy to answer any questions you may have at this time.