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6 MARKUP OF

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

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

9 WEDNESDAY, MAY 18, 2016

10 House of Representatives,

11 Committee on Energy and Commerce,

12 Washington, D.C.

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16 The committee met, pursuant to call, at 10:11 a.m., in Room
17 2123, Rayburn House Office Building, Hon. Fred Upton [chairman
18 of the committee] presiding.

19 Present: Representatives Upton, Barton, Whitfield,
20 Shimkus, Pitts, Walden, Murphy, Burgess, Blackburn, Scalise,
21 Latta, McMorris Rodgers, Harper, Lance, Guthrie, Olson, McKinley,
22 Pompeo, Kinzinger, Griffith, Bilirakis, Johnson, Long, Ellmers,
23 Bucshon, Flores, Brooks, Mullin, Hudson, Collins, Cramer,
24 Pallone, Rush, Eshoo, Engel, Green, DeGette, Capps, Doyle,
25 Schakowsky, Butterfield, Matsui, Castor, Sarbanes, McNerney,

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1 Welch, Lujan, Tonko, Yarmuth, Clarke, Loeb sack, Schrader,
2 Kennedy, and Cardenas.

3 Staff Present: Gary Andres, Staff Director; Will Batson,
4 Legislative Clerk, Energy and Power, Environment and the Economy;
5 Mike Bloomquist, Deputy Staff Director; Allison Busbee, Policy
6 Coordinator, Energy and Power; Rebecca Card, Assistant Press
7 Secretary; Karen Christian, General Counsel; Paige Decker,
8 Executive Assistant; Giulia Giannangeli, Legislative Clerk,
9 Commerce, Manufacturing, and Trade; Tom Hassenboehler, Chief
10 Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor;
11 Peter Kielty, Deputy General Counsel; Ben Lieberman, Counsel,
12 Energy and Power; David McCarthy, Chief Counsel, Environment and
13 the Economy; Brandon Mooney, Professional Staff Member, Energy
14 and Power; Mary Neumayr, Senior Energy Counsel; Tim Pataki,
15 Professional Staff Member; Graham Pittman, Legislative Clerk;
16 Annelise Rickert, Legislative Associate; Chris Santini, Policy
17 Coordinator, Oversight and Investigations; Dan Schneider, Press
18 Secretary; Peter Spencer, Professional Staff Member, Oversight;
19 Dylan Vorbach, Deputy Press Secretary; Gregory Watson,
20 Legislative Clerk, Communications and Technology; Jen Berenholz,
21 Minority Chief Clerk; Jeff Carroll, Minority Staff Director;
22 Elizabeth Ertel, Minority Deputy Clerk; Caitlin Haberman,
23 Minority Professional Staff Member; Rick Kessler, Minority Senior
24 Advisor and Staff Director, Energy and Environment; John
25 Marshall, Minority Policy Coordinator; Alexander Ratner,

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1 Minority Policy Analyst; Tim Robinson, Minority Chief Counsel;
2 Andrew Souvall, Minority Director of Communications, Outreach and
3 Member Services; and Tuley Wright, Minority Energy and
4 Environment Policy Advisor.

1 The Chairman. The committee will come to order.

2 At the conclusion of opening statements yesterday, the chair
3 called up H.R. 4979, and the bill was open for amendment at any
4 point. Are there any bipartisan amendments to the bill?

5 Mr. Latta has a bipartisan amendment, and the clerk will read
6 the title of the amendment.

7 The Clerk. Amendment to H.R. 4979 offered by Mr. Latta.

8 [The amendment of Mr. Latta follows:]

9

10 *****INSERT 1*****

1 The Chairman. And the amendment will be considered as read,
2 and the staff will distribute the amendment.

3 And the gentleman from Ohio is recognized for 5 minutes in
4 support of his amendment.

5 Mr. Latta. Well, thank you very much, Mr. Chairman. And
6 this is a manager's amendment. And I want to thank you, Mr.
7 Chairman. And Congressman McNerney and I have been working on
8 a bipartisan manager's amendment to address issues raised by
9 stakeholders that make a few clarifications and corrections to
10 the underlying bill.

11 What I would like to highlight is a change in the definition
12 for advanced nuclear. We struck the word "fission" after talking
13 with advanced reactor groups involved in the fusion energy sector.
14 We want to make sure that this licensing framework is
15 technology-neutral.

16 The manager's amendment also requires NRC to -- is it not
17 picking up? Is that better?

18 The manager's amendment also requires the NRC to consider
19 cost-sharing options associated with a phased licensing review
20 process to increase certainty for license applicants and the
21 investors funding the technology. And the manager's amendment
22 also includes a provision to protect the taxpayers from incurring
23 new liabilities from the Department of Energy, engages with
24 private sector entities to develop innovative technologies.

25 And I would yield to Mr. McNerney if he would like to have

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1 some of my time.

2 Mr. McNerney. Thank you. I want to thank Mr. Latta for
3 working on a bipartisan method to get this done.

4 Now, this is the way things should be around here, working
5 together, making compromises. This is what this is. The
6 manager's amendment reflects the continued bipartisan effort, and
7 I believe the manager's amendment improves the underlying bill,
8 so I support the amendment, and I yield back.

9 Mr. Latta. Mr. Chairman, I yield back the balance of my
10 time.

11 The Chairman. The gentleman yields back. The chair would
12 recognize the gentleman from New Jersey, the ranking member, for
13 5 minutes in support of the amendment.

14 Mr. Pallone. Thank you, Mr. Chairman.

15 The amendment makes a few commonsense tweaks to the
16 underlying bill. It provides more time for NRC to put together
17 the advanced reactor regulatory framework. More importantly, it
18 includes a new section setting forth liability protections for
19 the Federal Government in cases where private entities are hosting
20 a reactor on Department of Energy land.

21 There have been recent legislative proposals directing DOE
22 to host privately funded prototype nuclear reactors to
23 demonstrate advanced nuclear technologies, but those proposals
24 ignore completely the lack of a clear regulatory scheme and the
25 significant new potential liability that would be borne by the

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1 Federal Government and ultimately the U.S. taxpayers.

2 The language in the Latta amendment would stop DOE from
3 moving forward on hosting any of these privately funded novel
4 nuclear reactor demonstrations until a few commonsense boxes are
5 checked. First, DOE must ensure that the private entities are
6 insured in the event of an accident in the same manner as other
7 nuclear operators.

8 Second, even though these would be housed on DOE property,
9 these reactors and their private sponsors must meet the same
10 decommissioning requirements as those reactors constructed on
11 private property.

12 And third, there needs to be a place to dispose of any waste
13 generated by these projects before they go into operation so DOE
14 cannot begin work on such a program until a final decision is made
15 on a license application for a permanent repository.

16 So I actually think the amendment should go farther to ensure
17 that these projects are subject to licensing and oversight by the
18 NRC. However, I think that what we have sends a strong message
19 about the multitude of gaps in these proposals and the danger to
20 the U.S. taxpayer who could be on the hook for untold millions
21 of dollars if everything works fine and a lot more in the event
22 of an accident. So I urge all my colleagues to support the
23 amendment and yield back, Mr. Chairman.

24 The Chairman. The gentleman yields back.

25 Other members wishing to speak on the amendment?

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1 Seeing none, the vote occurs on the amendment offered by Mr.
2 Latta and Mr. McNerney.

3 All those in favor will say aye.

4 Those opposed, say no.

5 In the opinion of the chair, the ayes have it. The amendment
6 is agreed to.

7 Are there further bipartisan amendments to the bill?

8 The chair would recognize Mr. Schrader.

9 Mr. Schrader. Thank you, Mr. Chairman. I have an amendment
10 at the desk.

11 The Chairman. And the clerk will report the title.

12 The Clerk. Amendment to H.R. 4979 offered by Mr. Schrader.

13 [The amendment of Mr. Schrader follows:]

14

15 *****INSERT 2*****

1 The Chairman. And the memo will be considered as read. The
2 staff will distribute the amendment, and the gentleman is
3 recognized for 5 minutes in support of his amendment.

4 Mr. Schrader. Thank you, Mr. Chairman.

5 H.R. 4979, the Advanced Nuclear Technology Development Act,
6 supports advanced nuclear reactors with significant design
7 improvements over existing fleet of nuclear reactors. The safety
8 improvements used in some new reactor designs nearly eliminate
9 the possibility of a critical nuclear reaction from ever
10 occurring.

11 The innovations are transformational and may change the way
12 the world views nuclear energy. It is important because safe
13 nuclear power, along with a growing portfolio of renewable energy
14 sources, can play an important role in carbon-free baseload
15 electricity in the future.

16 However, the innovation of nuclear power cannot occur unless
17 the Nuclear Regulatory Commission is prepared to use a regulatory
18 framework that is risk-informed, efficient, and cost-effective.
19 The companies developing these new technologies each face more
20 than \$1 billion in development costs and nearly two decades to
21 complete these designs.

22 The NRC design review process is rightly viewed as an
23 international gold standard. However, if the NRC fails to
24 implement and facilitate a reliable regulatory framework, then
25 the significant investment in these new technologies could be

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1 lost.

2 H.R. 4979 directs NRC to develop a licensing plan for
3 advanced nuclear testing and licensing. However, there are some
4 advanced technologies, including the NuScale Power small modular
5 reactor, that are moving much faster. NuScale, based in
6 Corvallis, Oregon, intends to submit its design certification
7 application to the NRC by the end of the calendar year. To date,
8 NuScale and its parent company have spent nearly \$600 million over
9 the last 15 years developing its innovative and safe design.

10 NRC has stated it can complete that review within 40 months.
11 It seems like a long time. Unfortunately, the recent history in
12 NRC's design review process raises questions whether or not it
13 can complete that review in 40 months. The most recent design
14 license, for example, reviewed by the NRC took 9 years.

15 My amendment simply asks the NRC to report annually on the
16 status of each advanced nuclear design certification review. If
17 NRC falls behind this schedule due to their own actions, the
18 amendment simply requires NRC to develop a plan and identify the
19 resources needed to recover the schedule and put some certainty
20 in the process.

21 Mr. Chairman, I believe the NRC should ultimately take as
22 long as it needs to ensure all reactor designs are safe. This
23 amendment will help NRC stay on track in its review process and
24 offers additional transparency, efficiency, and certainty to make
25 sure these reviews are completed on time.

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1 Thank you very much, and I yield back, Mr. Chairman.

2 The Chairman. The gentleman yields back.

3 The chair would recognize the gentleman from Oregon, Mr.
4 Walden.

5 Mr. Walden. Thank you, Mr. Chairman. And I want to thank
6 my colleague from Oregon, Representative Schrader, for leading
7 on this amendment. I strongly support the amendment as well and
8 encourage its passage.

9 Oregon is currently home to the leading development of
10 American small modular reactor technology. Twenty thirteen, the
11 Department of Energy supported the development of this technology
12 by awarding a grant to NuScale to further develop SMR technology.
13 This is a good program. I think this amendment makes a lot of
14 sense, and I fully support it.

15 The Chairman. The gentleman yields back.

16 Other members wishing to speak on the amendment offered by
17 Mr. Schrader?

18 Seeing none, the vote occurs on the amendment offered by Mr.
19 Schrader.

20 All those in favor, say aye.

21 Those opposed, say no.

22 In the opinion of the chair, the ayes have it. The amendment
23 is agreed to.

24 Are there further amendments to the bill?

25 Seeing none, the question now occurs on favorably reporting

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1 H.R. 4979, as amended, to the House.

2 All those in favor shall say aye.

3 Those opposed, say no.

4 In the opinion of the chair, the ayes have it, and the bill
5 is favorably reported.

6 The chair now calls up H.R. 4775 and asks the clerk to report.

7 The Clerk. H.R. 4775, to facilitate efficient State
8 implementation of ground-level ozone standards and for other
9 purposes.

10 [The bill H.R. 4775 follows:]

11

12 *****COMMITTEE INSERT 3*****

1 The Chairman. And without objection, the first reading of
2 the bill is dispensed with. The bill will be open for amendment
3 at any point.

4 Are there any bipartisan amendments to the bill?

5 Are there any amendments to the bill?

6 Mr. Rush. Mr. Chairman?

7 The Chairman. The gentleman from Texas, Mr. Olson, and then
8 I will come back to you, Mr. Rush. You have an amendment at the
9 desk?

10 Mr. Olson. I have an amendment at the desk, yes, sir.

11 The Chairman. And the clerk will report the title.

12 The Clerk. Amendment to H.R. 4775 offered by Mr. Olson.

13 [The amendment of Mr. Olson follows:]

14
15 *****INSERT 4*****

1 The Chairman. And the amendment will be considered as read.
2 The staff will distribute the amendment, and the gentleman from
3 Texas is recognized for 5 minutes in support of his amendment.

4 Mr. Olson. I thank the chair.

5 This amendment addresses two concerns raised by the States
6 relating to H.R. 4775. First, H.R. 4775 provides additional time
7 to implement new permitting requirements under the 2015 ozone
8 standards. The bill also provides additional time to implement
9 future permitting requirements EPA fails to issue timely
10 permitting regulations or guidance receives -- revises standards
11 in the future.

12 In written testimony on H.R. 4775, the chairman of the Texas
13 Commission on Environmental Quality, the TCEQ, Bryan Shaw, noted
14 that the bill's definition of "preconstruction permit" includes
15 only major sources and does not include minor sources, which may
16 also be required by EPA to obtain preconstruction permits. He
17 raised concerns under the bill that major and minor sources could
18 be treated differently in terms of regulatory relief available.

19 My amendment would revise the definition of preconstruction
20 permit to include both major and minor sources. Ozone is ozone.
21 This will ensure all stationary sources are treated consistently
22 in the bill for permitting purposes.

23 Second, section 3(f) of H.R. 4775 clarifies that economic
24 feasibility should be considered when developing State
25 Implementation Plans for moderate and serious ozone nonattainment

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1 areas. The bill, as introduced, inadvertently failed to include
2 extreme ozone nonattainment areas in this clarification. My
3 amendment would make this clarification for extreme ozone
4 nonattainment areas.

5 This change is consistent with EPA's responses to the
6 questions for the record submitted to the committee last fall in
7 which the Agency stated "when designing their State
8 Implementation Plan to implement the NAAQS, State and local
9 officials have authority to consider several factors, including
10 employment impacts and costs of controls."

11 The changes in my amendment are limited and help
12 implementation of new air quality standards. I urge support for
13 this amendment, and I yield back.

14 Mr. Whitfield. Would the gentleman yield for just a minute?

15 Mr. Olson. Yes, sir, yield.

16 Mr. Whitfield. I just wanted to point out also that at the
17 legislative hearing the Executive Director of the San Joaquin Air
18 Pollution Control District in California, which is one of the
19 areas that has the most difficulty of complying with any of these
20 ozone standards, particularly the 2008 standard and they are very
21 much concerned about this new standard -- talked about in his
22 testimony the vital importance of being able to consider economic
23 feasibility. And I think Mr. Olson's amendment directly affects
24 that point.

25 And these requests are coming in from those areas that are

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1 most hard-hit by these ozone regulations, unable to meet them,
2 and are insisting and requesting that Congress allow the EPA to
3 consider the economic feasibility of the regulation. So I would
4 yield back my time.

5 The Chairman. The gentleman yields back.

6 The chair would recognize the gentleman from New Jersey, Mr.
7 Pallone, for 5 minutes.

8 Mr. Pallone. Thank you, Mr. Chairman.

9 I want to speak in opposition to this amendment. This
10 amendment appears to only make a few technical changes to the bill.
11 However, these changes only add to the problems with the bill.

12 First, under section 3(d), until EPA issues the required
13 regulations and guidance, new or expanding major sources of
14 pollution get amnesty from the Clear Air Act requirements when
15 applying for a preconstruction permit. Applying outdated air
16 quality standards for permitting creates a loophole in the Clear
17 Air Act that would allow new or expanding facilities to emit more
18 pollution than is safe.

19 The Olson amendment would expand this loophole to include
20 minor statutory sources as well, and that just adds to problems
21 caused by section 3(d), in other words, more air pollution, more
22 pollution-control costs for existing businesses, more
23 litigation, and more permitting delays.

24 Second, the Olson amendment would allow areas with the
25 dirtiest area to avoid making steady progress towards clean air.

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1 The Clean Air Act requires nonattainment areas to reduce their
2 pollution by specific percentages in order to demonstrate that
3 they are making reasonable further progress in cleaning up the
4 air. The amendment would give extreme nonattainment areas the
5 ability to waive their reduction requirements by allowing them
6 to consider the cost of making such reductions.

7 So the upshot of the Olson amendment is more uncontrolled
8 pollution and fewer requirements for cleaning it up, so I urge
9 my colleagues to oppose the amendment.

10 I yield back.

11 The Chairman. The gentleman yields back.

12 Other members wishing to speak on the amendment?

13 Seeing none, the vote occurs on the amendment offered by the
14 gentleman from Texas.

15 Those in favor will say aye.

16 Those opposed, say no.

17 In the opinion of the chair, the ayes have it. The amendment
18 is agreed to.

19 Are there further amendments to the bill?

20 The gentleman from Illinois has an amendment --

21 Mr. Rush. I want to thank you, Mr. Chairman. Mr. Chairman,
22 I have an amendment at the desk, Rush 01.

23 The Chairman. Rush 1, the clerk will read the title of the
24 amendment.

25 The Clerk. Amendment to H.R. 4775 offered by Mr. Rush.

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[The amendment of Mr. Rush follows:]

*****INSERT 5*****

1 The Chairman. And the amendment will be considered as read.
2 The staff will distribute the amendment, and the gentleman from
3 Illinois is recognized for 5 minutes in support of his amendment.

4 Mr. Rush. I want to thank you, Mr. Chairman.

5 Mr. Chairman, H.R. 4775 would unacceptably delay
6 implementation of the EPA's 2015 ozone standards for another 8
7 years while also mandating that EPA wait a decade before
8 considering any new evidence regarding the health implications
9 from ozone and other harmful pollutants, despite what the science
10 may say in the interval.

11 Mr. Chairman, for those of us who believe that science should
12 inform policymaking in regards to public health decisions,
13 delaying 2015 standards and prohibiting the EPA from revisiting
14 the scientific evidence for at least a decade is an unacceptable
15 risk that could result in potentially disastrous health impacts
16 for the American public.

17 Mr. Chairman, we know that breathing in dirty pollutants such
18 as ozone, carbon monoxide, lead, nitrogen, sulfur dioxide and many
19 other dirty pollutants can lead to a host of health problems,
20 including asthma, inflammation of the lungs, respiratory disease,
21 and even premature deaths.

22 Mr. Chairman, current research even suggests that ozone may
23 also cause damage to the central nervous system and may harm
24 developing fetuses. Yet, despite all the scientific research,
25 this bill would stall the new ozone standards, permanently weaken

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1 the Clean Air Act, and hamstringing EPA's abilities to regulate these
2 harmful contaminants both now and in the future. In fact, under
3 this bill, not only would States have to comply with the 2015
4 standards until 2026, but the public would not even be informed
5 if their communities were in violation of clean air standards
6 until the year 2025.

7 Mr. Chairman, I can think of no benefit to the public interest
8 of denying citizens' information directly tied to their health
9 and to their well-being. Instead of trying to stall the 2015
10 ozone standards and prohibit EPA from regularly updating the
11 National Ambient Air Quality Standards as H.R. 4775 would do, we
12 should be heeding the warnings of doctors, heeding the warnings
13 of scientists of not acting quickly enough to protect the public
14 health.

15 In order to address some of the deficiencies found in this
16 bill, I am offering an amendment that will nullify sections from
17 taking effect even if they may result in adverse public health
18 impacts. My amendment simply states that section 2(a) would
19 cease to apply if the EPA administrator in consultation with the
20 Clean Air Science Advisory Committee finds that increased health
21 problems, including asthma attacks, respiratory disease,
22 cardiovascular disease, stroke, heart attacks, babies with low
23 birth weight and impaired fetal health, fetal growth,
24 neurological damage, premature mortality, or other serious harms
25 to human health, especially for vulnerable populations such as

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1 pregnant women, children, the elderly, outdoor workers, and
2 low-income communities.

3 Mr. Chairman, with over 371,000 adult cases of asthma and
4 close to 99,000 cases of pediatric asthma in my home county, Cook
5 County, Illinois, I cannot afford to support a bill that may in
6 fact aggravate this problem rather than make it much better.

7 Mr. Chairman, this is a commonsense amendment that seeks to
8 put the interests of the public above the interests of industry,
9 and I urge all my colleagues to support it. And with that, I yield
10 back the balance of my time.

11 The Chairman. The gentleman yields back.

12 Other members wishing to speak?

13 The chair would recognize the gentleman from Texas, Mr.
14 Olson, for 5 minutes.

15 Mr. Olson. I thank the chair.

16 A wise man once said those who can't learn from history's
17 mistakes are doomed to repeat them. EPA's recent history with
18 ozone standards should never be repeated. New standards came out
19 in 2008. Those rules to makes those standards -- implement them
20 came out early in 2015, 7 years later. Six months after that,
21 new standards came out. That is not fair. It is not fair to EPA.
22 It is not fair to industry. It is not fair to clean air.

23 This amendment makes that same mistake by allowing the
24 administrator to nullify one of the central provisions of this
25 bill. Section 2(a) would allow States to fully implement the 2008

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1 standards before turning to the 2015 standards.

2 Regarding those 2015 standards, EPA projects -- and this is
3 a quote -- "The vast majority of U.S. counties will meet the 2015
4 ozone standards by 2025 just with the rules and programs now in
5 place or underway."

6 So this bill will also ensure these hundreds of counties that
7 EPA projects are already on track to meet the 2015 standards can't
8 come into compliance without being hit with additional regulatory
9 burdens, paperwork requirements, and restrictions, which will not
10 do anything to improve public health.

11 Since 1980, ozone levels have declined by 33 percent, and
12 EPA projects air quality -- another quote -- "will continue to
13 improve over the next decade as additional reductions in ozone
14 precursors from power plants, motor vehicles, other sources are
15 realized." Nothing in this pending bill prevents these
16 improvements to the air quality from being realized. I urge a
17 no vote on this amendment.

18 Mr. Whitfield. Well, Mr. Olson, will you yield?

19 Mr. Olson. Yield, yes, sir.

20 Mr. Whitfield. I wanted to make another comment. A number
21 of years ago we had a number of forums on the Clean Air Act, and
22 also at the hearing on this legislation many State EPA regulators
23 have all expressed concern that when EPA comes out with a new
24 regulation, they do not provide States with the implementation
25 guidelines. For example, on the 2008 ozone standard, EPA did not

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1 come out with the implementation guidelines to help the States
2 until 2015, some 7 years later.

3 And so this section 2(a) is in the bill at the request of
4 many State EPA authorities because of the fact that EPA at the
5 Federal level does not issue the implementing guidelines. And
6 so this section 2(a) is just a commonsense provision being
7 requested by State EPAs because the Federal EPA is not doing its
8 job of getting these guidances out.

9 And as much respect as I have for Mr. Rush, he in effect would
10 eliminate section 2(a) basically if the administrator decides to
11 do that. So I respectfully oppose his amendment and am glad that
12 Mr. Olson in his bill has section 2(a) in the bill. Thank you.

13 Mr. Olson. I yield back.

14 The Chairman. The gentleman yields back.

15 Other members wishing to -- the gentleman from New Jersey,
16 Mr. Pallone.

17 Mr. Pallone. Thank you, Mr. Chairman.

18 I would like to speak in support of the Rush amendment.

19 The American public has waited far too long for adequate
20 protection from high levels of ozone. The promise of the Clean
21 Air Act's air quality standards is healthy air for the entire
22 nation, but the previous ozone standard has fallen short, and
23 since 2008, it has been weaker than the science and the law would
24 allow.

25 So last fall, the EPA strengthened the ozone standard based

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1 on yet another exhaustive review of the scientific evidence.
2 EPA's stronger ozone standard would help avoid a litany of adverse
3 health impacts from asthma attacks in children to missed school
4 days and premature deaths.

5 But this bill would essentially say that the negative
6 consequences of ozone pollution and the benefits of cleaner air
7 don't matter. Section 2(a) of the bill would block EPA from
8 implementing their updated ozone standard, jeopardizing the
9 health and safety of all Americans.

10 Mr. Chairman, the bill supporters argue that the purpose of
11 section 2(a) is merely to give States enough time to implement
12 EPA's 2015 ozone standard, and proponents have time and again
13 stated that it is not intended to roll back any of the existing
14 health protections afforded in the Clean Air Act. But these
15 claims are preposterous for a bill that radically changes numerous
16 provisions of the law that ensures we all breathe safe air.

17 If Republicans want to claim that this bill is not an attack
18 on the Clean Air Act and public health, there should be no
19 objection to Mr. Rush's amendment. It simply states that
20 implementation of EPA's 2015 ozone standard would not be delayed
21 if the EPA administrator determines that doing so causes serious
22 harm to human health, including asthma attacks and other
23 respiratory disease, heart attacks, birth defects, brain damage,
24 or premature death.

25 Swift implementation of the new ozone standard has

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1 meaningful, real-world benefits. These public health benefits
2 and air quality protections are especially important for the most
3 vulnerable among us -- babies, kids, seniors -- and they all would
4 be needlessly blocked by this bill.

5 Americans rely on the EPA to hold polluters responsible for
6 cleaning up their pollution. It is just common sense. If you
7 stop EPA from doing its job, public health will suffer. If you
8 don't want to block efforts to clean up air pollution that is
9 contributing to asthma attacks, heart attacks, lung disease,
10 birth defects, neurological damage, and premature death, then
11 support this amendment. An adoption of Mr. Rush's amendment will
12 make it perfectly clear that EPA can continue to clean up air
13 pollution that causes serious health effects, so I urge my
14 colleagues to support this amendment.

15 I yield back.

16 The Chairman. The gentleman yields back.

17 Other members wishing to speak on the amendment?

18 The gentlelady from California is recognized.

19 Mrs. Capps. Thank you, Mr. Chairman. I move to strike the
20 last word in support of the Rush amendment.

21 My background as a public health nurse has revealed to me
22 that our environment has such a direct link to our health, and
23 that is why health prioritization and consideration within the
24 Clean Air Act has been so important.

25 Clean air is so fundamental to public health, but it also

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1 has important impacts on our nation's fiscal health. Cleaner air
2 means healthier individuals who have fewer medical needs and lower
3 medical expenses, take fewer sick days, and have an overall better
4 quality of life. And clean, safe air is especially important for
5 children, the elderly, individuals with otherwise compromised
6 immune systems.

7 And that is why the Clean Air Act is constructed the way it
8 is and why it has worked as well as it has. The law recognizes
9 that we should be setting standards that are in line with public
10 health needs, and we have all benefited from this.

11 Unfortunately, this bill strays from the underlying intention of
12 the Clean Air Act and it does compromise the intention of
13 protecting public health, and this places all of us at risk.

14 Ozone and the other criteria of pollutants included within
15 the Clean Air Act have all been shown to directly impact public
16 health. Exposure to these pollutants is, at the bottom line,
17 simply dangerous. While it is undeniable that these pollutants
18 are dangerous for everyone, certain individuals in communities
19 are more at risk than others. The loopholes and delays provided
20 for in the legislation before us would put everyone, but
21 particularly these vulnerable communities like children, like the
22 elderly, at risk, and this is unacceptable.

23 Mr. Rush's amendment is a commonsense approach to ensure that
24 we maintain our commitment to protect public health for everyone,
25 as the Clean Air Act intends, not just for a privileged few.

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1 Without it, we risk putting Americans at risk for an increase in
2 the rate of asthma attacks, respiratory disease, cardiovascular
3 disease, stroke, heart attacks, neurological damage, premature
4 mortality, prematurity, and birth defects.

5 The Rush amendment is critical to addressing these risks.
6 That is why I strongly support it. I urge my colleagues to support
7 it as well and yield back or yield to someone else.

8 The Chairman. The gentlelady yields back.

9 Other members wishing to speak on the amendment?

10 Mr. Shimkus is recognized for 5 minutes.

11 Mr. Shimkus. Thank you, Mr. Chairman.

12 This is always very curious because this whole debate is how
13 long can EPA really get out the standards? How long do we allow
14 industry to try to comply? And what has happened here is we just
15 have how to comply with the 2008 standards, and they come down
16 with a higher standard. So how can industry do that?

17 So all section 2 says is let's give us, in essence, the same
18 amount of time to implement the new 2015 standards as you took
19 to roll out the 2008 standards. I mean, surely we have to
20 appreciate the fact that ratcheting down ozone emissions, someone
21 would even argue whether it is at background levels or now -- we
22 are not even getting into that debate -- but surely we ought to
23 give the sector time to implement it and the capital expense that
24 needs to be raised and the construction to be placed on the
25 utilities so that they can do it.

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1 I mean, for the life of me, this is just a very curious debate
2 when we have a 2008 standard that they now tell us how to comply
3 with, and while they are telling us to comply with the 2008
4 standard, they come down with a new 2015 standard. So section
5 2 is very, very important if you want to at least give some hope
6 to the sector that when there are new standards that come down,
7 we really believe and want them to try to meet those by giving
8 them the time to be able to do so.

9 So this is a curious debate. I want to support inclusion
10 of section 2 in the bill, and I yield back my time.

11 The Chairman. The gentleman yields back.

12 Other members wishing to speak?

13 The gentlelady from Florida is recognized for 5 minutes.

14 Ms. Castor. Thank you, Mr. Chairman, and good morning,
15 colleagues.

16 I would like to support the Rush amendment. And Rush
17 amendment goes to the heart of why the Clean Air Act is so important
18 to American families and American businesses. Since 1970 the
19 Clean Air Act and then its amendments have ensured that the air
20 that we breathe is clean, and it is based on science, and it is
21 the science and the public health that helps drive policy.

22 Unfortunately, this bill is an irresponsible compilation of
23 attacks that strike at the heart of the Clean Air Act. Mr. Rush's
24 amendment tries to fix this, but it doesn't sound like our
25 Republican colleagues are going to be interested in it,

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1 unfortunately, because what the bill does is it undermines decades
2 of progress on cleaning up pollution and protecting the public
3 health from all pollutants, not just ozone.

4 The core of the Clean Air Act requires the EPA to review the
5 science every 5 years. The Republican bill says, no, we are not
6 interested in the science every 5 years; we want to lengthen that.
7 So what you are saying to our neighbors is that you are not going
8 to let them know what is in the air that they breathe? That is
9 not fair.

10 After the 5-year review, the EPA then sets the health-based
11 standards called the National Ambient Air Quality Standards.
12 These are set at a level based on the best science to protect the
13 public health, including the health of sensitive groups like our
14 children and our older neighbors. Essentially, those standards
15 determine what level of air pollution is safe, safe to breathe.
16 And like I said before, our neighbors deserve to know what is in
17 the air that they breathe. And then the cost and feasibility of
18 projects is then considered by States when implementing the
19 standard.

20 The problem with this bill is that it undermines the
21 health-based decision-making, which has been central to the
22 success of our ambient air quality standards in cleaning up
23 pollution. It removes the important firewall separating the
24 setting of standards from their implementation and virtually
25 guarantees that the public will never know what level of air

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1 quality is truly safe.

2 And despite repeated claims that achieving clean air was just
3 not feasible, over the past decades, look around. We have made
4 such great progress. American ingenuity has consistently risen
5 to the challenge and made our country the leader in both clean
6 air and clean air technology.

7 Just look at what is happening in China and India right now.
8 Their economies are suffering because they just cannot get a
9 handle on air pollution. It is very detrimental to the health
10 of those countries. Meanwhile, in America we have clean air and
11 we have the strongest economy in the world, so why would you want
12 to gut the Clean Air Act and go back on that? It is really what
13 sets America apart from other countries in the world.

14 So I would ask my colleagues, please adopt the Rush amendment
15 to make this bill a little bit better, but in the end, I ask you,
16 don't gut the Clean Air Act. And I yield back the balance of my
17 time.

18 The Chairman. The gentlelady yields back.

19 Other members wishing to speak on the amendment?

20 Seeing none, the vote will occur. Roll call has been
21 requested. The clerk will call the roll on the amendment offered
22 by Mr. Rush.

23 The Clerk. Mr. Barton?

24 Mr. Barton. No.

25 The Clerk. Mr. Barton votes no.

1 Mr. Whitfield?

2 Mr. Whitfield. No.

3 The Clerk. Mr. Whitfield votes no.

4 Mr. Shimkus?

5 Mr. Shimkus. No.

6 The Clerk. Mr. Shimkus votes no.

7 Mr. Pitts?

8 Mr. Pitts. No.

9 The Clerk. Mr. Pitts votes no.

10 Mr. Walden?

11 Mr. Walden. No.

12 The Clerk. Mr. Walden votes no.

13 Mr. Murphy?

14 [No response.]

15 The Clerk. Mr. Burgess?

16 [No response.]

17 The Clerk. Mrs. Blackburn?

18 [No response.]

19 The Clerk. Mr. Scalise?

20 [No response.]

21 The Clerk. Mr. Latta?

22 Mr. Latta. No.

23 The Clerk. Mr. Latta votes no.

24 Mrs. McMorris Rodgers?

25 Mrs. McMorris Rodgers. No.

1 The Clerk. Mrs. McMorris Rodgers votes no.

2 Mr. Harper?

3 Mr. Harper. No.

4 The Clerk. Mr. Harper votes no.

5 Mr. Lance?

6 Mr. Lance. No.

7 The Clerk. Mr. Lance votes no.

8 Mr. Guthrie?

9 Mr. Guthrie. No.

10 The Clerk. Mr. Guthrie votes no.

11 Mr. Olson?

12 Mr. Olson. No.

13 The Clerk. Mr. Olson votes no.

14 Mr. McKinley?

15 Mr. McKinley. No.

16 The Clerk. Mr. McKinley votes no.

17 Mr. Pompeo?

18 Mr. Pompeo. No.

19 The Clerk. Mr. Pompeo votes no.

20 Mr. Kinzinger?

21 Mr. Kinzinger. No.

22 The Clerk. Mr. Kinzinger votes no.

23 Mr. Griffith?

24 Mr. Griffith. No.

25 The Clerk. Mr. Griffith votes no.

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1 Mr. Bilirakis?

2 Mr. Bilirakis. No.

3 The Clerk. Mr. Bilirakis votes no.

4 Mr. Johnson?

5 Mr. Johnson. No.

6 The Clerk. Mr. Johnson votes no.

7 Mr. Long?

8 Mr. Long. No.

9 The Clerk. Mr. Long votes no.

10 Mrs. Ellmers?

11 [No response.]

12 The Clerk. Mr. Bucshon?

13 Mr. Bucshon. No.

14 The Clerk. Mr. Bucshon votes no.

15 Mr. Flores?

16 Mr. Flores. No.

17 The Clerk. Mr. Flores votes no.

18 Mrs. Brooks?

19 Mrs. Brooks. No.

20 The Clerk. Mrs. Brooks votes no.

21 Mr. Mullin?

22 Mr. Mullin. No.

23 The Clerk. Mr. Mullin votes no.

24 Mr. Hudson?

25 Mr. Hudson. No.

1 The Clerk. Mr. Hudson votes no.

2 Mr. Collins?

3 Mr. Collins. No.

4 The Clerk. Mr. Collins votes no.

5 Mr. Cramer?

6 Mr. Cramer. No.

7 The Clerk. Mr. Cramer votes no.

8 Mr. Pallone?

9 Mr. Pallone. Yes.

10 The Clerk. Mr. Pallone votes yes.

11 Mr. Rush?

12 Mr. Rush. Yes.

13 The Clerk. Mr. Rush votes yes.

14 Ms. Eshoo?

15 Ms. Eshoo. Aye.

16 The Clerk. Ms. Eshoo votes aye.

17 Mr. Engel?

18 Mr. Engel. Aye.

19 The Clerk. Mr. Engel votes aye.

20 Mr. Green?

21 [No response.]

22 The Clerk. Ms. DeGette?

23 Ms. DeGette. Aye.

24 The Clerk. Ms. DeGette votes aye.

25 Mrs. Capps?

1 Mrs. Capps. Aye.

2 The Clerk. Mrs. Capps votes aye.

3 Mr. Doyle?

4 Mr. Doyle. Yes.

5 The Clerk. Mr. Doyle votes aye.

6 Ms. Schakowsky?

7 Ms. Schakowsky. Aye.

8 The Clerk. Ms. Schakowsky votes aye.

9 Mr. Butterfield?

10 Mr. Butterfield. Aye.

11 The Clerk. Mr. Butterfield votes aye.

12 Ms. Matsui?

13 Ms. Matsui. Aye.

14 The Clerk. Ms. Matsui votes aye.

15 Ms. Castor?

16 Ms. Castor. Aye.

17 The Clerk. Ms. Castor votes aye.

18 Mr. Sarbanes?

19 Mr. Sarbanes. Aye.

20 The Clerk. Mr. Sarbanes votes aye.

21 Mr. McNerney?

22 [No response.]

23 The Clerk. Mr. Welch?

24 Mr. Welch. Aye.

25 The Clerk. Mr. Welch votes aye.

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1 Mr. Lujan?

2 Mr. Lujan. Aye.

3 The Clerk. Mr. Lujan votes aye.

4 Mr. Tonko?

5 Mr. Tonko. Aye.

6 The Clerk. Mr. Tonko votes aye.

7 Mr. Yarmuth?

8 Mr. Yarmuth. Aye.

9 The Clerk. Mr. Yarmuth votes aye.

10 Ms. Clarke?

11 Ms. Clarke. Aye.

12 The Clerk. Ms. Clarke votes aye.

13 Mr. Loeb sack?

14 Mr. Loeb sack. Aye.

15 The Clerk. Mr. Loeb sack votes aye.

16 Mr. Schrader?

17 Mr. Schrader. Aye.

18 The Clerk. Mr. Schrader votes aye.

19 Mr. Kennedy?

20 Mr. Kennedy. Aye.

21 The Clerk. Mr. Kennedy votes aye.

22 Mr. Cardenas?

23 Mr. Cardenas. Aye.

24 The Clerk. Mr. Cardenas votes aye.

25 Chairman Upton?

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1 The Chairman. Votes no.

2 The Clerk. Chairman Upton votes no.

3 The Chairman. Other members wishing to cast a vote?

4 Mrs. Ellmers?

5 Mrs. Ellmers. No.

6 The Clerk. Mrs. Ellmers votes no.

7 The Chairman. Dr. Murphy?

8 Mr. Murphy. No.

9 The Clerk. Dr. Murphy votes no.

10 The Chairman. Other members wishing to cast a vote?

11 Seeing none, the clerk will report the tally.

12 The Clerk. Mr. Chairman, on that vote there were 21 ayes
13 and 28 noes.

14 The Chairman. Twenty-one ayes, 28 noes, the amendment is
15 not agreed to.

16 Are there further amendments to the bill?

17 Mr. Pompeo has an amendment at the desk.

18 Mr. Pompeo. Mr. Chairman, I do have an amendment at the
19 desk, and I think it is a good one.

20 The Chairman. And the clerk will report the title of the
21 amendment.

22 The Clerk. Amendment to H.R. 4775 offered by Mr. Pompeo.

23 [The amendment of Mr. Pompeo follows:]

24

25 *****INSERT 6*****

1 The Chairman. And the amendment will be considered as read.
2 The staff will distribute the amendment.

3 And the gentleman is recognized for 5 minutes in support of
4 his amendment.

5 Mr. Pompeo. Thank you, Mr. Chairman.

6 This is a simple amendment. It expands the study provisions
7 of H.R. 4775. Currently, the bill requires a study on the impacts
8 of international transport. That is good. However, I believe
9 there are two other issues that require significant technical and
10 policy analysis in order for States to develop more effective
11 State Implementation Plans to control ozone.

12 To that end, the amendment would add two additional studies.
13 The first study is on the relative effectiveness of NOx and VOC
14 reductions in urban and rural areas. This will help States in
15 planning cost-effective control strategies. The last time such
16 a study was conducted was in the early 1990s by the National
17 Research Council, and it is time to update that study.

18 The amount of ozone created or destroyed in the atmosphere
19 is largely determined by the relative concentrations of NOx and
20 VOCs in the air. Understanding this unique chemistry in each
21 nonattainment area of the country is critical to developing
22 successful plans to reduce ozone. Plans that are not informed
23 by the best available science can actually cause ozone to
24 increase. States must have confidence that such costly
25 investments will actually reduce ozone.

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1 The second study requires EPA to examine wintertime ozone
2 in Western ozone nonattainment areas. This is a new phenomenon.
3 EPA has stated that it does not have adequate tools to model this
4 ozone formation mechanism. States need to know how to model the
5 new phenomenon in order to develop effective control strategies.
6 Without this assessment, States may end up developing State plans
7 and control strategies that are only marginally effective.
8 Moreover, if these plans fail, States could end up being
9 sanctioned for failing to attain at the lower 2015 ozone
10 standards, despite having undertaken best efforts to reduce local
11 emissions.

12 The study will improve our understanding of the cause of
13 these higher wintertime ozone readings and the most
14 cost-effective control strategies for achieving reductions in
15 wintertime ozone levels.

16 With that, I yield back the balance of my time.

17 Mr. Whitfield. Will the gentleman yield?

18 Mr. Pompeo. Yes, Mr. Whitfield.

19 Mr. Whitfield. I want to thank Mr. Pompeo for offering this
20 amendment because, once again, in the legislative hearing on this
21 issue a number of people raised the phenomenon that with nitrogen
22 oxide emission reductions throughout the United States, the ozone
23 levels have been improving throughout the Eastern United States.
24 And yet despite the similar reductions in the emissions in the
25 Western United States, the ozone levels have not been improving

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1 in the West. And so we need to have a better understanding of
2 why that is the case, and that is precisely what this amendment
3 is designed to do.

4 And I might just add also on the winter ozone study, most
5 scientific studies of ozone have focused on the summertime ozone
6 in urban areas, and the summer ozone formation chemistry is
7 well-characterized. Wintertime ozone, on the other hand, is a
8 relatively new phenomenon limited to a few isolated basins in the
9 Intermountain West, and its causes are not fully understood. And
10 that was brought out very clearly in our legislative hearing on
11 this, and that is why I want to thank Mr. Pompeo for, in this
12 amendment, authorizing this additional study to have a better
13 understanding of this.

14 And I yield back to the gentleman.

15 The Chairman. The gentleman yields back.

16 Other members wishing -- the gentleman from New Jersey for
17 5 minutes.

18 Mr. Pallone. Thank you, Mr. Chairman. I want to speak in
19 opposition to the Pompeo amendment.

20 It seems innocuous enough, requiring EPA to conduct a study
21 on ozone formation, wintertime ozone formation, and control
22 strategies and report back to Congress, but in reality this
23 amendment is a wolf in sheep's clothing.

24 First, many of the aspects of this proposed study are already
25 covered by the EPA's integrated science assessment. Integrated

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1 science assessments are reports that represent concise
2 evaluations and synthesis of the most policy-relevant science for
3 reviewing the National Ambient Air Quality Standards.

4 Essentially, these assessments form the scientific foundation for
5 the review of the NAAQS standards, and all integrated science
6 assessments are vetted through a rigorous peer-review process,
7 including review by the Clean Air Scientific Advisory Committee
8 and public comment periods.

9 But the Pompeo amendment would inject costs into this
10 scientific process by requiring the assessment of cost-effective
11 control strategies to reduce ozone. While this is certainly a
12 worthy issue to review, EPA's scientific assessments are the wrong
13 venue for such a discussion. Requiring EPA to do additional
14 assessments of cost-effective control strategies would, of
15 course, pull the Agency's limited staff and resources away from
16 the public health priorities of implementing and reviewing the
17 NAAQS in a timely manner outlined in the Clean Air Act.

18 When viewed in connection with the other provisions of this
19 bill like the requirement that implementing regulations and
20 guidance must be issued concurrently with an air quality standard
21 for preconstruction permits, this study would only serve to
22 further delay implementation of the 2015 ozone standards.

23 The 2015 ozone NAAQS update is long overdue, and the bill
24 before us doesn't need any further procedural hoops for EPA to
25 jump through before a more protective ozone standard can go into

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1 effect, and so I urge my colleagues to oppose this amendment.

2 The Chairman. The gentleman yields back.

3 Other members wishing to speak on the amendment?

4 Seeing none, a vote occurs on the amendment offered by the
5 gentleman from Kansas.

6 All those in favor will say aye.

7 Those opposed, say no.

8 In the opinion of the chair, the ayes have it. The amendment
9 is agreed to.

10 Other amendments to the bill?

11 The gentleman from New Jersey has an amendment at the desk.

12 Mr. Pallone. Mr. Chairman, I think this is amendment number
13 3.

14 The Chairman. Number 3. The clerk will report the title
15 of the amendment.

16 The Clerk. Amendment to H.R. 4775 offered by Mr. Pallone.

17 [The amendment of Mr. Pallone follows:]

18

19 *****INSERT 7*****

1 The Chairman. The amendment will be considered as read.
2 The staff will distribute the amendment.

3 And the gentleman from New Jersey is recognized for 5 minutes
4 in support of his amendment.

5 Mr. Pallone. Thank you, Mr. Chairman.

6 And my amendment is straightforward, and it fixes one of the
7 most egregious provisions in the bill, the consideration of the
8 technological feasibility in the NAAQS-setting process.

9 The bill's approach would make feasibility a factor in the
10 scientific decision about how much pollution is safe for a child
11 to breathe without experiencing an asthma attack. Requiring EPA
12 to consider technological feasibility when setting an air quality
13 standard is a dangerous precedent that ignores the history of the
14 Clean Air Act, and frankly, it is not even necessary.

15 Since 1970, the Clean Air Act has had several key features
16 that have helped make it one of the most successful environmental
17 laws in our country. The law's science-based health-protective
18 standards keep our eye on the prize, which is healthy air for
19 everyone. Cooperative federalism allows EPA to set the clean air
20 goals, and then States have to decide how best to achieve them.
21 And the Clean Air Act uses regulatory standards like the NAAQS
22 to drive technological innovation and pollution controls.

23 We know from decades of experience that the Clean Air Act
24 derives innovations and pollution controls that then become the
25 industry standard. Once an air pollution standard is in place,

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1 industry gets to work to meet it, and along the way, we develop
2 more effective and less expensive pollution control technologies.
3 Not only is our air cleaner, but we also export tens of billions
4 of dollars of pollution control equipment all over the world. And
5 we have seen this happen over and over again. But section 3(b)
6 ignores this fact and rejects an approach that has been successful
7 for over four decades.

8 So my amendment would restore current law, preserving the
9 NAAQS as purely health-based standards and leaving the
10 consideration of cost and feasibility to the States. If you truly
11 believe that this bill is not an attack on the Clean Air Act and
12 its critical public health protection, then supporting my
13 amendment should not be a problem.

14 In closing, almost every time EPA proposes a significant new
15 requirement, opponents tell us it can't be done, it is going to
16 cost too much, it is going to destroy our economy -- you have heard
17 this before -- and Republicans are once again raising the false
18 specter of job losses and high economic cost to try to block the
19 implementation of stronger ozone standards.

20 These doomsday claims about the cost of clean air are nothing
21 new. The history of the Clean Air Act is a history of exaggerated
22 claims by industry that have never come true. Section 3(b) is
23 just the latest in a string of reckless legislative attacks on
24 these purely health-based air quality standards which could
25 unravel the entire framework of the Clean Air Act. It ignores

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1 decades of experience in cleaning up air pollution. It is an
2 extreme and, I think, irresponsible proposal that would put the
3 health of all Americans at risk. So I urge adoption of my
4 amendment, and I yield back.

5 The Chairman. The gentleman yields back.

6 Other members wishing to -- Mr. Olson is recognized for 5
7 minutes.

8 Mr. Olson. I thank the chair. I will be brief.

9 Sadly, this amendment makes the mistake of the past with EPA
10 and new ozone emissions. Section 3(b) does not allow EPA to set
11 an unhealthy standard. Like everyone in this room, I don't want
12 my kids or any of the kids in America to breathe dirty air.
13 Section 3(b) clearly says that EPA can only use economics in a
14 new standard if it is within the range that their science advisors
15 say will protect people. Economics is a secondary consideration.
16 Health is still the number one priority.

17 Here is the bill language that is in dispute. This is a
18 quote. "The administrator may consider as a secondary
19 consideration likely technological feasibility in establishing
20 and revising the national primary ambient air quality standards
21 for this pollutant." May consider. May consider, not must
22 consider.

23 This bill simply clarifies that EPA administrator has
24 discretion to consider technology when choosing among a range of
25 levels identified and supported by the science protective of

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1 public health. Let's help EPA to make the Clean Air Act work.
2 I urge a no vote to this amendment.

3 The Chairman. The gentleman yields back.

4 The gentlelady from California is recognized for 5 minutes.

5 Ms. Eshoo. Thank you, Mr. Chairman. I move to strike the
6 last word.

7 Mr. Chairman, as we consider this legislation that really
8 cuts to the core of the Clean Air Act, I want to just take a few
9 minutes to recognize the success of this bedrock environmental
10 law, which has really benefited the people of our country for the
11 last 4-1/2 decades. That is almost a half-a-century. So this
12 law has gone a long way to benefit the people of our country.

13 Since President Nixon signed the Clean Air Act into law in
14 1970, the nationwide concentration of lead air pollution has been
15 reduced by 98 percent, carbon monoxide has been cut by 85 percent,
16 sulfur dioxide by 80 percent, and nitrogen dioxide by 60 percent.
17 Now, these are dramatic reductions, and they have prevented
18 hundreds of thousands of premature deaths, extended the life
19 expectancy of millions of Americans, and they have aided in the
20 cognitive development of millions of children who otherwise would
21 have been poisoned with lead and other toxic pollutants.

22 These benefits are not theoretical. They are not
23 theoretical. They have been quantified and verified by
24 peer-reviewed studies. A 2011 study found that the Clean Air Act
25 will deliver benefits that exceed costs by a 30-to-1 ratio by the

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1 year 2020. So that is one heck of an ROI.

2 And it is also clear that capping air pollution does not
3 preclude economic growth. Since 1970, air pollution levels for
4 the six criteria air pollutants have been cut an average of 69
5 percent, and the gross domestic product of our country has grown
6 by 238 percent.

7 This legislation 4775 eliminates the core Clean Air Act
8 principle that air pollution should be capped at a level that is
9 protective of human health. And instead, the bill injects
10 economic and technological considerations into what has always
11 been a strictly science-based product. But we have got problems
12 with science today, and unfortunately, right here at this
13 committee and throughout the Congress.

14 The bill before us today lengthens from 5 to 10 years the
15 time period between mandatory EPA reviews of air pollution
16 standards, and these standards need to be continually updated to
17 ensure that they are protective of human health.

18 I think that the Clean Air Act stands for the landmark
19 principle that all Americans have the right to breathe clean air.
20 I know that probably the overwhelming majority of members of this
21 committee have at some point traveled to China, and I don't think
22 anyone has failed to notice that no matter where you go in the
23 country, the citizens of that country have to wear masks. They
24 can't even breathe the air of their own country.

25 So when you contrast what President Nixon signed into law,

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1 the overwhelming achievements that have come as a result of it,
2 the economic growth that has accompanied it, I don't think that
3 this law deserves a kidney punch. This is something that has
4 served the American people very well. And the bill before us
5 today would only grant Americans that right for clean air if
6 industry says it is okay. And I don't think those standards are
7 the standards that meet with what the American people deserve.

8 So I think this is the wrong approach, Mr. Chairman, and I
9 strongly oppose the legislation, and I hope others will as well.
10 Thank you. I yield back.

11 The Chairman. The gentlelady yields back.

12 Other members wishing to speak on the amendment?

13 Seeing -- oh, I am sorry. The gentleman from Illinois is
14 recognized for 5 minutes.

15 Mr. Rush. I want to thank you, Mr. Chairman.

16 Mr. Chairman, I fully support the Pallone amendment, and I
17 urge all my colleagues to do the same. H.R. 4775 would
18 fundamentally alter provisions of the Clean Air Act by imposing
19 costs and technological feasibility considerations on the
20 standard-setting process. This change will upend longstanding
21 criteria, Mr. Chairman, that require these decisions to be based
22 primarily on medical science and health considerations, a policy
23 that has been in place for 46 years now.

24 Mr. Chairman, this drastic change to the Nation's most
25 historically important environmental law will lead to adverse

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1 consequences for both the public health and the resourcefulness
2 of the American companies and American innovators.

3 Mr. Chairman, as the EPA's acting assistant administrator
4 for the Office of Air and Radiation Janet McCabe noted in her
5 written testimony to the Energy and Power Subcommittee for a
6 hearing entitled "H.R. 4775: Ozone Standards Implementation
7 Act" on April 14, 2016, "Despite repeated assertions that
8 achieving clean air was not feasible, American ingenuity has
9 consistently risen to the challenge and made our country the
10 leader in both clean air and clean air technology. That approach
11 has been very successful for both the health of Americans and also
12 for our economy."

13 Mr. Chairman, it seems to me that what is missing in the
14 argument made by the majority against the Clean Air Act, as well
15 as arguments against other environmental protection laws, is the
16 fact that these regulations have been extraordinarily beneficial
17 not only to the public health but also to our economy.

18 In almost every instance, Mr. Chairman, whenever a new
19 environmental regulation has been proposed, we have heard
20 opponents label them as job-killers, overly burdensome, harmful
21 to the economy, the end of the American way of life as we know
22 it. And in practically every instance those dire predictions
23 have proven to be unequivocally wrong as these laws have served
24 to protect the public health, as well as for new advances in
25 technologies and services that we can then export overseas.

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1 Mr. Chairman, undoubtedly, today's fight over the new ozone
2 standards will follow this very same pattern. So for these
3 reasons, Mr. Chairman, I strongly support the Pallone amendment
4 because the Clean Air Act clearly states that only medical and
5 public health data shall be used when setting clean air health
6 standards. This data has worked effectively since 1970 and has
7 even been supported unanimously by a Supreme Court decision
8 authored by none other than former Justice Antonin Scalia.

9 Mr. Chairman, it would be a grave mistake to alter this
10 successful standard-setting process that has served the public
11 and protecting the public, as well as stimulating our national
12 economy. I strongly support the Pallone amendment, and I urge
13 all of my colleagues to do the same.

14 Mr. Whitfield. Would the gentleman yield? Mr. Rush, would
15 you yield?

16 Mr. Rush. I will yield.

17 Mr. Whitfield. I just want to make one comment. This
18 section that you all are trying to strike does not mandate
19 anything. It simply gives EPA administrator -- it says that he
20 may consider this. So there is no mandate here. It is simply
21 at his discretion, and I yield back the time.

22 The Chairman. The gentleman yields back.

23 Other members wishing to speak?

24 Seeing none, the vote occurs on the amendment offered by Mr.
25 Rush. A roll call has been requested. Clerk will call the roll.

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1 The Clerk. Mr. Barton?

2 The Chairman. I am sorry, it is Mr. Pallone's amendment.

3 I am sorry. The clerk will call the roll.

4 The Clerk. Mr. Barton?

5 [No response.]

6 The Clerk. Mr. Whitfield?

7 Mr. Whitfield. No.

8 The Clerk. Mr. Whitfield votes no.

9 Mr. Shimkus?

10 Mr. Shimkus. No.

11 The Clerk. Mr. Shimkus votes no.

12 Mr. Pitts?

13 Mr. Pitts. No.

14 The Clerk. Mr. Pitts votes no.

15 Mr. Walden?

16 Mr. Walden. No.

17 The Clerk. Mr. Walden votes no.

18 Mr. Murphy?

19 Mr. Murphy. No.

20 The Clerk. Mr. Murphy votes no.

21 Mr. Burgess?

22 [No response.]

23 The Clerk. Mrs. Blackburn?

24 Mrs. Blackburn. No.

25 The Clerk. Mrs. Blackburn votes no.

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1 Mr. Scalise?

2 [No response.]

3 The Clerk. Mr. Latta?

4 Mr. Latta. No.

5 The Clerk. Mr. Latta votes no.

6 Mrs. McMorris Rodgers?

7 Mrs. McMorris Rodgers. No.

8 The Clerk. Mrs. McMorris Rodgers votes no.

9 Mr. Harper?

10 Mr. Harper. No.

11 The Clerk. Mr. Harper votes no.

12 Mr. Lance?

13 Mr. Lance. No.

14 The Clerk. Mr. Lance votes no.

15 Mr. Guthrie?

16 Mr. Guthrie. No.

17 The Clerk. Mr. Guthrie votes no.

18 Mr. Olson?

19 Mr. Olson. No.

20 The Clerk. Mr. Olson votes no.

21 Mr. McKinley?

22 Mr. McKinley. No.

23 The Clerk. Mr. McKinley votes no.

24 Mr. Pompeo?

25 Mr. Pompeo. No.

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1 The Clerk. Mr. Pompeo votes no.

2 Mr. Kinzinger?

3 Mr. Kinzinger. No.

4 The Clerk. Mr. Kinzinger votes no.

5 Mr. Griffith?

6 Mr. Griffith. No.

7 The Clerk. Mr. Griffith votes no.

8 Mr. Bilirakis?

9 Mr. Bilirakis. No.

10 The Clerk. Mr. Bilirakis votes no.

11 Mr. Johnson?

12 Mr. Johnson. No.

13 The Clerk. Mr. Johnson votes no.

14 Mr. Long?

15 Mr. Long. No.

16 The Clerk. Mr. Long votes no.

17 Mrs. Ellmers?

18 Mrs. Ellmers. No.

19 The Clerk. Mrs. Ellmers votes no.

20 Mr. Bucshon?

21 Mr. Bucshon. No.

22 The Clerk. Mr. Bucshon votes no.

23 Mr. Flores?

24 Mr. Flores. No.

25 The Clerk. Mr. Flores votes no.

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1 Mrs. Brooks?

2 Mrs. Brooks. No.

3 The Clerk. Mrs. Brooks votes no.

4 Mr. Mullin?

5 Mr. Mullin. No.

6 The Clerk. Mr. Mullin votes no.

7 Mr. Hudson?

8 Mr. Hudson. No.

9 The Clerk. Mr. Hudson votes no.

10 Mr. Collins?

11 Mr. Collins. No.

12 The Clerk. Mr. Collins votes no.

13 Mr. Cramer?

14 Mr. Cramer. No.

15 The Clerk. Mr. Cramer votes no.

16 Mr. Pallone?

17 Mr. Pallone. Yes.

18 The Clerk. Mr. Pallone votes aye.

19 Mr. Rush?

20 Mr. Rush. Aye.

21 The Clerk. Mr. Rush votes aye.

22 Ms. Eshoo?

23 Ms. Eshoo. Aye.

24 The Clerk. Ms. Eshoo votes aye.

25 Mr. Engel?

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1 [No response.]

2 The Clerk. Mr. Green?

3 Mr. Green. Aye.

4 The Clerk. Mr. Green votes aye.

5 Ms. DeGette?

6 Ms. DeGette. Aye.

7 The Clerk. Ms. DeGette votes aye.

8 Mrs. Capps?

9 Mrs. Capps. Aye.

10 The Clerk. Mrs. Capps votes aye.

11 Mr. Doyle?

12 Mr. Doyle. Yes.

13 The Clerk. Mr. Doyle votes aye.

14 Ms. Schakowsky?

15 Ms. Schakowsky. Aye.

16 The Clerk. Ms. Schakowsky votes aye.

17 Mr. Butterfield?

18 Mr. Butterfield. Aye.

19 The Clerk. Mr. Butterfield votes aye.

20 Ms. Matsui?

21 Ms. Matsui. Aye.

22 The Clerk. Ms. Matsui votes aye.

23 Ms. Castor?

24 Ms. Castor. Aye.

25 The Clerk. Ms. Castor votes aye.

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1 Mr. Sarbanes?

2 Mr. Sarbanes. Aye.

3 The Clerk. Mr. Sarbanes votes aye.

4 Mr. McNerney?

5 Mr. McNerney. Aye.

6 The Clerk. Mr. McNerney votes aye.

7 Mr. Welch?

8 Mr. Welch. Aye.

9 The Clerk. Mr. Welch votes aye.

10 Mr. Lujan?

11 Mr. Lujan. Aye.

12 The Clerk. Mr. Lujan votes aye.

13 Mr. Tonko?

14 Mr. Tonko. Aye.

15 The Clerk. Mr. Tonko votes aye.

16 Mr. Yarmuth?

17 Mr. Yarmuth. Aye.

18 The Clerk. Mr. Yarmuth votes aye.

19 Ms. Clarke?

20 Ms. Clarke. Aye.

21 The Clerk. Ms. Clarke votes aye.

22 Mr. Loeb sack?

23 Mr. Loeb sack. Aye.

24 The Clerk. Mr. Loeb sack votes aye.

25 Mr. Schrader?

1 Mr. Schrader. Aye.

2 The Clerk. Mr. Schrader votes aye.

3 Mr. Kennedy?

4 Mr. Kennedy. Aye.

5 The Clerk. Mr. Kennedy votes aye.

6 Mr. Cardenas?

7 Mr. Cardenas. Aye.

8 The Clerk. Mr. Cardenas votes aye.

9 Chairman Upton?

10 The Chairman. Votes no.

11 The Clerk. Chairman Upton votes no.

12 The Chairman. Other members wishing to vote?

13 Mr. Barton?

14 Mr. Barton. I would like to say, Mr. Chairman, what a fine
15 looking bunch of fellow -- I would have to vote respectfully no.

16 The Clerk. Mr. Barton votes no.

17 The Chairman. Other members wishing to cast a vote?

18 Seeing none, the clerk will report the tally.

19 The Clerk. Mr. Chairman, on that vote there were 22 ayes
20 and 29 noes.

21 The Chairman. Twenty-two ayes, 29 noes, the amendment is
22 not agreed to.

23 Are there further amendments to the bill?

24 Ms. Castor has an amendment, number 4.

25 Ms. Castor. Number 4.

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1
2
3
4
5
6

The Chairman. The clerk will report the title of the amendment.

The Clerk. Amendment to H.R. 4775 offered by Ms. Castor.
[The amendment of Ms. Castor follows:]

*****INSERT 8*****

1 The Chairman. The amendment will be considered as read.
2 The staff will distribute the amendment.

3 And the gentlelady from Florida is recognized for 5 minutes
4 in support of her amendment.

5 Ms. Castor. Thank you, Mr. Chairman.

6 This is simple, targeted amendment that strikes subsection
7 3(d) of the bill. Section 3(d) creates a loophole in the Clean
8 Air Act. The Clean Air Act requires that major new or expanding
9 sources of air pollution to obtain permits before they start
10 construction. The act recognizes that part of cleaning up
11 ongoing pollution is to minimize the amount of new pollution added
12 to a particular area.

13 Now, to obtain a permit for a new source, a new emitter, an
14 applicant must first determine which pollution controls that will
15 install to reduce a facility's emissions. Then, the applicant
16 must estimate how much pollution the facility will emit after
17 installing pollution controls, and the applicant must show that
18 this quantity of pollution will not cause the area to exceed the
19 National Ambient Air Quality Standards. If the new facility's
20 emissions will cause a violation of the air quality standards,
21 the applicant can choose to take additional steps to cut emissions
22 or obtain offsets for the excess pollution.

23 EPA updates and strengthens the National Air Quality
24 Standards when the science says it is necessary to protect human
25 health with an adequate margin of safety. But subsection 3(d)

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1 in the bill allows certain facilities to disregard the science
2 and ignore a new air quality standard when obtaining a permit.
3 It says that if EPA doesn't issue rules and guidance at the exact
4 same time it issues a new air quality standard, the outdated air
5 quality standards apply for the purposes of that preconstruction
6 permit. This means that when a facility is demonstrating whether
7 its emissions will violate the air quality standard, it would use
8 the old, weaker standard as a benchmark. So, in effect, this
9 provision gives new polluters amnesty from the applicable air
10 quality standard. These facilities will be allowed to emit extra
11 pollution at levels that could harm the human health.

12 Now, last Congress, we considered a similar legislative
13 proposal, and a number of States raised a lot of concerns. We
14 heard from States like Delaware that this provision "would likely
15 cause substantial adverse health impacts by exempting sources
16 from complying with health-based air quality standards."

17 And the California Air Resources Board sent a letter raising
18 similar concerns, noting that this provision bars permitting
19 agencies from applying the new air quality standard in the
20 permitting process, and they said, "even if public health concerns
21 would otherwise warrant doing so." California argued that this
22 provision could actually slow the permitting process by forcing
23 States to wait for EPA guidance even if the State doesn't think
24 that guidance is necessary to issue permits. And Delaware told
25 us the same thing.

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1 So we have to be careful with this because it appears that
2 section 3(d) of the bill would be bad for the businesses in the
3 area. If one facility emits more than its fair share of
4 pollution, other facilities will have to pick up the slack and
5 control more. So by granting amnesty to new sources of pollution,
6 the provision shifts the pollution control responsibility to
7 existing businesses, and that is not fair. This shift will raise
8 pollution control costs overall for the manufacturing sector.

9 As the Clean Air Act has long recognized, it is generally
10 far more efficient and cost-effective to build pollution controls
11 into a facility upfront rather than adding them later, but this
12 provision does the opposite. It allows new facilities to be built
13 with insufficient pollution controls and forces more expensive
14 controls on existing sources. That doesn't make any sense.

15 So the amnesty provision in subsection 3(d) harms the public
16 health and burdens existing manufacturing facilities by allowing
17 new facilities to pollute more than they would be allowed to under
18 the current law, and therefore, I urge my colleagues to support
19 my amendment and strike the amnesty provision in the bill.

20 I yield back.

21 The Chairman. The gentlelady yields back.

22 Other members wishing to speak?

23 The gentleman from Illinois, Mr. Shimkus.

24 Mr. Shimkus. Mr. Chairman, just because this is really part
25 of what I talked about earlier in that there is no reason why the

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1 EPA shouldn't issue implementing regulations and guidance in a
2 timely manner. Again, how do you expect a response by a
3 billion-dollar generating facility when you set a standard to meet
4 a 2008 standard and you only tell them how to do it in 2015, and
5 then 2015 you come down with new standards? I mean, it just makes
6 no sense.

7 So when we had the hearing, we had a lot of the State
8 Departments of Environment, air quality people testified. And
9 we always make this assumption that no one else other than the
10 EPA is concerned about clean air, so we make the assumption that
11 the Illinois Environmental Protection Agency must not be
12 concerned about clean air or the Utah air quality people. So they
13 were here to testify on this, and they said a couple of interesting
14 things, which is totally opposite of what my colleague and friend
15 from Florida just stated.

16 So in the Colorado Department of Public Health and the
17 Environment said, "the absence of timely implementation guidance
18 produces a lack of clarity on the State Implementation Plan
19 expectations and often creates considerable uncertainty in the
20 planning process."

21 The Arkansas Department of Environmental Quality said, "too
22 often, standards are promulgated without the technical
23 implementation rules in place. This places States in an
24 extremely difficult position."

25 And Utah Department of Environmental Quality said, "the

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1 implementation rules for the 2008 ozone NAAQS was published in
2 March 2015" -- that is exactly what I have been saying -- "only
3 7 months before the ozone standard was lowered to 70 parts per
4 billion in October." They only gave them the guidelines for 2008,
5 and then 7 months later say, oh, no, no, we are going to ratchet
6 it down lower.

7 As another example, the new PM2.5 nonattainment areas were
8 designated in 2009 State Implementation Plans for those areas were
9 due to EPA December 2014, but the EPA has yet to promulgate the
10 guidance established what is required in the plans.

11 Again, there is no reason why EPA shouldn't issue timely
12 implementation regulations and guidance, and I urge my colleagues
13 to support the section 3(d) of the bill and oppose my colleague's
14 amendment.

15 I yield to my friend from Kentucky.

16 Mr. Whitfield. I want to thank the gentleman for yielding.

17 And I also want to reiterate what is unreasonable to expect
18 that when EPA comes out with these new standards that they should
19 not have implementation guidelines also. And a 7-year delay is
20 simply unacceptable. And so what we do in this bill, the new
21 standards are not going to apply to preconstruction permits until
22 the guidelines have been implemented, but I do want to point out
23 that the bill expressly states it may not be construed to eliminate
24 the obligation of a preconstruction permit applicant. They must
25 still install the best-available control technology and lowest

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1 achievable emission rate technology. But they should not be
2 expected to have to comply with these new standards until the
3 implementation guidelines have been issued. And so that is what
4 is at issue here, and I expressed the sentiments of my friend from
5 Illinois why we would be opposing this amendment.

6 Mr. Olson. Will the gentleman yield?

7 Mr. Shimkus. And I yield.

8 Mr. Olson. This amendment misses a simple fact. EPA can't
9 keep pace with deadlines to lower standards will writing rules
10 for changing previous standards. They need more time. This bill
11 seeks to help EPA so they implement the Clean Air Act in a way
12 that is actually achievable. Our air quality is improving
13 dramatically. This bill will help continue that improvement.
14 This amendment will destroy that improvement. I urge my
15 colleagues to vote no on this amendment.

16 I yield back.

17 Mr. Shimkus. And I yield back.

18 The Chairman. The gentleman yields back.

19 Other members wishing to speak?

20 The gentleman from New Jersey, Mr. Pallone.

21 Mr. Pallone. Thank you, Mr. Chairman. I want to support
22 the Castor amendment.

23 Regulated entities claim that EPA isn't issuing
24 implementation rules and guidance quickly enough after updating
25 a National Ambient Air Quality Standard. And the bill concludes

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1 that the solution is to sacrifice public health by allowing
2 facilities to ignore the new air quality standards. And I reject
3 the tradeoff suggested by this provision. I am not willing to
4 expose our kids to unhealthy air in order to speed up permits for
5 polluters.

6 Even if you were willing to sacrifice air quality for faster
7 permits, that isn't what this bill does. This bill allows some
8 facilities to pollute more while doing nothing to expedite the
9 permitting process. So, in fact, it would do just the opposite.

10 Under the Clean Air Act, a company that wants to build a new
11 facility must obtain a preconstruction permit that requires the
12 facility to control its pollution. The goal of this permitting
13 process is simple -- to ensure that the facility will not
14 significantly increase air pollution above levels that are safe
15 to breathe. Under section 3(d) of this bill, if EPA issues a new
16 National Ambient Air Quality Standard, that standard doesn't
17 apply for permitting purposes unless and until EPA has issued
18 implementation rules and guidance for the new standard.

19 Besides allowing unhealthy levels of air pollution, this
20 provision doesn't even help States speed up permitting.
21 Witnesses have testified that concurrent guidance isn't always
22 practical or necessary. EPA told the committee that most
23 guidance evolves after a standard takes effect as States and
24 industry raise questions that require EPA guidance. It is
25 unclear how EPA could provide guidance on solving problems before

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1 they even know what the problems are.

2 And this bill basically creates a catch-22 for EPA. On the
3 one hand, EPA could hurry to issue guidance before hearing
4 questions from States and industry. That guidance will
5 necessarily be incomplete as it won't address issues that only
6 emerged during the implementation process. An industry group
7 that wanted to delay implementation of the new air quality
8 standard could file a lawsuit saying the EPA's guidance wasn't
9 sufficient.

10 On the other hand, EPA could wait to issue more robust and
11 helpful guidance, but in the meantime, facilities would be able
12 to obtain permits under the old air quality standard. A company
13 could build a facility that is allowed to pollute more than it
14 would under the current law.

15 So in both scenarios the polluter wins and public health
16 loses, and this would provide an opportunity for even more
17 lawsuits and delay. Downwind communities and nearby businesses
18 might challenge a permit that allows the new facility to pollute
19 more and shifts the burden of pollution reduction on them.

20 So all said, this provision amounts to more litigation, more
21 confusion, and more pollution, and there is no reason to believe
22 that it will result in faster permitting.

23 Now, Ms. Castor's amendment would strike just the language
24 in the bill that exempts facilities from complying with new air
25 quality standards, and I urge my colleagues to support her

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1 amendment.

2 And I also wanted to say something in conclusion here. A
3 much simpler and more effective suggestion for expediting the
4 permit process is to stop cutting the budget for the EPA and the
5 State permitting agencies. How can we realistically expect EPA
6 and State permitting agencies to do more work more quickly with
7 fewer and fewer resources? We should give them the resources and
8 staff they need to review and process permits on a timely basis.
9 That is a real solution that would make a difference in terms of
10 the permitting process.

11 I yield back, Mr. Chairman.

12 The Chairman. The gentleman yields back.

13 Other members wishing to speak on the amendment?

14 Seeing none, a roll call is requested. A vote will occur
15 on the Castor amendment.

16 Those in favor will say aye.

17 Those opposed, say no.

18 The clerk will call the roll.

19 The Clerk. Mr. Barton?

20 [No response.]

21 The Clerk. Mr. Whitfield?

22 Mr. Whitfield. No.

23 The Clerk. Mr. Whitfield votes no.

24 Mr. Shimkus?

25 Mr. Shimkus. No.

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1 The Clerk. Mr. Shimkus votes no.

2 Mr. Pitts?

3 Mr. Pitts. No.

4 The Clerk. Mr. Pitts votes no.

5 Mr. Walden?

6 Mr. Walden. No.

7 The Clerk. Mr. Walden votes no.

8 Mr. Murphy?

9 Mr. Murphy. No.

10 The Clerk. Mr. Murphy votes no.

11 Mr. Burgess?

12 Mr. Burgess. No.

13 The Clerk. Mr. Burgess votes no.

14 Mrs. Blackburn?

15 Mrs. Blackburn. No.

16 The Clerk. Mrs. Blackburn votes no.

17 Mr. Scalise?

18 [No response.]

19 The Clerk. Mr. Latta?

20 Mr. Latta. No.

21 The Clerk. Mr. Latta votes no.

22 Mrs. McMorris Rodgers?

23 Mrs. McMorris Rodgers. No.

24 The Clerk. Mrs. McMorris Rodgers votes no.

25 Mr. Harper?

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1 Mr. Harper. No.

2 The Clerk. Mr. Harper votes no.

3 Mr. Lance?

4 [No response.]

5 The Clerk. Mr. Guthrie?

6 [No response.]

7 The Clerk. Mr. Olson?

8 Mr. Olson. No.

9 The Clerk. Mr. Olson votes no.

10 Mr. McKinley?

11 Mr. McKinley. No.

12 The Clerk. Mr. McKinley votes no.

13 Mr. Pompeo?

14 Mr. Pompeo. No.

15 The Clerk. Mr. Pompeo votes no.

16 Mr. Kinzinger?

17 Mr. Kinzinger. No.

18 The Clerk. Mr. Kinzinger votes no.

19 Mr. Griffith?

20 Mr. Griffith. No.

21 The Clerk. Mr. Griffith votes no.

22 Mr. Bilirakis?

23 Mr. Bilirakis. No.

24 The Clerk. Mr. Bilirakis votes no.

25 Mr. Johnson?

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1 Mr. Johnson. No.

2 The Clerk. Mr. Johnson votes no.

3 Mr. Long?

4 Mr. Long. No.

5 The Clerk. Mr. Long votes no.

6 Mrs. Ellmers?

7 Mrs. Ellmers. No.

8 The Clerk. Mrs. Ellmers votes no.

9 Mr. Bucshon?

10 Mr. Bucshon. No.

11 The Clerk. Mr. Bucshon votes no.

12 Mr. Flores?

13 Mr. Flores. No.

14 The Clerk. Mr. Flores votes no.

15 Mrs. Brooks?

16 Mrs. Brooks. No.

17 The Clerk. Mrs. Brooks votes no.

18 Mr. Mullin?

19 Mr. Mullin. No.

20 The Clerk. Mr. Mullin votes no.

21 Mr. Hudson?

22 Mr. Hudson. No.

23 The Clerk. Mr. Hudson votes no.

24 Mr. Collins?

25 Mr. Collins. No.

1 The Clerk. Mr. Collins votes no.

2 Mr. Cramer?

3 Mr. Cramer. No.

4 The Clerk. Mr. Cramer votes no.

5 Mr. Pallone?

6 Mr. Pallone. Yes.

7 The Clerk. Mr. Pallone votes aye.

8 Mr. Rush?

9 Mr. Rush. Aye.

10 The Clerk. Mr. Rush votes aye.

11 Ms. Eshoo?

12 Ms. Eshoo. Aye.

13 The Clerk. Ms. Eshoo votes aye.

14 Mr. Engel?

15 Mr. Engel. Aye.

16 The Clerk. Mr. Engel votes aye.

17 Mr. Green?

18 Mr. Green. Aye.

19 The Clerk. Mr. Green votes aye.

20 Ms. DeGette?

21 Ms. DeGette. Aye.

22 The Clerk. Ms. DeGette votes aye.

23 Mrs. Capps?

24 Mrs. Capps. Aye.

25 The Clerk. Mrs. Capps votes aye.

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1 Mr. Doyle?

2 Mr. Doyle. Yes.

3 The Clerk. Mr. Doyle votes aye.

4 Ms. Schakowsky?

5 Ms. Schakowsky. Aye.

6 The Clerk. Ms. Schakowsky votes aye.

7 Mr. Butterfield?

8 Mr. Butterfield. Aye.

9 The Clerk. Mr. Butterfield votes aye.

10 Ms. Matsui?

11 Ms. Matsui. Aye.

12 The Clerk. Ms. Matsui votes aye.

13 Ms. Castor?

14 Ms. Castor. Aye.

15 The Clerk. Ms. Castor votes aye.

16 Mr. Sarbanes?

17 Mr. Sarbanes. Aye.

18 The Clerk. Mr. Sarbanes votes aye.

19 Mr. McNerney?

20 Mr. McNerney. Aye.

21 The Clerk. Mr. McNerney votes aye.

22 Mr. Welch?

23 Mr. Welch. Aye.

24 The Clerk. Mr. Welch votes aye.

25 Mr. Lujan?

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1 Mr. Lujan. Aye.

2 The Clerk. Mr. Lujan votes aye.

3 Mr. Tonko?

4 Mr. Tonko. Aye.

5 The Clerk. Mr. Tonko votes aye.

6 Mr. Yarmuth?

7 Mr. Yarmuth. Aye.

8 The Clerk. Mr. Yarmuth votes aye.

9 Ms. Clarke?

10 Ms. Clarke. Aye.

11 The Clerk. Ms. Clarke votes aye.

12 Mr. Loeb sack?

13 Mr. Loeb sack. Aye.

14 The Clerk. Mr. Loeb sack votes aye.

15 Mr. Schrader?

16 Mr. Schrader. Aye.

17 The Clerk. Mr. Schrader votes aye.

18 Mr. Kennedy?

19 Mr. Kennedy. Aye.

20 The Clerk. Mr. Kennedy votes aye.

21 Mr. Cardenas?

22 Mr. Cardenas. Aye.

23 The Clerk. Mr. Cardenas votes aye.

24 Chairman Upton?

25 The Chairman. Votes no.

1 Other members wishing to cast a vote?

2 Mr. Barton, who looks great back here.

3 Mr. Barton. No.

4 The Clerk. Mr. Barton votes no.

5 The Chairman. Mr. Lance?

6 Mr. Lance. No.

7 The Clerk. Mr. Lance votes no.

8 The Chairman. Mr. Guthrie?

9 Mr. Guthrie. No.

10 The Clerk. Mr. Guthrie votes no.

11 The Chairman. Other members wishing to cast a vote?

12 Seeing none, the clerk will report the tally.

13 How is Mr. Scalise recorded?

14 Mr. Scalise. No.

15 The Clerk. Mr. Scalise votes no.

16 The Chairman. The clerk will report the tally.

17 The Clerk. Mr. Chairman, on that vote there were 23 ayes
18 and 31 noes.

19 The Chairman. Twenty-three ayes, 31 --

20 The Clerk. One.

21 The Chairman. -- noes, the amendment is not agreed to.

22 Are there further amendments to the bill?

23 Mr. Rush. Yes, Mr. Chairman --

24 The Chairman. The gentleman from Illinois has an amendment
25 at the desk, and the clerk will say the title of the amendment.

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The Clerk. Amendment to H.R. 4775 offered by Mr. Rush.

[The amendment of Mr. Rush follows:]

*****INSERT 9*****

1 The Chairman. And the amendment will be considered as read.
2 The staff will distribute the amendment.

3 And the gentleman from Illinois is recognized for 5 minutes
4 in support of his amendment.

5 Mr. Rush. Mr. Chairman, I want to thank you.

6 If the majority will not accept the amendment offered by my
7 friend and colleague from Florida, Ms. Castor, that strips the
8 amnesty section from the bill entirely, maybe the majority will
9 consider my amendment.

10 My amendment also gets at the heart of the problem found in
11 section 3(d) but allows States to opt-out if including that
12 section will lead to adverse impacts on health and other factors.

13 My list of concerns, Mr. Chairman, with H.R. 4775 are many,
14 but one of the main issues I have with this legislation is that
15 it will permanently weaken the Clean Air Act, as well as future
16 air pollution health standards for all criteria pollutants. In
17 fact, Mr. Chairman, in addition to delaying scientifically based
18 health standards and harming the public interest, this bill may
19 also have unintentional consequences for the very industries that
20 the majority is trying to help. If enacted, this bill may
21 actually slow down the issuance of preconstruction permits,
22 increase the regulatory uncertainty leading to additional
23 lawsuits, and shift the burden of pollution control from new
24 sources to existing ones, potentially hurting small businesses.

25 Mr. Chairman, the new standard that EPA recently issued

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1 already represents a measured approach that seeks to balance more
2 public health impacts, as well as the rule's overall cost-benefit
3 even though this is not a prerequisite of the Clean Air Act.

4 On the other hand, H.R. 4775 represents the exact opposite
5 of a measured approach as it seeks to tip the scales in favor of
6 industry over the public health. Mr. Chairman, my amendment
7 seeks to address many of the problems that may result from this
8 bill both intentionally and unintentionally.

9 The amendment would strike the section exempting
10 preconstruction permit applications from complying with new or
11 revised National Ambient Air Quality Standards if guidelines are
12 not published concurrently with those regulations.

13 Specifically, my amendment simply states that in section D,
14 subparagraph (a), shall not apply with respect to review and
15 disposition of a preconstruction permit application by a Federal,
16 State, local, or tribal permitting authority if such authority
17 determines that application of such subparagraph is likely to
18 increase air pollution that harms human health and the
19 environment; slow issuance of final preconstruction permits;
20 increase regulatory uncertainty; foster additional litigation;
21 shift the benefit of pollution control from new sources to
22 existing sources of pollution, including small businesses; or
23 increase the overall cost of achieving the new or revised National
24 Ambient Air Quality Standard in the applicable area.

25 Again, Mr. Chairman, my amendment would help to prevent some

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1 of the adverse consequences of this bill from going into effect,
2 whether they be intended or whether they are unintended, and I
3 would urge all of my colleagues to support the Rush amendment.
4 And I thank you, and I yield back the balance of my time.

5 The Chairman. The gentleman yields back.

6 Other members wishing to speak on the amendment.

7 The gentleman from Texas is recognized for 5 minutes.

8 Mr. Olson. I thank the chair.

9 And rather than using my words of objection to this
10 amendment, I will use the words from the States that we heard in
11 this very room last week.

12 From the chairman of the Texas Council of Environmental
13 Quality, "By lengthening the required review period from 5 to 10
14 years, it will ensure the EPA does not rush to lower given
15 standards only to comply with a statutory deadline. Furthermore,
16 it will give States more time to comply with previous standards
17 before getting saddled with more stringent standards and facing
18 economic developmental sanctions for nonattainment."

19 From the executive director of the Utah Department of
20 Environmental Quality, "In general, extending the 5-year NAAQS
21 review cycle so that it better aligns with the prescribed NAAQS
22 implementation timelines is appropriate. Extending the review
23 cycle to 10 years would more closely align with the prescribed
24 planning period of an area designed as serious nonattainment for
25 ozone."

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1 And finally, the executive director of the San Joaquin Valley
2 Air Pollution Control District, "H.R. 4775 helps reduce the
3 current chaotic nature of the transition between standards
4 required by the EPA issued guidance on implementing new standards
5 in a timely manner and extending a time frame to review new
6 standards from 5 to 10 years. In the San Joaquin Valley, these
7 provisions will reduce the current chaotic nature of the
8 transition between standards. The streamlining remedies
9 provided in H.R. 4775 will not delay aggressive efforts to reduce
10 air pollution and improve public health in the San Joaquin
11 Valley."

12 If a State, local, or tribal permitting authority wants to
13 impose more stringent permitting requirements with respect to a
14 particular preconstruction permit application, nothing in H.R.
15 4775 prevents them from doing so. I urge my colleagues to vote
16 against the Rush amendment. I yield back.

17 The Chairman. The gentleman yields back.

18 Other -- the gentleman from New Jersey is recognized.

19 Mr. Pallone. Thank you, Mr. Chairman. I support the Rush
20 amendment.

21 Section 3(d) of the bill requires the EPA to issue
22 implementation rules and guidance at the same time it issues a
23 new National Ambient Air Quality Standard. If EPA does not meet
24 this requirement, the bill doles out a punishment. But it is not
25 the EPA that pays the penalty; it is public health that gets hurt.

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1 Under section 3(d), until EPA issues the required
2 regulations and guidance, new sources of pollution get amnesty
3 from certain Clean Air Act requirements when applying for a
4 preconstruction permit. A new facility doesn't have to prove
5 that its pollution won't violate the new air quality standard.
6 It only has to show that its pollution won't violate the old one.
7 But EPA can only update an air quality standard if the existing
8 standard isn't strong enough to protect public health. Applying
9 outdated air quality standards for permitting creates a loophole
10 in the Clean Air Act that allows new facilities to emit more
11 pollution than is safe. This amnesty provision threatens public
12 health, and it is unfair to existing facilities.

13 In an area with unhealthy air, pollution is a zero-sum game.
14 An increase in pollution in one place has to be offset by
15 reductions elsewhere. So if new facilities are allowed to emit
16 more, as this bill would allow, existing facilities will have to
17 emit less to make up for that extra pollution, and adding pollution
18 controls to existing sources is usually much more expensive than
19 building in controls up front.

20 In sum, this provision offers more air pollution, more
21 pollution control cost for existing businesses, more litigation,
22 and more permitting delays.

23 Now, Ms. Castor offered an amendment to get rid of this
24 amnesty provision entirely, and that would be my preferred
25 approach, but if the majority won't agree to that, at a minimum

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1 we should allow State and local permitting agencies to ask key
2 questions and decide for themselves whether the bill's approach
3 of applying outdated air quality standards is a good idea.

4 If States decide the amnesty provision makes things worse,
5 they shouldn't be bound by it, and that is exactly what Mr. Rush's
6 amendment allows. His amendment lets the State reject the
7 amnesty provision if the State finds it would have a harmful effect
8 such as slowing permitting, increasing air pollution, harming
9 public health, raising the cost of pollution controls, or creating
10 regulatory uncertainty.

11 Two State air quality regulators have told the committee that
12 the amnesty provision would produce these effects and would be
13 harmful to their permitting efforts. If a State finds that this
14 Clean Air Act loophole will cause harm, the State should be able
15 to opt out and simply apply the updated, more protective air
16 quality standard.

17 Now, we often hear from our Republican colleagues that we
18 should leave more decisions to States and localities, and that
19 is all that Mr. Rush's amendment does. The amendment allows each
20 permitting agency to make its own decision about whether this
21 amnesty provision will help or impede its permitting.

22 And so I urge everyone to support what I consider a very
23 commonsense amendment. I yield back.

24 The Chairman. The gentleman yields back.

25 Other members wishing to speak on the amendment?

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1 Seeing none, the vote occurs on the amendment offered by the
2 gentleman from Illinois, Mr. Rush.

3 Roll call has been asked. The clerk will call the roll.

4 The Clerk. Mr. Barton?

5 Mr. Barton. No.

6 The Clerk. Mr. Barton votes no.

7 Mr. Whitfield?

8 Mr. Whitfield. No.

9 The Clerk. Mr. Whitfield votes no.

10 Mr. Shimkus?

11 Mr. Shimkus. No.

12 The Clerk. Mr. Shimkus votes no.

13 Mr. Pitts?

14 Mr. Pitts. No.

15 The Clerk. Mr. Pitts votes no.

16 Mr. Walden?

17 Mr. Walden. No.

18 The Clerk. Mr. Walden votes no.

19 Mr. Murphy?

20 Mr. Murphy. No.

21 The Clerk. Mr. Murphy votes no.

22 Mr. Burgess?

23 Mr. Burgess. No.

24 The Clerk. Mr. Burgess votes no.

25 Mrs. Blackburn?

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1 Mrs. Blackburn. No.

2 The Clerk. Mrs. Blackburn votes no.

3 Mr. Scalise?

4 Mr. Scalise. No.

5 The Clerk. Mr. Scalise votes no.

6 Mr. Latta?

7 Mr. Latta. No.

8 The Clerk. Mr. Latta votes no.

9 Mrs. McMorris Rodgers?

10 Mrs. McMorris Rodgers. No.

11 The Clerk. Mrs. McMorris Rodgers votes no.

12 Mr. Harper?

13 Mr. Harper. No.

14 The Clerk. Mr. Harper votes no.

15 Mr. Lance?

16 Mr. Lance. No.

17 The Clerk. Mr. Lance votes no.

18 Mr. Guthrie?

19 Mr. Guthrie. No.

20 The Clerk. Mr. Guthrie votes no.

21 Mr. Olson?

22 Mr. Olson. No.

23 The Clerk. Mr. Olson votes no.

24 Mr. McKinley?

25 Mr. McKinley. No.

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1 The Clerk. Mr. McKinley votes no.

2 Mr. Pompeo?

3 Mr. Pompeo. No.

4 The Clerk. Mr. Pompeo votes no.

5 Mr. Kinzinger?

6 Mr. Kinzinger. No.

7 The Clerk. Mr. Kinzinger votes no.

8 Mr. Griffith?

9 Mr. Griffith. No.

10 The Clerk. Mr. Griffith votes no.

11 Mr. Bilirakis?

12 Mr. Bilirakis. No.

13 The Clerk. Mr. Bilirakis votes no.

14 Mr. Johnson?

15 Mr. Johnson. No.

16 The Clerk. Mr. Johnson votes no.

17 Mr. Long?

18 Mr. Long. No.

19 The Clerk. Mr. Long votes no.

20 Mrs. Ellmers?

21 Mrs. Ellmers. No.

22 The Clerk. Mrs. Ellmers votes no.

23 Mr. Bucshon?

24 Mr. Bucshon. No.

25 The Clerk. Mr. Bucshon votes no.

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1 Mr. Flores?

2 Mr. Flores. No.

3 The Clerk. Mr. Flores votes no.

4 Mrs. Brooks?

5 Mrs. Brooks. No.

6 The Clerk. Mrs. Brooks votes no.

7 Mr. Mullin?

8 Mr. Mullin. No.

9 The Clerk. Mr. Mullin votes no.

10 Mr. Hudson?

11 Mr. Hudson. No.

12 The Clerk. Mr. Hudson votes no.

13 Mr. Collins?

14 Mr. Collins. No.

15 The Clerk. Mr. Collins votes no.

16 Mr. Cramer?

17 Mr. Cramer. No.

18 The Clerk. Mr. Cramer votes no.

19 Mr. Pallone?

20 Mr. Pallone. Aye.

21 The Clerk. Mr. Pallone votes aye.

22 Mr. Rush?

23 Mr. Rush. Aye.

24 The Clerk. Mr. Rush votes aye.

25 Ms. Eshoo?

1 Ms. Eshoo. Aye.

2 The Clerk. Ms. Eshoo votes aye.

3 Mr. Engel?

4 Mr. Engel. Aye.

5 The Clerk. Mr. Engel votes aye.

6 Mr. Green?

7 Mr. Green. Aye.

8 The Clerk. Mr. Green votes aye.

9 Ms. DeGette?

10 Ms. DeGette. Aye.

11 The Clerk. Ms. DeGette votes aye.

12 Mrs. Capps?

13 Mrs. Capps. Aye.

14 The Clerk. Mrs. Capps votes aye.

15 Mr. Doyle?

16 Mr. Doyle. Yes.

17 The Clerk. Mr. Doyle votes aye.

18 Ms. Schakowsky?

19 Ms. Schakowsky. Aye.

20 The Clerk. Ms. Schakowsky votes aye.

21 Mr. Butterfield?

22 Mr. Butterfield. Aye.

23 The Clerk. Mr. Butterfield votes aye.

24 Ms. Matsui?

25 Ms. Matsui. Aye.

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1 The Clerk. Ms. Matsui votes aye.

2 Ms. Castor?

3 Ms. Castor. Aye.

4 The Clerk. Ms. Castor votes aye.

5 Mr. Sarbanes?

6 Mr. Sarbanes. Aye.

7 The Clerk. Mr. Sarbanes votes aye.

8 Mr. McNerney?

9 Mr. McNerney. Aye.

10 The Clerk. Mr. McNerney votes aye.

11 Mr. Welch?

12 Mr. Welch. Aye.

13 The Clerk. Mr. Welch votes aye.

14 Mr. Lujan?

15 Mr. Lujan. Aye.

16 The Clerk. Mr. Lujan votes aye.

17 Mr. Tonko?

18 Mr. Tonko. Aye.

19 The Clerk. Mr. Tonko votes aye.

20 Mr. Yarmuth?

21 Mr. Yarmuth. Aye.

22 The Clerk. Mr. Yarmuth votes aye.

23 Ms. Clarke?

24 Ms. Clarke. Aye.

25 The Clerk. Ms. Clarke votes aye.

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1 Mr. Loeb sack?

2 Mr. Loeb sack. Aye.

3 The Clerk. Mr. Loeb sack votes aye.

4 Mr. Schrader?

5 Mr. Schrader. Aye.

6 The Clerk. Mr. Schrader votes aye.

7 Mr. Kennedy?

8 Mr. Kennedy. Aye.

9 The Clerk. Mr. Kennedy votes aye.

10 Mr. Cardenas?

11 Mr. Cardenas. Aye.

12 The Clerk. Mr. Cardenas votes aye.

13 Chairman Upton?

14 The Chairman. Votes no.

15 The Clerk. Chairman Upton votes no.

16 The Chairman. Other members wishing to cast a vote?

17 Seeing none, the clerk will call the tally.

18 The Clerk. Mr. Chairman, on that vote there were 23 ayes
19 and 31 noes.

20 The Chairman. Twenty-three ayes, 31 noes, the amendment is
21 not agreed to.

22 Are there further amendments to the bill?

23 The gentleman from California, Mr. McNerney, has an
24 amendment at the desk.

25 Mr. McNerney. I have an amendment at the desk.

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1 The Chairman. And the clerk will report the title of the
2 amendment.

3 The Clerk. Amendment to H.R. 4775 offered by Mr. McNerney.

4 [The amendment of Mr. McNerney follows:]

5

6 *****INSERT 10*****

1 The Chairman. And the amendment will be considered as read.
2 The staff will distribute the amendment.

3 And the gentleman is recognized for 5 minutes in support of
4 his amendment.

5 Mr. McNerney. Thank you, Mr. Chairman.

6 My amendment is actually a modest improvement to the bill
7 in response to concerns from the San Joaquin Valley Air Pollution
8 Control District. We heard at our legislative hearing that
9 communities should not be punished for the pollution they can't
10 control. The panelists agreed that a 100-year drought should be
11 considered an exceptional event.

12 California is enduring a historic once-in-a-century
13 drought. It is the fifth consecutive year of severe drought, 2014
14 and 2015 were the warmest on record, and thousands of wells have
15 gone dry and land has actually subsided. I think the bill's
16 author did mean well in his efforts to address exceptional events,
17 but the definition is too broad.

18 My amendment is a targeted approach that addresses
19 exceptional events and droughts. It simply allows the EPA to
20 consider a 100-year drought as an exceptional event and may take
21 into consideration data from the U.S. Drought Monitor, National
22 Integrated Drought Information System, historical trends, and
23 information from the State's air resources regulating body.

24 I am hoping to provide the EPA with the authority to consider
25 a 100-year drought an exceptional event. In addition, the EPA

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1 can make more informed decisions when consulting with local air
2 districts, historical data, and the Nation's leading drought
3 experts.

4 Another problem we heard at the legislative hearing, and a
5 problem raised in the EPA's draft exceptional events proposed
6 rule, is the lack of available funding and technical assistance
7 provided to air districts for the purpose of demonstrating an
8 exceptional event and monitoring air quality on any particular
9 day.

10 The second part of my amendment addresses this issue by
11 authorizing the EPA to create a program to provide technical
12 assistance, enhanced modeling tools, and cost-effective
13 technologies to air districts. Measuring and qualifying, as well
14 as analyzing air quality data is extremely difficult and requires
15 valuable resources that many air districts simply don't have.

16 Member districts that may qualify for an exceptional event
17 should support this amendment because it will provide resources
18 to their air districts and allow the EPA to finally consider a
19 drought an exceptional event.

20 I believe the bill's language preempts EPA's proposed
21 updates to exceptional events guidance, which is anticipated to
22 be finished this year. This guidance acknowledges difficulties
23 in gathering data for demonstrations, what an air district should
24 expect when working with the EPA, and that drought conditions can
25 contribute to exceedances and violations under the Clean Air Act.

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1 At the end of the day, the Clean Air Act aims to protect public
2 health. Officials should not ignore all unhealthy air episodes
3 that occur during a drought. California droughts can be frequent
4 and can last for years, and with climate change, that will only
5 get worse. We should not ignore all unhealthy air pollution
6 episodes that occur during a drought, but we should recognize that
7 a 100-year drought has a tremendous impact on air quality.

8 I urge our members to support this amendment, and I yield
9 back.

10 The Chairman. The gentleman yields back.

11 Other members wishing to speak on the amendment?

12 The gentleman from Texas is recognized.

13 Mr. Barton. Mr. Chairman, I have not been real active in
14 this bill, but if the amendment is exactly as the author says it
15 is, I would hope we would give it some consideration to support
16 it.

17 Now, I haven't studied it. There may be a Trojan horse here,
18 but if there is not, if it is on the up and up, I would hope we
19 could accept it.

20 Mr. Olson. Would the gentleman yield?

21 Mr. Barton. I would be happy to.

22 Mr. Olson. One concern I have with this amendment is it
23 strikes extraordinary stagnation as part of an exceptional event.
24 It has the 100-year drought, which I agree with, but eliminating
25 extraordinary stagnation hurts many States. For example, from

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1 Arizona, the director of the Arizona Department of Environmental
2 Quality testified before this committee last week, "the
3 exceptional events rule is of dubious value to Yuma County if not
4 the whole country. Although Arizona has been a national leader
5 in the development of exceptional documentation for dust events,
6 the process for documenting and receiving EPA approval of those
7 exceptional events has not been explained and almost certainly
8 resource-intensive and is difficult to predict."

9 So I am concerned by dropping extraordinary stagnation by
10 making a commitment to work with the gentleman from California
11 to address this before it goes before the full House.

12 Mr. Whitfield. Would the gentleman yield?

13 Mr. Barton. I would be happy to yield to the chairman.

14 Mr. Whitfield. Yes, I wanted to ask counsel a question or
15 two on this.

16 Under the Clean Air Act as it exists today, section 319 I
17 believe, it does provide relief to areas that violate National
18 Ambient Air Quality Standards due to unusual or naturally
19 occurring events that they cannot control, is that correct?

20 Counsel. That is correct, certainly.

21 Mr. Whitfield. All right. So our bill, section 3(a) to Mr.
22 Olson's bill, would add droughts and extraordinary stagnation to
23 the act's definition of an exceptional event, is that correct?

24 Counsel. Yes, that is correct.

25 Mr. Whitfield. And is there a definition for extraordinary

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1 stagnation in the bill?

2 Counsel. There is not a definition for extraordinary
3 stagnation, but it does clarify that ordinary stagnation is not
4 to be considered an extraordinary event, only --

5 Mr. Whitfield. And there is precedent for that at EPA
6 looking at extraordinary stagnation events?

7 Counsel. That is --

8 Mr. Whitfield. Okay. Yes. Now, my understanding that the
9 gentleman's amendment, Mr. McNerney's amendment would limit the
10 relief provided to only 100-year droughts, is that correct?

11 Counsel. That is correct.

12 Mr. Whitfield. So there could be other droughts that may
13 not be classified as 100-year droughts that States would not be
14 able to get relief from because of his amendment, is that correct?

15 Counsel. That is correct.

16 Mr. Whitfield. Okay. Well, that is the reason it concerns
17 me because at the hearing we had a lot of discussion from State
18 EPAs, particularly in Western States, about needing to broaden
19 the definition of an exceptional event so that they could deal
20 with it in a more effective way. And I am sure that Mr. McNerney
21 has the very best intentions, but he seems to be limiting that
22 exceptional event only to 100-year droughts, which is pretty
23 extreme. So for that reason I personally would be concerned about
24 this amendment, and at this point, I think I would oppose it,
25 although that is just my view.

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1 Mr. Green. Does the --

2 Mr. Barton. I still --

3 Mr. Green. -- gentleman yield? I mean --

4 Mr. Barton. I have the time. I want to ask the author a
5 question. You have had two concerns expressed here where your
6 amendment appears to be replacing and limiting the language in
7 the bill. Are you willing to work with Mr. Olson and Mr. Whitfield
8 to add this extraordinary stagnation and to address their
9 concerns? Are you intentionally trying to limit it? I assumed
10 that you were just trying to add something that you didn't think
11 the bill covered.

12 Mr. McNerney. Well, I think -- if the gentleman will yield
13 --

14 Mr. Barton. Sure.

15 Mr. McNerney. -- that the current definition is a little
16 too broad. I wanted to narrow it down. So there was the --

17 Mr. Barton. So you actually did want to narrow it?

18 Mr. McNerney. Correct.

19 Mr. Barton. Okay. Well, with that understanding, I am
20 going to turn from a lukewarm support to a respectful against,
21 and I yield to Mr. Green.

22 Mr. Green. Thank you, Mr. Chairman.

23 The discussion on the exceptional event, those of you who
24 visited the Texas gulf coast between May and September, we have
25 terrible humidity that contributes to our ozone. I was wondering

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1 if that would be a definition for exceptional event, although it
2 happens every year, but it also contributes to our ozone.

3 Mr. Pallone. That was a question?

4 Mr. Green. Yes, that was a rhetorical question.

5 The Chairman. The gentleman's time from Texas has expired.

6 The gentleman from New Jersey is recognized.

7 Mr. Pallone. I guess you are not getting an answer.

8 I want to support the McNerney amendment. In my opinion,
9 this amendment would make an improvement on the bill's flawed
10 provision to drastically expand the definition of exceptional
11 events, an expansion that would allow the rebranding of poor air
12 quality as safe to breathe and would put the public health of all
13 Americans at risk.

14 While I don't support the general policy of opening up the
15 definition of exceptional events, I believe the McNerney
16 amendment is more acceptable than the underlying bill, and so I
17 just want to commend him, Mr. McNerney, for his work to address
18 the concerns particularly of his constituents.

19 And I yield back.

20 The Chairman. The gentleman yields back.

21 Other members wishing to speak on the McNerney amendment?

22 Seeing none, the vote will occur on the amendment offered
23 by the gentleman from California.

24 Those in favor will say aye.

25 Those opposed say no.

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1 In the opinion of the chair, the noes have it. The noes have
2 it, and the amendment is not agreed to.

3 Are there further amendments to the bill?

4 Seeing none, the question now occurs on favorably reporting
5 H.R. 4775, as amended, to the House.

6 All those in favor shall signify by saying aye.

7 A roll call has been requested. The clerk will call the
8 roll.

9 The Clerk. Mr. Barton?

10 Mr. Barton. Aye.

11 The Clerk. Mr. Barton votes aye.

12 Mr. Whitfield?

13 Mr. Whitfield. Aye.

14 The Clerk. Mr. Whitfield votes aye.

15 Mr. Shimkus?

16 Mr. Shimkus. Aye.

17 The Clerk. Mr. Shimkus votes aye.

18 Mr. Pitts?

19 Mr. Pitts. Aye.

20 The Clerk. Mr. Pitts votes aye.

21 Mr. Walden?

22 Mr. Walden. Aye.

23 The Clerk. Mr. Walden votes aye.

24 Mr. Murphy?

25 Mr. Murphy. Aye.

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1 The Clerk. Mr. Murphy votes aye.

2 Mr. Burgess?

3 [No response.]

4 The Clerk. Mrs. Blackburn?

5 Mrs. Blackburn. Aye.

6 The Clerk. Mrs. Blackburn votes aye.

7 Mr. Scalise?

8 [No response.]

9 The Clerk. Mr. Latta?

10 Mr. Latta. Aye.

11 The Clerk. Mr. Latta votes aye.

12 Mrs. McMorris Rodgers?

13 Mrs. McMorris Rodgers. Aye.

14 The Clerk. Mrs. McMorris Rodgers votes aye.

15 Mr. Harper?

16 Mr. Harper. Aye.

17 The Clerk. Mr. Harper votes aye.

18 Mr. Lance?

19 Mr. Lance. Aye.

20 The Clerk. Mr. Lance votes aye.

21 Mr. Guthrie?

22 Mr. Guthrie. Aye.

23 The Clerk. Mr. Guthrie votes aye.

24 Mr. Olson?

25 Mr. Olson. Aye.

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1 The Clerk. Mr. Olson votes aye.

2 Mr. McKinley?

3 Mr. McKinley. Aye.

4 The Clerk. Mr. McKinley votes aye.

5 Mr. Pompeo?

6 Mr. Pompeo. Aye.

7 The Clerk. Mr. Pompeo votes aye.

8 Mr. Kinzinger?

9 Mr. Kinzinger. Aye.

10 The Clerk. Mr. Kinzinger votes aye.

11 Mr. Griffith?

12 Mr. Griffith. Aye.

13 The Clerk. Mr. Griffith votes aye.

14 Mr. Bilirakis?

15 Mr. Bilirakis. Aye.

16 The Clerk. Mr. Bilirakis votes aye.

17 Mr. Johnson?

18 Mr. Johnson. Aye.

19 The Clerk. Mr. Johnson votes aye.

20 Mr. Long?

21 Mr. Long. Aye.

22 The Clerk. Mr. Long votes aye.

23 Mrs. Ellmers?

24 Mrs. Ellmers. Aye.

25 The Clerk. Mrs. Ellmers votes aye.

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1 Mr. Bucshon?

2 Mr. Bucshon. Aye.

3 The Clerk. Mr. Bucshon votes aye.

4 Mr. Flores?

5 Mr. Flores. Aye.

6 The Clerk. Mr. Flores votes aye.

7 Mrs. Brooks?

8 Mrs. Brooks. Aye.

9 The Clerk. Mrs. Brooks votes aye.

10 Mr. Mullin?

11 Mr. Mullin. Aye.

12 The Clerk. Mr. Mullin votes aye.

13 Mr. Hudson?

14 Mr. Hudson. Aye.

15 The Clerk. Mr. Hudson votes aye.

16 Mr. Collins?

17 Mr. Collins. Aye.

18 The Clerk. Mr. Collins votes aye.

19 Mr. Cramer?

20 Mr. Cramer. Aye.

21 The Clerk. Mr. Cramer votes aye.

22 Mr. Pallone?

23 Mr. Pallone. No.

24 The Clerk. Mr. Pallone votes no.

25 Mr. Rush?

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1 Mr. Rush. No.

2 The Clerk. Mr. Rush votes no.

3 Ms. Eshoo?

4 Ms. Eshoo. No.

5 The Clerk. Ms. Eshoo votes no.

6 Mr. Engel?

7 Mr. Engel. No.

8 The Clerk. Mr. Engel votes no.

9 Mr. Green?

10 Mr. Green. No.

11 The Clerk. Mr. Green votes no.

12 Ms. DeGette?

13 Ms. DeGette. No.

14 The Clerk. Ms. DeGette votes no.

15 Mrs. Capps?

16 Mrs. Capps. No.

17 The Clerk. Mrs. Capps votes no.

18 Mr. Doyle?

19 Mr. Doyle. No.

20 The Clerk. Mr. Doyle votes no.

21 Ms. Schakowsky?

22 Ms. Schakowsky. No.

23 The Clerk. Ms. Schakowsky votes no.

24 Mr. Butterfield?

25 Mr. Butterfield. No.

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1 The Clerk. Mr. Butterfield votes no.

2 Ms. Matsui?

3 Ms. Matsui. No.

4 The Clerk. Ms. Matsui votes no.

5 Ms. Castor?

6 Ms. Castor. No.

7 The Clerk. Ms. Castor votes no.

8 Mr. Sarbanes?

9 Mr. Sarbanes. No.

10 The Clerk. Mr. Sarbanes votes no.

11 Mr. McNerney?

12 Mr. McNerney. No.

13 The Clerk. Mr. McNerney votes no.

14 Mr. Welch?

15 Mr. Welch. No.

16 The Clerk. Mr. Welch votes no.

17 Mr. Lujan?

18 Mr. Lujan. No.

19 The Clerk. Mr. Lujan votes no.

20 Mr. Tonko?

21 Mr. Tonko. No.

22 The Clerk. Mr. Tonko votes no.

23 Mr. Yarmuth?

24 Mr. Yarmuth. No.

25 The Clerk. Mr. Yarmuth votes no.

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1 Ms. Clarke?

2 Ms. Clarke. No.

3 The Clerk. Ms. Clarke votes no.

4 Mr. Loeb sack?

5 Mr. Loeb sack. No.

6 The Clerk. Mr. Loeb sack votes no.

7 Mr. Schrader?

8 Mr. Schrader. No.

9 The Clerk. Mr. Schrader votes no.

10 Mr. Kennedy?

11 Mr. Kennedy. No.

12 The Clerk. Mr. Kennedy votes no.

13 Mr. Cardenas?

14 Mr. Cardenas. No.

15 The Clerk. Mr. Cardenas votes no.

16 Chairman Upton?

17 The Chairman. Votes aye.

18 The Clerk. Chairman Upton votes aye.

19 The Chairman. Other members wishing -- Dr. Burgess.

20 Mr. Burgess. Aye.

21 The Clerk. Dr. Burgess votes aye.

22 The Chairman. Other members wishing to cast a vote?

23 Seeing none, the clerk will report the tally.

24 The Clerk. Mr. Chairman, on that vote there were 30 ayes
25 and 23 noes.

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1 The Chairman. Thirty ayes, 23 noes, the bill, as amended,
2 is approved, favorably approved.

3 Without objection, staff is authorized to make technical and
4 conforming changes to the legislation approved by the committee
5 today. So ordered.

6 And without objection, the committee stands adjourned.

7 [Whereupon, at 11:58 a.m., the committee was adjourned.]

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