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MARK UP OF:

H.R. 4775, OZONE STANDARDS IMPLEMENTATION ACT OF 2016; AND

H.R. 4979, ADVANCED NUCLEAR TECHNOLOGY DEVELOPMENT ACT OF 2016

TUESDAY, MAY 17, 2016

House of Representatives,

Committee on Energy and Commerce,

Washington, D.C.

The committee met, pursuant to call, at 5:02 p.m., in Room 2123, Rayburn House Office Building, Hon. Robert Latta presiding.

Present: Representatives Latta, Blackburn, Olson, Flores, Schakowsky and Pallone (ex officio).

Staff Present: Gary Andres, Staff Director; Will Batson, Legislative Clerk, Energy and Power, Environment and the Economy; Mike Bloomquist, Deputy Staff Director; Sean Bonyun, Communications Director; Karen Christian, General Counsel; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnson, Senior Policy Advisor; Peter

Kielty, Deputy General Counsel; Ben Lieberman, Counsel, Energy and Power; Mary Neumayr, Senior Energy Counsel; Dan Schneider, Press Secretary; Gregory Watson, Legislative Clerk, Communications and Technology; Andy Zach, Counsel, Energy and Environment; Jen Berenholz, Minority Chief Clerk; Jeff Carroll, Minority Staff Director; Caitlin Haberman, Minority Professional Staff Member; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; Alexander Ratner, Minority Policy Analyst; and Matt Schumacher, Minority Press Assistant.

Mr. Latta. Good afternoon. The committee will come to order, and the chair recognizes himself for an opening statement.

I am so pleased that we are focused on two bills that are extremely important. First, legislation that Congressman McNerney and I introduced, H.R. 4979, the Advanced Nuclear Technology Development Act of 2016, and the second, H.R. 4775, the Ozone Standards Implementation Act, which I have joined Congressmen Olson, Flores, Scalise, and several other members as an original cosponsor.

The future of the nuclear industry needs to start now with Congress ensuring that the Nuclear Regulatory Commission is able to provide the certainty that the private sector needs to invest in innovative technologies. Nuclear power is currently 20 percent of our national energy portfolio, and it must remain a vital part of our energy mix.

As the United States looks to the future, more energy will be needed, and nuclear power provides a reliable, clean, base-load power option, currently providing approximately 63 percent of the total carbon-free energy.

H.R. 4979 requires that NRC establish a regulatory framework for issuing licenses for advanced nuclear reactor technology but also requires that NRC submit a schedule for implementation of the framework by 2019.

Safety in nuclear is the number one goal, and this regulatory framework ensures that NRC has the opportunity to develop a framework that enables them to safely regulate the future technologies of the

nuclear industry.

H.R. 4979 also recognizes that the Department of Energy and the NRC collaborate in advancing new nuclear technology. The National Labs and DOE provide opportunities for testing of new nuclear technologies on Federal lands and the option to look at public-private partnerships between the DOE and the private sector companies interested in investing in the future of nuclear.

There is also a role for the NRC in this space because these testing opportunities allow for a demonstration of technology that the NRC has not been licensing over the last 40 years.

Investment in new technologies is already happening with approximately 50 companies in this country investing over \$1 billion, working to develop the next generation of nuclear power. That is why we have introduced H.R. 4979. It is time for Congress to ensure that NRC provides a framework so that innovators and investors can prepare to apply for licensing technologies. Passing this legislation is key to ensuring that the United States remains a leader in the nuclear industry, which is vital both for our electricity mix and our national security.

We are also considering H.R. 4775, the Ozone Standards Implementation Act, which empowers States to deal with the consequences of the recent revision to the U.S. EPA's current national ambient air quality standards for ozone from 75 parts per billion to 70 parts per billion by providing more time and flexibility to implement the 2015 standard.

No one opposes clean air and clean water. However, I remain concerned that implementing the 2015 standards just as the previous revisions of the National Ambient Air Quality Standards standards are beginning to be implemented in counties across the country will provide extremely expensive and lead to incredible costs from my home State of Ohio.

This legislation allows States more time to implement the newest standards, which is key for ensuring that we do not stifle the incredible advances we have made in the energy, manufacturing, and chemical sectors. H.R. 4775 will also make the needed reforms to the National Ambient Air Quality Standards program by adding technical feasibility of a standard as consideration of the EPA may consider in extending the time between the revisions of the standards from 5 to 10 years. This time extension will help States have the time needed to fully implement a standard before they are dealing with a new standard.

And I look forward to working with the committee as we advance these measures before us today. And with that, I yield back the balance of my time. And I recognize the gentleman from New Jersey, the ranking member, for his opening remarks.

[The prepared statement of Mr. Latta follows:]

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Mr. Pallone. Thank you, Mr. Chairman. Tomorrow the full committee will be marking up two bills that came before the Energy and Power Subcommittee last week. The first bill is H.R. 4979, the Advanced Nuclear Technology Development Act of 2016, which was introduced by Representatives Latta and McNerney.

The bill would enhance coordination between the Nuclear Regulatory Commission and the Department of Energy through a memorandum of understanding on issues related to advanced nuclear reactor technology. I support this goal, and I commend Representatives Latta and McNerney for working together in a bipartisan manner to find ways for the Federal Government to support the advanced nuclear power industry.

On the other hand, the second bill, H.R. 4775, the Ozone Standards Implementation Act, is an attack that strikes at the heart of the Clean Air Act and would undermine decades of progress in cleaning up pollution and protecting public health. The bill's sponsors say the goal of this legislation is to facilitate a more efficient implementation of EPA's National Ambient Air Quality Standards by States. They say that all they want to do is streamline this process, and they say that the bill won't roll back any of the public health protections afforded in the Clean Air Act. But let's not pretend that the legislative changes in this bill are simply tinkering around the margins of the Clean Air Act. This is radical change, and weakening the protections of the law won't make air pollution go away.

All told, these provisions constitute an extreme attempt at

systematically weakening the fundamental protections that the Clean Air Act provides to the American people. First, the cornerstone of the Clean Air Act is a series of health-based air quality standards that EPA must set based solely on the latest science and medical evidence. Essentially the standard sets the level of pollution that is safe to breathe. The lowest health-based standards help us ensure healthy air for everyone, particularly our most vulnerable populations like children and the elderly.

The EPA sets the appropriate clean air goals, and then the States decide how best to achieve those goals. This harmful bill before us today would end up this effective program by elevating costs and feasibility considerations in the standard-setting process, not just for ozone, but also for carbon monoxide, sulfur oxide, nitrogen oxide, particulate pollution, and even lead. This would allow polluters to override scientists, leading to air quality standards based on protecting corporate profits rather than the public health.

The bill would also delay implementation of the new, more protective ozone standard by up to 8 years, essentially denying the public the right to clean and healthy air that is long overdue. The bill further delays healthy air by stating that the updated ozone standard doesn't apply to any new or expanding sources until EPA jumps through additional procedural hoops, such as issuing more regulations and guidance. This loophole violates the simple principle that a new facility should not increase local air pollution above levels that are safe to breath.

And finally the legislation would drastically expand the Clean Air Act's definition of exceptional events to include common weather events like hot days. This provision alters the way air quality data is interpreted allowing many poor air quality days to be disregarded. It is an environmental don't ask don't tell designed to cover up reality by making it appear that the air quality is improving when, in fact, it is not.

So my Republican colleagues like to say that we have made tremendous progress in reducing air pollution in this country, but that doesn't mean that we no longer need the tools that got us there or that the job is done. We have made progress because Congress enacted a strong and effective Clean Air Act. As I said last week, if we weaken the law by passing bills like the Ozone Standards Implementation Act, then air quality will suffer; public health will suffer, and we will throw out decades of progress.

H.R. 4775 is, simply put, it is a bad bill that should never have seen the light of day and should be stopped in its tracks here and now, and I urge my colleagues to join me in opposing the bill. And I yield back. Thank you, Mr. Chairman.

[The prepared statement of Mr. Pallone follows:]

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Mr. Latta. Well, thank you very much. The gentleman yields back, and the chair reminds members that pursuant to the committee rules, all members' opening statements will be made part of the record.

Are there further opening statements? And I believe the chair will now recognize the gentlelady from Tennessee, the vice chair of the full committee, for 5 minutes, 3 minutes pardon me.

Mrs. Blackburn. Thank you, Mr. Chairman. In October 2015, the EPA released the final version of the updated NAAQS standards. It will cut the current limit from 75 parts per billion to 70 parts per billion. At 70 parts per billion, 45 counties in Tennessee will be noncompliant. Now, I want you to think about that. Forty-five of our 95 counties will be noncompliant. Three hundred fifty-eight counties nationwide will not be able to meet the new standard.

The National Association of Manufacturers has speculated this will be one of the most expensive regulations in history, costing \$1 trillion from 2017 to 2040. It will eliminate 1.4 million job equivalents per year -- think about that economic impact -- and reduce the Nation's GDP by \$140 billion annually. Worse, the EPA admits that the technology necessary to reach the new standard does not yet exist. This doesn't even factor in the fact that a lot of the ozone is generated naturally in the ecosystem, thus the Smokey Mountains.

H.R. 4775, the Ozone Standards Implementation Act, will allow States to implement EPA's ozone standards in a manner that is more practical and cost effective. It will also allow States to meet the current standards in a reasonable timeframe and ensure the States

aren't forced to comply with two different standards at the same time. EPA just provided guidance on how to comply with the 2008 standards shortly before finalizing the 2015 standards. States need to have one clear goal to strive toward in a 10-year review cycle as opposed to 5 years. That will give EPA time to develop clear guidance and allow the States to comply.

We will also take up H.R. 4979, the Advanced Nuclear Technology Development Act. Thanks to the hard work and foresight of the TVA, Tennessee is one of the Nation's leaders in developing new nuclear energy production, and I was able to tour their new facility, the first nuclear reactor of the 21st Century. It is at the Watts Bar 2 facility. Good work from the TVA. It is part of the All-of-the-Above energy approach, and it will add to our Nation's energy security. I commend them, and I look forward to taking up H.R. 4979, and I yield back.

[The prepared statement of Mrs. Blackburn follows:]

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Mr. Latta. Well, thank you very much. The gentlelady yields back. The chair now recognizes the gentlelady from Illinois for 3 minutes.

Ms. Schakowsky. Thank you, Mr. Chairman. Tomorrow the committee will be considering yet another bill, the Ozone Standards Implementation Act, to undermine protections for our environment and public health.

Ozone damages lungs. It worsens asthma in children. That is why 8 years ago the Clean Air Scientific Advisory Committee recommended that the EPA strengthen ozone standards to protect public health. Strengthening these standards will help prevent premature deaths, asthma attacks, and acute bronchitis.

EPA finally issued the new standards last October, but H.R. 4775 would delay implementation for up to another 8 years. Meanwhile, the bill would only require EPA to review the science on air pollutants once per decade instead of every 5 years, and when setting standards, this bill would have those standards based not on what is safe, but what is, quote, feasible, unquote, a proposal that has already been debated and rejected by the courts.

The result is that more people's health would be put at risk. We need to protect people with asthma and other respiratory illnesses, especially children in poor and minority communities, from the harmful effect of ozone. But rather than help States implement ozone standards, this bill delays improvements in air quality, delays review of scientific evidence, and deprioritizes public health.

I urge all my colleagues to oppose it, and I yield back.

[The prepared statement of Ms. Schakowsky follows:]

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Mr. Latta. Well, thank you very much. The gentlelady yields back. The chair now recognizes the gentleman from Texas for 3 minutes.

Mr. Olson. I thank the chairman. I will use my 3 minutes to talk about my bipartisan bill, H.R. 4775. When we wrote this bipartisan bill, we did not seek solutions in search of a problem. State after State is telling us what we already know. The Clean Air Act is hugely important, but it is also imperfect.

This bill is not about changing the fundamentals of the Clean Air Act. This bill is not about an attempt to reverse our goal of improving air quality. This bill does not undo the 2015 standard. This bill recognizes a simple fact. EPA can't keep pace with deadlines to lower standards while writing rules for changing previous standards. They need more time.

This bill seeks to help EPA so they can implement the Clean Air Act in a way that is actually achievable. Our air quality is improving, and I firmly believe this bill will help States to continue to make progress. Some who oppose H.R. 4775 say this bill is trying to put science -- economics ahead of health. They stress the need for sound science. They claim section 39(b) disregards health and science.

Section 3(b) does not allow EPA to set an unhealthy standard. I don't want my kids or any other American kids to breathe dirty air. Section 3(b) clearly says the EPA can only consider economics in a new standards if it is within the range their science advisers say will protect people. Economics is a secondary consideration. Health is still the No. 1 priority. It is a similar story with other sections

of the bill. I would ask my colleagues to remember the words we heard from the States a few weeks ago in the Energy and Power Subcommittee. Look at the EPA docket. Read the comments from State after State saying EPA needs help to make the Clean Air Act work as intended. Let's give them that help and make our air cleaner at the same time. H.R. 4775 does just that. I yield back.

Mr. Latta. Thank you very much. The gentleman yields back the balance of his time. The chair now asks if there are any other members who would like to give opening statements? Seeing and hearing none, the chair now calls up H.R. 4979 and asks the clerk to report.

The Clerk. H.R. 4979 to foster civilian research and development of advanced nuclear energy technologies and enhance the licensing and commercial deployment of such technologies.

Mr. Latta. Without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any time. So ordered.

[The bill follows:]

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Mr. Latta. We are now on H.R. 4979. The committee will reconvene at ten 10 o'clock tomorrow. I remind members that the chair will give priority recognition to bipartisan amendments. I look forward to seeing you all tomorrow. Without objection, the committee stands in recess.

[Whereupon, at 5:19 p.m., the committee recessed, to reconvene at 10:00 a.m. Wednesday May 18, 2016.]