



Richard A. Jennison  
President & CEO

March 16, 2009

Peter Orszag  
Director, Office of Management and Budget  
Executive Office of the President  
1650 Pennsylvania Avenue, NW  
Washington, DC 20503

Re: Office of Management and Budget  
74 FR 8819  
Request for Comments on Federal Regulatory Review

Dear Director Orszag,

The Brick Industry Association (BIA) on behalf of its member companies submits these comments on the Request for Comments on the Regulatory Review Process. The brick industry provides one of the leading wall cladding materials for both commercial and residential construction throughout the country. Over 25,000 people depend on the United States brick industry for their employment. Many of these companies are classified as small businesses under the definitions developed by the Small Business Administration (SBA).

We are providing these comments to provide insight into the importance of the continuation of Executive Order 12866 from our industry's perspective. We would also fully support the comments submitted by the National Association of Manufacturers (NAM), including the letter submitted directly to President Obama, which we have also signed. While our example below discusses a specific air quality rule being developed by the U.S. Environmental Protection Agency (EPA), we believe OMB's Office of Information and Regulatory Affairs (OIRA) importance in the regulatory review process applies to all Federal agencies.

Over the past 11 years, the BIA has been working diligently with the EPA on the development of national emission standards for hazardous emission standards (NESHAP) for major sources in our industry. The first promulgated NESHAP for our industry, commonly referred to as the "Brick MACT," was vacated by the courts in 2007, more than one year after the rule was fully implemented by industry. Rulemaking activities have recently begun to re-develop standards for our industry. The requirements of these revised rules will be a huge factor in the overall recovery of our industry from the current economic conditions. We believe that the re-development of the Brick MACT, following so quickly on the vacatur

of the previous rule, will raise several ***precedent-setting legal and policy issues*** that warrant detailed review by both EPA and OMB.

While the previous Brick MACT was vacated, our participation in that rulemaking enabled us to fully understand the roles of the various groups within the EPA, as well the important role that OMB/OIRA has had in rulemakings in the past 20 years. ***We believe that OIRA's role is critical and should continue.*** During the development of the previous rule, our industry met directly with OIRA and was able to voice specific concerns we had with the original Brick MACT. We saw first-hand that OIRA was able to provide a "dispassionate and analytical 'second opinion'" (74 FR 8819) that was needed on the rule. We look to OIRA to provide that same role in this more complicated second MACT development process.

In summary, the BIA believes that OIRA's continued role in the regulatory review process is important in this time of economic crisis and is critical to effective rulemaking. If you have any specific questions related to our comments, please do not hesitate to contact me at (703) 620-1537 or for specific questions regarding the Brick MACT, Susan Miller, BIA's Vice President for Environment, Health, and Safety at [REDACTED]

Sincerely,

A handwritten signature in cursive script that reads "Richard Jennison". The signature is written in dark ink and is positioned above the printed name.

Richard Jennison  
President and Chief Executive Officer  
The Brick Industry Association

Cc: Kevin Neyland, Acting Administrator, OMB  
[Oira\\_submission@omb.eop.gov](mailto:Oira_submission@omb.eop.gov)