

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

**Date: September 13, 2017
Time: 10:00 A.M.
Location: Room 2123
Rayburn House Office Building
Washington, D.C.**

**Title: Big Relief for Small Business: Legislation
Reducing Regulatory Burdens on Small
Manufacturers and Other Job Creators**

Chairman Shimkus, Ranking Member Tonko, and distinguished Members of the Subcommittee, good morning and thank you for inviting me to testify on this important issue. My name is Ryan Parker. I am the President and CEO of Endicott Clay Products Company, which has manufactured clay brick near Endicott, Nebraska for 97 years. Our company is a family-owned company and I currently work with two of the three generations of that ownership. We've grown from a plant that serves a local market to a nationally recognized manufacturer. We have a recipe that has made it possible – devoted employees, wonderful clay, and a passion for excellence.

I am also here on behalf of my industry as I serve on the Board of Directors of the Brick Industry Association. We are an industry that has less than \$1 billion dollars in total revenue. Approximately seventy-five percent of the companies in the brick industry are small businesses like Endicott Clay Products Company and have been making brick for a hundred years or more. The manufacturers in my association 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 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.

Our company currently employs approximately 325 people, including our manufacturing, sales and support staff. The village of Endicott that we are located near has a population of 132. We work in a very rural area and struggle to attract qualified workers from a 45 mile radius around our plant. Most of our employees grew up in a small town or on a farm and exemplify the grit and determination that made our country the greatest in the world. Our company makes something tangible. Something real. Something sustainable that people admire for generations on schools,

churches, homes, and skylines all over North America. The permanency of what we do is our daily inspiration.

Nearly ten years ago the permanency of our business and our industry was called into question. Our industry was facing a massive recession and was coming into compliance with air regulations that hit our industry hard. The first Brick Maximum Achievable Control Technology Rule (Brick MACT) that was finalized in 2003 required state-of-the-art air quality emissions controls for many brick plants throughout the country. After \$100 million dollars were spent by my industry to come into compliance with the 2003 Brick MACT through expensive stack tests and control devices, the rule was vacated by the courts in 2007. The cost of coming into compliance with a vacated rule was never to be recouped and many brick plants had to continue annual operation and expense of the installed control devices due to operating permits being issued that incorporated the devices.

The newest Brick MACT was promulgated in 2015 and requires existing source compliance by December 26, 2018. I am here today because we are concerned that this regulation could become the moving target that the last Brick MACT did and that further expense and regulatory uncertainty could cripple our industry. We are here to ask your help to ensure that our companies comply with a rule that will not be vacated in the courts again. We believe the BRICK Act can give us the certainty we need.

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 kilns. Unfortunately, the requirements for the remaining 1% emissions, mercury and non-mercury metals, will require the same multi-million dollar controls for many in our industry that would have been required before the health based standards were conceived.

If the emission limits in the 2015 Brick MACT are altered as a result of the current pending litigation we could be facing a significant cost. The cost of adding air pollution control devices for our company alone would be approximately \$8 million dollars. We have already spent hundreds of thousands of dollars on two baghouses, stack testing, and engineering support. For many in our industry, they are quickly having to decide whether or not to add further control devices. Reminiscent of the painful decision-making made by many in our industry in the early 2000s, the cost of compliance is now while the certainty and form of the 2015 Brick MACT is unknown.

Unknown costs and regulatory uncertainty hurts companies like ours. A financial burden of millions would be devastating to our company. We do not have the ability to pass along these costs to our customers. 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 revenue or product quality. Especially since these controls will do very little to improve the air quality near our plant.

It's easy to imagine that the loss of a brick company here or there is manageable for the small communities that most of us operate within. However, if Endicott Clay Products Company were to cease operation, millions would be lost from our community. As the largest employer by far in our county, we pay over \$10 million in wages to our 325 employees per year. Most of our employees would have difficulty finding other employment due to lack of opportunity, educational requirements, and jobs that require their lifelong skills acquired in brickmaking.

Our historical narrative is a good one. We manufacture a sustainable product embraced by everyone on the political spectrum. We have a product that delivers thermal, life-cycle, aesthetic, and safety benefits to buildings and civilizations since the Babylonians. The BRICK Act would allow us some time to see exactly what is needed to comply with the 2015 Brick MACT and ensure that we and others in our industry are not investing in equipment that ultimately is not needed. Our industry's past experience with the 2003 Brick MACT compliance showed us how

easily \$100 million dollars in investment for air controls can be made obsolete. Let's not repeat the past errors which could cause many small businesses in our industry to close their doors unnecessarily. Our 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.

Our industry needs the BRICK Act to be signed into law. Please work together to allow our industry to gain the necessary time to see that our jobs, our product, and our livelihoods are not jeopardized. Thank you for taking the time to listen to me today and I would be happy to answer any questions that you may have.