

[Floor Situation](#) | [Summary](#) | [Background](#) | [Cost](#) | [Staff Contact](#)

[H.R. 4557, Blocking Regulatory Interference from Closing Kilns Act of 2016, or the BRICK Act](#)

FLOOR SITUATION

On Thursday, March 3, 2016, the House will consider [H.R. 4557](#), the Blocking Regulatory Interference from Closing Kilns Act of 2016 or the BRICK Act, under a [closed rule](#). H.R. 4557 was introduced on February 12, 2016 by Rep. Bill Johnson (R-OH) and was referred to the Committee on Energy and Commerce, which ordered the bill reported, by a vote of 28-22, on February 25, 2016.

SUMMARY

H.R. 4557 allows for the judicial review of any final rule addressing national emissions standards for hazardous air pollutants (NESHAP) for brick and structural clay products or for clay ceramics manufacturing before requiring compliance with the rule. Specifically, the legislation extends compliance dates of any rule addressing NESHAP for brick and structural clay products manufacturing or clay ceramics manufacturing issued under section 112 of the Clean Air Act, including any final rule that succeeds or amends the Environmental Protection Agency's final rule published at [80 Fed. Reg. 65469](#) (October 26, 2015) and [80 Fed. Reg. 75817](#) (December 4, 2015). Compliance would not be required between the initial 60 days after the rule appeared in the Federal Register and the date on which a judgment becomes final and is no longer subject to further appeal or review.

BACKGROUND

In 2003, the Environmental Protection Agency (EPA) issued the Brick Maximum Achievable Control Technology (Brick MACT) rule, which required brick plants to install new equipment on their kilns and develop work practices to reduce emissions. The EPA was sued by an environmental advocacy group claiming that the agency did not fully comply with the Clean Air Act when writing the rule. A federal court agreed and directed the EPA to rewrite the Brick MACT rule.¹ The revised rule, finalized in September 2015, uses the emission reductions achieved by the control devices installed under the vacated 2003 rule as the baseline for further emission reduction requirements. Brick companies

¹ See Chamber of Commerce Report "[Regulatory Indifference Hurts Vulnerable Communities: No. 7 in a Series of Regulatory Reports](#)" February 2016 at 10.

estimate that this rule will cost approximately \$100 million a year to comply with. Broken down on a plant-by-plant basis, that cost is higher than most brick companies could ever afford.²

According to the bill sponsor, “The majority of U.S. brick plants are small, family-owned operations, often located in small communities that depend on the plant for good-paying jobs. However, in order to comply with these new EPA requirements, many brick companies – who are already struggling to find capital for plant modernization projects – maybe be forced to come up with millions of dollars to pay for control equipment that provides no return on investment.”³

COST

The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 4557 would not have a significant effect on EPA’s workload and would have no significant effect on the budget. Since enacting H.R. 4557 would not affect direct spending or revenues, pay-as-you-go procedures do not apply.

STAFF CONTACT

For questions or further information please contact [Jake Vreeburg](#) with the House Republican Policy Committee by email or at 3-1555.

² See Rep. Bill Johnson’s Press Release [“Congressional Hearing Held on Johnson’s BRICK Act”](#) February 3, 2016.

³ *Id.*