

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

1

1 NEAL R. GROSS & CO., INC.

2 RPTS MICHON

3 HIF105030

4

5

6 H.R. 4775, OZONE STANDARDS IMPLEMENTATION

7 ACT OF 2016

8 THURSDAY, APRIL 14, 2016

9 House of Representatives

10 Subcommittee on Energy and Power

11 Committee on Energy and Commerce

12 Washington, D.C.

13

14

15

16 The subcommittee met, pursuant to call, at 10:15 a.m., in
17 Room 2322 Rayburn House Office Building, Hon. Ed Whitfield
18 [chairman of the subcommittee] presiding.

19 Members present: Representatives Whitfield, Olson, Barton,
20 Shimkus, Latta, Harper, McKinley, Kinzinger, Griffith, Johnson,
21 Long, Ellmers, Flores, Mullin, Rush, McNerney, Tonko, Green,
22 Capps, Doyle, Castor, Sarbanes, Welch, Loeb sack, and Pallone (ex
23 officio).

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

2

24 Staff present: Will Batson, Legislative Clerk, Energy and
25 Power, Environment and the Economy; Allison Busbee, Policy
26 Coordinator, Energy and Power; Rebecca Card, Assistant Press
27 Secretary; Tom Hassenboehler, Chief Counsel, Energy and Power;
28 A.T. Johnston, Senior Policy Advisor; Mary Neumayr, Senior Energy
29 Counsel; Annelise Rickert, Legislative Associate; Dan Schneider,
30 Press Secretary; Peter Spencer, Professional Staff Member,
31 Oversight; Jeff Carroll, Minority Staff Director; Jean Fruci,
32 Minority Energy and Environment Policy Advisor; Caitlin Haberman,
33 Minority Professional Staff Member; Rick Kessler, Minority Senior
34 Advisor and Staff Director, Energy and Environment; Dan Miller,
35 Minority Staff Assistant; Alexander Ratner, Minority Policy
36 Analyst; Andrew Souvall, Minority Director of Communications,
37 Outreach and Member Services; and Tuley Wright, Minority Energy
38 and Environment Policy Advisor.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

3

39 Mr. Whitfield. I'd like to call this hearing to order this
40 morning and, of course, today we're going to be considering H.R.
41 4775, the Ozone Standards Implementation Act of 2016, sponsored
42 by Vice Chairman Olson and others.

43 [The Bill H.R. 4775 follows:]

44

45 *****INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

4

46 Mr. Whitfield. And at this point I'd like to recognize myself
47 for five minutes for an opening statement. About three years ago,
48 we had a series of forums on the Clean Air Act and at those forums
49 we had regulators from various states that came in and testified.

50 And the gist of the testimony was that the Clean Air Act
51 needed to be revisited. Everyone recognizes that it has been a
52 successful piece of legislation.

53 But we also know that every state is affected differently
54 by the regulations coming out of EPA and certainly that is true
55 on the proposed national ambient air quality standard that is
56 being reviewed at this time.

57 And as I said, most of the testimony indicated that there
58 are some areas of the Clean Air Act, because of ambiguities and
59 deadlines set, that needed to be revisited by the -- by the
60 Congress.

61 Now, we find ourselves in a predicament though where the
62 Clean Air Act is one of those polarizing pieces of legislation
63 that has done a lot of good, and it is polarizing primarily because
64 of the clean energy plan, in my humble opinion.

65 As you know, Congress refused to adopt legislation to help
66 the president in his negotiations in Copenhagen or Paris because
67 the majority in Congress simply disagreed with what was being done
68 in that area.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

5

69 On the other hand, the proponents of the Paris agreement and
70 the clean power plan feel very strongly that the president needed
71 to proceed in that way.

72 And so, as I said, Congress didn't act. It was adopted by
73 regulation and what has happened is that it has become a polarizing
74 piece of regulation because 27 states have filed lawsuits and we
75 see more and more lawsuits being filed on these regulations coming
76 out of EPA.

77 So on the Republican side, you know, we sort of drew a line
78 in the sand. Democrats drew a line in the sand. But on national
79 ambient air quality standards, I think many states, whether they
80 be perceived as Republican states or Democratic states, agree that
81 there needs to be some adjustments here, and I believe that is
82 what H.R. 4775 attempts to do.

83 Now, I am going to just read a couple of comments from our
84 commissioner from Texas and then those on the Democratic side will
85 say well, that's from Texas. But then I am going to read a couple
86 of comments from the commissioner from California.

87 Mr. Shaw, in his testimony, says that Texas detailed our
88 disagreements with the EPA's conclusions and formal comments
89 during the rule making process. We also traveled to Washington
90 to meet personally with Administrator McCarthy to make her aware
91 of significant flaws in the studies EPA relied on in coming up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

6

92 with this new standard.

93 The EPA nonetheless lowered the standard and now my agency
94 is challenging the validity of this standard in court, and I won't
95 go into the details of it.

96 Now, in California, I want to just read an excerpt from a
97 statement there. I don't think anyone views California as a red
98 state, or a Republican state, but this is what the commissioner
99 says.

100 The new ozone and PM 2.5 standards established by EPA
101 approached the background pollution concentrations in many
102 regions throughout the nation including the San Joaquin Valley,
103 and we know that Los Angeles can't meet their existing standard,
104 much less this new standard.

105 Now, I want to just go on and point out that he goes on to
106 say the reality that we face today sets up regions such as the
107 San Joaquin Valley for failure, leading to costly sanctions and
108 severe economic hardships.

109 We face these consequences despite having the toughest air
110 regulations on stationary sources, the toughest air regulations
111 on farms and dairies, tough air regulations on what residents can
112 do within the confines of their own home, \$40 billion spent by
113 businesses on clean air, over \$1 billion of public/private
114 investment, toughest regulations on cars and trucks, toughest

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

7

115 regulations on consumer products, reduced emissions by 80 percent
116 and still we can't meet the standards.

117 So I look forward to our discussion today with our
118 distinguished panelists, some from states that are not having a
119 problem, others from states that are, and that's the reality of
120 where we are today.

121 At this point, I would like to recognize the distinguished
122 gentleman from Illinois, Mr. Rush, for five minutes.

123 Mr. Rush. I want to thank you, Mr. Chairman, for holding
124 today's legislative hearing on the Ozone Standards Implementation
125 Act of 2016.

126 It is unfortunate, Mr. Chairman, but I have some grave
127 concerns with this bill. This bill will roll back important
128 provisions of the Clean Air Act and hurt our nation's efforts to
129 protect air quality.

130 For starters, H.R. 4775 would unacceptably delay
131 implementation of the EPA's 2015 ozone standards for another eight
132 years, even though these standards have not been updated since
133 the Bush administration last did it in 2008.

134 Additionally, Mr. Chairman, the bill would also mandate that
135 EPA wait a decade before considering any new evidence regarding
136 the health implementations from ozone and other harmful
137 pollutants despite what the science may say. Mr. Chairman, for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

8

138 those of us who believe that science should inform policy making
139 in regards to public health decisions, prohibiting EPA from
140 revisiting the scientific evidence for at least a decade is an
141 unacceptable risk that could result in potentially disastrous
142 health impacts for the American people.

143 Mr. Chairman, we know that breathing dirty pollutants such
144 as ozone, carbon monoxide, lead, nitrogen, sulfur dioxide and many
145 other dirty pollutants can lead to a host of health problems
146 including asthma, inflammation of the lungs, respiratory disease
147 and even premature death.

148 Current research even suggests, Mr. Chairman, that ozone may
149 also occur -- may also cause damage to the central nervous system
150 and may harm developing fetuses.

151 Yet, Mr. Chairman, despite all the scientific research, this
152 bill would stall the new ozone standards, permanently weaken the
153 Clean Air Act and hamstring the EPA's ability to regulate these
154 harmful contaminants both now and in the future.

155 And think, Mr. Chairman -- under this bill not only would
156 states not have to comply with the 2015 standards until 2026, but
157 parents were not even being born if their communities were in
158 violation of clean air standards until the year 2025.

159 Mr. Chairman, I can think of no greater benefit to the public
160 interest denying -- than denying citizens information directly

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

9

161 tied to their health and their well-being. There is no benefit
162 to the public interest.

163 Mr. Chairman, instead of trying to stall the 2015 ozone
164 standards and prohibit the EPA from updating the national ambient
165 air quality standards regularly as H.R. 4775 would do, we should
166 be heeding the warnings of doctors and scientists of not acting
167 quickly enough to protect the public health.

168 For these reasons among many others, I cannot support this
169 bill and I urge my colleagues to support it -- to oppose it, rather,
170 and I yield the rest of my time to Mr. McNerney from California.

171 Mr. McNerney. Well, I thank the gentleman.

172 I just want to thank Seyed Sadredin from San Joaquin Valley
173 for appearing in front of the committee today. You're from the
174 San Joaquin Air Valley Pollution Control District, which has one
175 of the biggest challenges in the country. I look forward to your
176 testimony and thank you again for showing up. With that, I yield
177 back.

178 Mr. Whitfield. Thank you. Mr. McNerney told me you were
179 going to yield in two minutes, Mr. Rush, but, at this time, I
180 recognize the gentleman from Texas, Mr. Olson, for five minutes.

181 Mr. Olson. I thank my friend from Kentucky.

182 The Clean Air Act is about cooperation. It is a balance
183 between states and the federal government. I believe why we are

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

10

184 here today is that we are not in any balance right now.

185 I would ask all my colleagues to listen carefully to what
186 these state officials will say this morning. They want clean air
187 and will work aggressively to achieve it.

188 We all want clean air within these communities, our families,
189 our kids, and that is why the Clean Air Act is hugely important,
190 but it is not perfect.

191 Working together, we can improve it. We've picked out the
192 low-hanging fruit to improve air quality. As we push more
193 improvements, we must go after smaller sources. This provides
194 economic pain at the local level and hides imperfections in the
195 Clean Air Act.

196 We can provide needed balance to this process. H.R. 4775
197 does just that. Now, I would like to welcome one Texan with the
198 cowboy hat on the panel, Dr. Bryan Shaw.

199 He has been on the Texas Commission on Environmental Quality
200 for almost a decade, has been the chairman since 2009. When he
201 does manage to escape Austin, Texas, home of the University of
202 Texas, Dr. Shaw returned to his own alma mater, Texas A&M
203 University, where he is an associate professor. He spends much
204 time of his research -- he spends much of his time researching
205 air pollution. He also finds time to drop by the Dixie Chicken
206 for a nice Texas meal.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

11

207 Dr. Shaw has also worked here in D.C. He is acting lead
208 scientist for air quality at the Department of Agriculture and
209 served as a member of EPA's science advisory board. He brings
210 an incredible amount of depth of knowledge to this hearing. I
211 want to welcome him with a proud small Aggie woo.

212 I yield back.

213 Mr. Whitfield. Would the gentleman yield to the gentleman
214 from Texas?

215 Mr. Olson. Yes, sir.

216 Mr. Whitfield. Mr. Barton.

217 Mr. Barton. That's whoop. I am an Aggie.

218 I just want to welcome Dr. Shaw. Sorry I missed the earlier
219 meeting but you've testified here before and we look forward to
220 hearing what you have to say and, of course, all the other
221 witnesses, and thank the chairman and ranking member for the
222 hearing.

223 Mr. Whitfield. At this time, the chair recognizes the
224 gentleman from New Jersey, Mr. Pallone, for five minutes.

225 Mr. Pallone. Thank you, Mr. Chairman.

226 The legislation that is the subject of today's hearing, the
227 deceptively-named Ozone Standards Implementation Act, has very
228 little to do with implementing EPA's ozone standards and instead
229 is focused on undermining the Clean Air Act.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

12

230 Make no mistake, H.R. 4775 is a broad attack on some of the
231 most important and successful tenets of the Clean Air Act
232 including health-based standards and protections for all criteria
233 of pollutants.

234 Since 1970, the foundation of the Clean Air Act has been a
235 set of health-based air quality standards that EPA must set based
236 solely on the latest science and medical evidence.

237 Essentially, the standard sets the level of pollution that
238 is safe to breathe. With these health-based standards as the
239 goalpost, states then develop plans to control pollution and meet
240 those goals.

241 Costs and technological feasibility are front and center in
242 this planning and states can identify which pollution control
243 measures are best suited to meeting the standard in the most
244 cost-effective way.

245 This structure has been extraordinarily effective for 46
246 years in cleaning the air and protecting public health including
247 the health of sensitive groups like children and the elderly.

248 H.R. 4775 would alter this proven approach. It would
249 elevate cost considerations in the standard-setting process not
250 just for ozone but also for carbon monoxide, sulfur oxides,
251 nitrogen oxides, particle pollution and even lead.

252 This would allow polluters to override scientists, leading

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

13

253 to air quality standards based on profits rather than health and
254 reversing decades of progress in cleaning our air.

255 But H.R. 4775 goes even further, delaying development and
256 implementation of national ambient air quality standards, or
257 NAAQS, for all six criteria pollutants.

258 The bill doubles the review period for all NAAQS, meaning
259 any new evidence or science would only be considered every ten
260 years. That's a dramatic move in the wrong direction on
261 science-based decision making.

262 The legislation also includes a provision to alter the way
263 that air quality monitoring data is interpreted, discounting air
264 quality measurements taken during normal weather and climate
265 cycles like heat waves and droughts.

266 It's an environmental "don't ask don't tell" designed to
267 make it appear that air quality is improving when it's not. We
268 should eliminate pollution, not the record of its occurrence.

269 The bill actually does manage to address implementation of
270 the new ozone standards directly by delaying implementation by
271 up to eight years. When you combine this mandated delay with
272 other features of this legislation we virtually guarantee that
273 people living in areas with poor air quality will continue to be
274 exposed to air pollution indefinitely.

275 In fact, a number of the provisions in this bill impact the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

14

276 areas that have the most persistent problems with air pollution.

277 We have some of those areas represented on the panel today.

278 There are three fundamental things that we all need every
279 day -- food, water and air. When we enacted the Clean Air Act,
280 we made a commitment to the public to make the air safe and healthy
281 to breathe.

282 H.R. 4775 breaks that commitment. It's simply a bad bill.

283 I wanted to -- I have about two minutes. Did you want to
284 make your statement? I will yield to Mr. McNerney.

285 Mr. McNerney. No, I didn't do my duty and then yell out for
286 the Warriors for winning 74 games this season. So yay, Warriors.

287 Mr. Olson. Seventy-three games.

288 Mr. McNerney. My concern here --

289 Mr. Olson. Seventy-three. They won 73.

290 Mr. McNerney. Seventy-three. Well, I can give them an
291 extra one.

292 So anyway, I mean, my concern here is the issue with the Clean
293 Air Act is it provides incentives for using new technology and
294 many of the emission reductions are achieved through instead of
295 funds to use new technology that both reduce emissions and reduce
296 costs and that is possible through innovation.

297 So we don't want to see the new law tear down that provision
298 at all. But California is the home to two regions struggling with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

15

299 the worst air quality in the nation.

300 As I mentioned, the San Joaquin Valley has really struggles.
301 Our pollution control district has done tremendous work. They
302 continue to do tremendous work and they have a lot of challenges
303 ahead of them, and I just want to see that this law actually helps
304 our communities fight pollution rather than puts them in a
305 straightjacket.

306 So that is really what I was going to try and say with my
307 earlier two minutes. So and with that, I yield back.

308 Mr. Whitfield. The gentleman yields back and that concludes
309 the opening statements. So at this point, I would like to
310 introduce our witnesses for the day.

311 First of all, we have Dr. Bryan Shaw, who is chairman of the
312 Texas Commission on Environmental Quality. In fact, what I am
313 going to do I am just going to introduce you and let you give your
314 opening statement. Then I will introduce each one of you when
315 we call on you.

316 So Mr. Shaw, you are recognized for five minutes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

16

317 STATEMENTS OF BRYAN W. SHAW, CHAIRMAN, TEXAS COMMISSION OF
318 ENVIRONMENTAL QUALITY; SEYED SADREDIN, EXECUTIVE DIRECTOR/AIR
319 POLLUTION CONTROL OFFICER, SAN JOAQUIN VALLEY AIR POLLUTION
320 CONTROL DISTRICT; ALI MIRZAKHALILI, DIRECTOR, DIVISION OF AIR
321 QUALITY, DELAWARE DEPARTMENT OF NATURAL RESOURCES AND
322 ENVIRONMENTAL CONTROL; MISAEL CABRERA, DIRECTOR, ARIZONA
323 DEPARTMENT OF ENVIRONMENTAL QUALITY; ALAN MATHESON, EXECUTIVE
324 DIRECTOR, UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
325 STATEMENT OF MR. SHAW

326 Mr. Shaw. Thank you.

327 Good morning. Chairman Whitfield, Ranking Member Rush,
328 members of the committee, thank you very much. A special thank
329 you to Congressman Olson and Congressman Barton. I certainly
330 have enjoyed the opportunity to work with you over the years.

331 Good morning, and again, I am thankful for the opportunity
332 to talk about an important issue this morning, specifically H.R.
333 4775, the Ozone Standards Implementation Act of 2016 sponsored
334 by Vice Chair Olson.

335 My name is Dr. Bryan Shaw and I am the chairman of the Texas
336 Commission on Environmental Quality. My agency's mission is to
337 protect Texas public health and the environment in a way that's
338 consistent with sustainable economic development.

339 In carrying out that mission, we seek to bring together

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

17

340 common sense, sound science and the law to ensure that
341 environmental regulations are safe, fair and predictable.

342 I am here today because the Environmental Protection
343 Agency's recent action lowering the national ambient air quality
344 standard for ground-level ozone is not consistent with those
345 principles.

346 As you all know, the EPA finalized their proposal to lower
347 the standard from 75 to 70 parts per billion on October 26th of
348 2015.

349 The state's initial designation recommendations are due on
350 October 1st of this year. The TCEQ detailed our disagreements
351 with the EPA's conclusion and formal comments during the rule
352 making process.

353 We even traveled to Washington to meet personally with
354 Administrator McCarthy to make her aware of the significant flaws
355 in the studies EPA relied on in promulgating the new standard.

356 The EPA nonetheless lowered the standard and now my agency
357 is challenging the validity of that standard in court. While our
358 voluminous comments and legal filings elaborating great detail
359 on the myriad scientific and legal vulnerabilities with the new
360 standard, I would like to briefly raise a few of the most troubling
361 issues.

362 First, the EPA claims that the new standard will provide

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

18

363 annual health benefits between \$2.9 billion and \$5.9 billion, with
364 a cost of only \$1.4 billion. My agency's analysis suggests these
365 figures are dramatically incorrect.

366 For example, the EPA only includes industry costs in their
367 analysis, not the states' or taxpayer costs, nor do they look at
368 economic impacts like increased electricity costs.

369 Another major flaw in the EPA's analysis is their
370 quantification of the benefits that would flow from this new
371 standard. The EPA's own analysis shows that lowering the
372 standard even to the 65 ppb level will not significantly reduce
373 asthma attacks.

374 In addition, approximately two-thirds of the benefits the
375 EPA claims would result from the new standard are not based on
376 ozone reductions at all. In fact, they are based on reductions
377 of an entirely different pollutant that is not the subject of this
378 rule.

379 Specifically, the EPA reasons that in taking the actions
380 necessitated by this standard, states will also lower levels of
381 fine particulate matter, or PM 2.5.

382 The flaw in that reasoning is that, at least in Texas= case,
383 levels of PM 2.5 are already below the standard set by EPA. Chief
384 Justice Roberts recently questioned this practice when the EPA=s
385 Mercury and Air Toxics Standard was reviewed and rejected by the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

19

386 Supreme Court.

387 While the court ultimately rejected the rule on other
388 grounds, the chief justice suggested that EPA's co-benefits
389 analysis might be an illegitimate way of muddling the differing
390 regulatory schemes for each pollutant under the Clean Air Act.

391 H.R. 4775 is a welcome step in the right direction. It seeks
392 to defer the implementation of the new standard until 2024, and
393 it requires the EPA to spend more time studying and reviewing
394 scientific literature and other factors before implementing new
395 standards.

396 By suspending the applicability of the new standard, this
397 legislation will allow states to focus their limited resources
398 on fully implementing the 2008 standard as well as a cascade of
399 other new and expensive regulations coming out of EPA.

400 Especially considering the cost of the negligible health and
401 environmental benefits embodied by the new standard, a delay in
402 implementing this standard is helpful indeed.

403 More broadly, H.R. 4775 also seeks to make the NAAQS -- the
404 National Ambient Air Quality Standards -- program applicable to
405 all six criteria pollutants more efficient and effective.

406 By lengthening the required review period from five to ten
407 years, it will ensure the EPA does not rush to lower given
408 standards only to comply with a statutory deadline. Furthermore,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

20

409 it will give states more time to comply with previous standards
410 before getting saddled with more stringent standards and facing
411 economic and developmental sanctions for nonattainment.

412 I also support this legislation=s addition of technological
413 feasibility and possible adverse welfare, social, and economic
414 effects to the list of factors the EPA can consider in revising
415 a standard.

416 As the Act is currently written and interpreted by the
417 Supreme Court, the EPA is prohibited from considering whether or
418 not the state of our technological capabilities would even make
419 getting the required reductions possible.

420 Put simply, the EPA could require states to make reductions
421 that are literally impossible to achieve. The act=s requirement
422 that the EPA ignore technological and economic considerations
423 might have made sense 40 years ago when it was initially passed.

424 However, pollution levels have been lowered to such a degree
425 that the law of diminishing returns has made it more and more
426 difficult to continue to reduce pollutant levels at all, much less
427 in a way that is not burdensome economically.

428 Finally, H.R. 4775=s directive to the EPA to begin timely
429 issuance of implementing regulations and guidance solves a major
430 issue that often confronts states like Texas.

431 Without this protection, the EPA can and does require states

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

21

432 to develop and propose new standards before the EPA itself has
433 given states specific guidance for the standard. And so I
434 understand how charged this issue can be but I appreciate Vice
435 Chair Olson=s efforts to streamline this process.

436 And thank you for the opportunity to testify today.

437 [The prepared statement of Mr. Shaw follows:]

438

439 *****INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

22

440 Mr. Whitfield. Thank you, Dr. Shaw.

441 And now our next witness is Seyed -- Mr. Seyed Sadredin, who
442 is the executive director of the air pollution control for San
443 Joaquin Valley Air Pollution Control District.

444 You are recognized for five minutes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

445 STATEMENT OF MR. SADREDIN

446

447 Mr. Sadredin. Thank you, Chairman Whitfield, Ranking
448 Member Rush and members of the committee. It is an honor to be
449 here before you today.

450 My name is Seyed Sadredin and I am the executive director
451 and air pollution control officer for the San Joaquin Valley Air
452 Pollution Control District.

453 With me today I have a number of local elected officials that
454 serve on the governing board of the air district -- Council Member
455 Baines from the city of Fresno, Chairman of the Board Supervisor
456 Worthley from Tulare County and Supervisor Elliott from San
457 Joaquin County.

458 They serve on the district governing board and deal with a
459 lot of the issues that we are about to talk about today.

460 The area of our jurisdiction covers a 25,000 square mile
461 region in the Central California, the beautiful area that is a
462 big source of food throughout the nation and throughout the world.

463 We are the largest air district in the state of California
464 and today I am here as a public health official as a representative
465 of an agency that is charged with protecting public health to urge
466 a strong bipartisan support for H.R. 4775. I think it is good
467 for air quality and it also streamlines the act.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

468 H.R. 4775, in my opinion, provides for much needed
469 streamlining of the implementation of the Clean Air Act. It does
470 not roll back anything that is already in the Clean Air Act in
471 the form of protections for public health, safeguarding public
472 health and it does nothing to roll back any of the progress that
473 has been made and it will not impede or slow down our progress
474 as we move forward to reduce air pollution and improve public
475 health.

476 I want to congratulate you and express my gratitude to you,
477 to your committee, to the sponsors of the bill for taking
478 reasonable action to provide much-needed and long overdue
479 congressional guidance with respect to the implementation phase
480 of the Clean Air Act.

481 As you know, it has been more than 25 years since the act
482 was last amended by the Congress. To date, as many have said,
483 the act has served us well and we have made significant progress
484 in reducing air pollution and improving quality of life all across
485 the nation.

486 We have reached a point, however, in my opinion and many
487 others in our region that have had decades of experience
488 implementing the act that we are reaching a point of diminishing
489 return and many of the well-intentioned provisions in the act are
490 leading to unintended consequences that are costly.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

491 In many cases, they are actually adverse to public health.
492 I don't think anyone here believes that Congress meant to put
493 something in the act that actually is detrimental to public
494 health, and there are a number of provisions in the act now that
495 if you fully implement them the way the courts have read them,
496 the way EPA sees them, they are actually detrimental to public
497 health and finally, consequences that set regions like ours up
498 for failure with potentially devastating economic sanctions.

499 And these consequences are going to be mostly felt in many
500 of our environmental justice communities with a great deal of
501 poverty and a lot of other disadvantages that they face already.

502 I believe good governance and common sense dictates that
503 after 25 years we reexamine our policies and I am hoping that our
504 decades of experience in our region can be helpful as your
505 committee, as the Congress moves forward to chart the course for
506 our future.

507 In our region, we have imposed the toughest air regulations
508 on all businesses and all agricultural activities.

509 We have imposed the toughest regulations on cars, trucks,
510 consumer products. We have imposed even tough regulations on
511 what people can do inside their homes, as you mentioned, Mr.
512 Chairman.

513 We have left no stone unturned in reducing emissions from

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

26

514 all sectors of our economy and from every source of air pollution
515 in our region.

516 We have reduced air pollution by over 80 percent. We have
517 reduced population exposure to ozone by over 90 percent.
518 Unfortunately, at this point, despite all that progress we are
519 nowhere near meeting the latest standards.

520 If you could just take a quick look at Figure 2 that I provided
521 in my written testimony it basically breaks down the sources of
522 air pollution from various sectors.

523 Today, if we eliminate all businesses in San Joaquin Valley,
524 small and large, we will not come anywhere near meeting the
525 standard. If we eliminate all agriculture -- and I have to tell
526 you, seven of the top ag producing counties in the nation are in
527 our region -- if we eliminated all agriculture in San Joaquin
528 Valley we will not come close to meeting the standards.

529 If we removed all passenger vehicles in our area -- 2.7
530 vehicles -- if we removed all of them we will not meet the standard.
531 If we removed all the trucks that travel up and down the valley
532 we will not come anywhere near meeting the standard.

533 I don't think this is what the Congress envisioned when they
534 passed the act when it was last amended and I will take a few more
535 seconds, Mr. Chairman, if I could, to finish.

536 I don't think the Congress envisioned a scenario like this

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

27

537 where you reduce air pollution by 80 percent and you were at a
538 point that you are not anywhere near meeting the standard.

539 I believe, as I have detailed in our written testimony, H.R.
540 4775 puts in place a number of streamlining measures without
541 rolling back any of the existing provisions and without impeding
542 our progress and it will go a long way and finally bring in some
543 order into the implementation phase of the Clean Air Act.

544 [The prepared statement of Mr. Sadredin follows:]

545

546 *****INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

28

547 Mr. Whitfield. Thank you very much.

548 And our next witness is Mr. Ali Mirzakhilili, who is director
549 of the division of air quality for the Delaware Department of
550 Natural Resources and Environmental Control.

551 Thank you very much for being with us and you're recognized
552 for five minutes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

29

553 STATEMENT OF MR. MIRZAKHALILI

554

555 Mr. Mirzakhali. Thank you very much, Chairman Whitfield,
556 Ranking --

557 Mr. Whitfield. And turn your microphone on.

558 Mr. Mirzakhali. How is that? I think it's on. There we
559 go. Sorry about that.

560 Chairman Whitfield, Ranking Member Rush and members of the
561 subcommittee, my name is Ali Mirzakhali and I serve as
562 Delaware's director of air quality. Thank you for the
563 opportunity to testify on H.R. 4775, the Ozone Standard
564 Implementation Act of 2016.

565 Since the Clean Air Act was last amended over 25 years ago,
566 it has prevented literally hundreds of thousands of premature
567 deaths as well as averted millions of incidents of morbidity
568 including, for example, heart disease, chronic bronchitis and
569 asthma.

570 The health benefits associated with this landmark
571 legislation have far outweighed the costs of reducing pollution
572 by more than 30 to 1.

573 Moreover, we have acquired these health benefits over the
574 same period as our nation's gross domestic product has grown. It
575 is fair to say that the Clean Air Act has not only been one of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

30

576 our nation's most effective environmental statute, it will likely
577 go down in history as one of the most effective domestic laws ever
578 passed.

579 Accordingly, it is imperative that consideration of any
580 significant amendment to the act be deliberate and thoughtful and
581 ensure that fundamental tenets of the legislation, which is
582 protection of public health and welfare, remain intact.

583 Unfortunately, after reviewing H.R. 4775, Delaware has
584 concluded that it cannot support this bill. I believe the bill
585 substantially weakens the existing Clean Air Act by delaying
586 important deadlines and considerably altering the process of
587 setting health-based national ambient air quality standards.

588 One of my primary concerns with H.R. 4775 is Section 3(b),
589 which would revise the criteria in the act for establishing
590 health-based NAAQS by allowing the consideration of technological
591 feasibility in determining the level of the standard.

592 I believe this provision could unravel the entire framework
593 of the Clean Air Act. Congress and the courts, including the
594 United States Supreme Court, have been very clear over the past
595 several decades on the issue of setting the NAAQS, requiring the
596 EPA to set these standards solely on the basis of health so that
597 communities will know whether or not the air they are breathing
598 is safe.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

599 Costs and other factors such as technological feasibility
600 have never been allowed to be considered in these critically
601 important decisions. Once the health-based standards are set,
602 the act appropriately allows cost and other factors including
603 technological feasibilities to be considered as states develop
604 implementation strategies to meet the standard.

605 By removing this important firewall, separating the setting
606 of the standards from their implementation, the public will never
607 know what level of air quality is truly safe.

608 Imagine an oncologist discovering through the best medical
609 tests that her patient has cancer, but because the treatment is
610 not feasible she tells the patient he simply has a bad case of
611 flu.

612 The diagnosis is not dependent on the feasibility of the
613 treatment. I am also very troubled by Section 2 of the bill, which
614 would delay deadlines for implementation of 2015 ozone standard
615 by up to eight years.

616 Arbitrarily extending the compliance deadlines would leave
617 the old, outdated and unprotective standard in effect, resulting
618 each year in hundreds of premature deaths on top of many thousands
619 of morbidity and related impacts.

620 To make matters worse, Section 3(a) would permanently
621 lengthen the NAAQS review cycle from five to ten years, bar EPA

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

32

622 from completing any review of those standards before October 26
623 of 2025.

624 I am concerned with Section 3(d) of H.R. 4775, which appears
625 to reward the regulative community with no consideration of health
626 of our citizens for EPA delays in publishing important guidelines.

627 The bill would allow industries to meet preconstruction
628 permit requirements based upon an outdated standard if EPA were
629 unable or unwilling publish its rules and guidance at the time
630 -- at the same time it promulgates its health-based standard.

631 One way for Congress to overcome these delays is to ensure
632 that EPA has sufficient resources to do its job. The provisions
633 of Section 3(f) and (g) of the bill are also troubling because
634 they would weaken the progress requirement of the Clean Air Act
635 by allowing states under the guise of economic feasibility and
636 technological achievability to circumvent these important
637 requirements.

638 It will seriously interfere with Delaware's and other
639 downwind states' ability to provide our citizens with clean air.

640 In Delaware, we are meeting all of our deadlines and taking
641 our responsibilities seriously. We fully expect the same from
642 others.

643 In conclusion, the proposed legislation would undercut
644 requirements of the Clean Air Act that are crucial to obtaining

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

33

645 healthy air quality as expeditiously as practicable.

646 Further, the proposed amendments would wholly change the
647 thrust of the Clean Air Act from expeditious protection of public
648 health to one of delay.

649 Delaware supports efficient and expeditious implementation
650 of NAAQS. H.R. 4775 bill, however, would weaken and delay public
651 health protection. My state, therefore, must oppose this bill.

652 Thank you for the opportunity to testify and I am happy to
653 answer any questions.

654 [The prepared statement of Mr. Mirzakhali follows:]

655

656 *****INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

34

657 Mr. Whitfield. Thank you very much.

658 And our next witness is Mr. Misael Cabrera, who is the
659 director of the Arizona Department of Environmental Quality and
660 you're recognized for five minutes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

661 STATEMENT OF MR. CABRERA

662

663 Mr. Cabrera. Chairman Whitfield, Ranking Member Rush and
664 members of the committee, my name is Misael Cabrera and I am the
665 director of the Arizona Department of the Environmental Quality.

666 I greatly appreciate the opportunity to share testimony
667 today. As the lead state challenging the 2015 ozone standard in
668 the court, Arizona does not support 70 parts per billion as the
669 appropriate ozone standard.

670 We believe that the new standard is simply not achievable
671 in many areas of our state. Although the Clean Air Act has five
672 mechanisms to bring nonattainment areas into compliance or
673 provide relief, these mechanisms are inadequate for Arizona and
674 likely other Western states.

675 These mechanisms include improving air quality through state
676 regulation, designating rural transport areas, designating
677 interstate or international transport areas and demonstrating
678 exceptional events.

679 I will discuss each mechanisms and its shortcomings in the
680 context of a rural county in Arizona. Yuma County is located in
681 the southwest corner of Arizona bordered by both California and
682 Mexico.

683 The county contains a few small towns and the city of Yuma,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

684 which has an estimated population of about 100,000 and an
685 unemployment rate of about 20 percent.

686 Yuma is predominantly an agricultural community and despite
687 its lack of urbanization or industrialization, Yuma County will
688 be designated as nonattainment under the new ozone standard.

689 As you may know, precursors for ozone include volatile
690 organic compounds and oxides of nitrogen. According to EPA's
691 2011 National Emissions Inventory, industrial sources account for
692 only 0.2 percent of the total VOC emissions and 5.3 percent of
693 NOx emissions within the county. All other sources are either
694 naturally occurring or not regulated by the state.

695 No matter how many local emissions controls are placed on
696 Yuma County businesses, Yuma County will not achieve compliance
697 under the new standard.

698 In addition, Yuma County would not qualify for the rural
699 transport mechanism because the Clean Air Act states that a rural
700 area seeking relief cannot be adjacent to or include any part of
701 a metropolitan statistical area, defined by the U.S. Census as
702 an entire county comprising 50,000 people or more.

703 The Cross-State Air Pollution Rule often mentioned as a
704 relief mechanism is yet another option that does not apply to Yuma
705 County. Although 20 percent of ozone concentrations in Yuma
706 County emanate from California manmade sources, the rule only

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

37

707 helps downwind nonattainment areas receive emissions reductions
708 from upwind attainment areas.

709 This approach will not work for Yuma County because
710 California has already implemented the most stringent controls
711 in the country, is still unable to achieve compliance with the
712 standard and has no emissions reductions to contribute downwind.

713 Further, the exceptional events rule is of dubious value to
714 Yuma County, if not the whole country. Although Arizona has been
715 a national leader in the development of exceptional event
716 documentation or dust events, the process for documenting and
717 receiving EPA approval of ozone-exceptional events has not been
718 well explained, will almost certainly be resource intensive and
719 is difficult to predict.

720 The best case scenario for Yuma is that our agency can make
721 an international transport demonstration, given that EPA's own
722 modeling shows that international sources are responsible for 68
723 percent of ozone emissions affecting Yuma on modeled exceedance
724 days.

725 Unfortunately, that demonstration is only valid after the
726 area has been designated as nonattainment and has exceeded the
727 three-year deadline.

728 This means Yuma would still have to comply with higher
729 nonattainment classification requirements -- requirements that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

38

730 would limit economic growth in a high unemployment area in
731 perpetuity as a consequence of emission sources that originate
732 primarily outside of Arizona and/or outside of Arizona=s
733 jurisdiction and control.

734 Yuma County is but one of many such counties in Arizona and
735 the West. For all these reasons, Arizona is challenging the new
736 ozone standard in court.

737 We also request that consideration be given to interstate
738 and international transport demonstrations before areas are
739 classified as nonattainment.

740 Thank you, and I am happy to answer any questions.

741 [The prepared statement of Mr. Cabrera follows:]

742

743 *****INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

39

744 Mr. Whitfield. Well, thank you very much.

745 And our last witness today is Mr. Alan Matheson, who is the
746 executive director for the Utah Department of Environmental
747 Quality.

748 Thanks for being with us and you're recognized for five
749 minutes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

40

750 STATEMENT OF MR. MATHESON

751

752 Mr. Matheson. Thanks, and I'll, Mr. Chairman, just note
753 initially that Mr. Cabrera is credible, despite the fact that he
754 has far too much hair for this panel.

755 Mr. Chairman Whitfield, Ranking Member Rush, members of the
756 committee, I am Alan Matheson, the executive director of the Utah
757 Department of Environmental Quality.

758 Improved air quality is a high priority for Utah. Under the
759 direction of Governor Gary Herbert, we have taken aggressive
760 action to clean our air -- imposing stringent new control
761 requirements, expanding public transportation, implementing
762 travel-reduction strategies and a public education campaign and
763 conducting research to understand Utah's unique atmospheric
764 chemistry. The results have been meaningful.

765 In the appropriate pursuit of cleaner air, we need to ensure
766 that our regulatory system is rationally aligned with that goal.
767 Today, I share Utah's concerns with the periodic review cycle of
768 the National Ambient Air Quality Standards -- or NAAQS -- the
769 implementation schedule for the ozone standard, and the
770 challenges our state has in meeting the new 70 part per billion
771 threshold.

772 In general, extending the 5-year NAAQS review cycle so that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

41

773 it better aligns with the prescribed NAAQS implementation time
774 lines is appropriate. An area designated as moderate
775 nonattainment for ozone has eight years from the date the NAAQS
776 is set to achieve attainment.

777 At the very least, there should be eight years between NAAQS
778 reviews to accommodate this compliance schedule. Extending the
779 review cycle to 10 years would more closely align it with the
780 prescribed planning period of an area designated as serious
781 nonattainment for ozone.

782 Further, EPA has been unable to provide states with timely
783 and necessary implementation guidance under the current 5-year
784 NAAQS review cycle. The implementation rule for the 2008 ozone
785 NAAQS was published in March 2015, only seven months before the
786 ozone standard was lowered to 70 parts per billion in October.

787 As another example, new PM 2.5 nonattainment areas were
788 designated in 2009. State implementation plans for those areas
789 were due to EPA December 2014, but EPA has yet to promulgate the
790 guidance establishing what is required in those plans.

791 EPA cannot even review for completeness the plans that they
792 have received. Extending the time line for implementing the 2015
793 ozone NAAQS will allow better coordination among states, tribes,
794 and the federal government.

795 One of the areas in Utah experiencing difficult challenges

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

42

796 with ozone and expected to be classified as nonattainment is the
797 energy-rich Uinta Basin. The unique chemistry underlying winter
798 ozone formation differs from the typical summer urban chemistry
799 anticipated by the Clean Air Act of 1990.

800 In addition, this region has a complex mix of state, tribal
801 and EPA air jurisdictions. Utah has coordinated a significant
802 multi-agency study into the causes of winter ozone and is working
803 with EPA and the Ute Tribe in developing state, tribal and federal
804 implementation plans for the area.

805 These efforts take an extraordinary amount of time and an
806 extension of the implementation period is needed. Under the
807 Clean Air Act, another review of the ozone NAAQs will occur in
808 2020.

809 If EPA sets a new standard then, it will hamper the
810 coordination efforts that are already underway. Background
811 ozone levels present an additional challenge in meeting the new
812 70 part per billion standard.

813 International transport can, at times, account for up to 85
814 percent of the 8-hour ambient ozone concentration in some Western
815 states. Many areas in the West have little chance of identifying
816 sufficient controls to achieve attainment, leading to severe
817 consequences.

818 Utah recommends that EPA work with states to determine what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

43

819 portion of ozone pollution and its chemical precursors is coming
820 from background ozone and to clarify how exceptional events and
821 international transport will affect attainment designations and
822 compliance.

823 Making the right choices to improve air quality in ozone
824 nonattainment areas will depend on how well we understand the
825 science, and our understanding of science needs to improve. The
826 tools available to states to account for non-anthropogenic ozone
827 are administratively burdensome and subject to second guessing,
828 often due to a lack of reliable supporting data.

829 Effort spent analyzing uncontrollable pollution to satisfy
830 EPA=s administrative requirements is simply administrative
831 overhead that does nothing to improve air quality or people=s
832 health.

833 The Department of Environmental Quality=s mission is to
834 safeguard public health and the environment and our quality of
835 life by protecting and enhancing the environment, and it is a
836 mission that we take seriously.

837 We must address the public health impacts of ozone with
838 reasoned approaches. As we move forward with this more stringent
839 ozone standard, EPA needs to have in place the necessary tools
840 to allow states to succeed.

841 Thank you very much. [The prepared statement of Mr.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

44

842 Matheson follows:]

843

844 *****INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

45

845 Mr. Whitfield. Thank you, Mr. Matheson, and we appreciate
846 the statements from all of you, and at this time I would like to
847 recognize the gentleman from Texas, Mr. Olson, for five minutes
848 of questions.

849 Mr. Olson. I thank the chair.

850 My first questions are for Dr. Shaw. As you know, this
851 bipartisan bill got Mr. Costa from California to sign up on it
852 yesterday. It would require the EPA to review air quality
853 standards every ten years instead of every five.

854 It would also make sure that EPA actually puts out timely
855 guidance on how to implement the rule when they do make a change.
856 It ensures we avoid the mess of the last decade.

857 Lower standards in 2008 -- rules to make those happen 2015.
858 Seven months later new standards. That should never ever happen
859 again.

860 Do you think that these changes in this bill will help states
861 clean up the air in a more straightforward way and more health
862 benefits with this law -- this new bill?

863 Mr. Shaw. Thank you, Congressman.

864 Yes, the reason that I am encouraged by the effort that is
865 underway here is because I sincerely believe that it will enhance
866 our ability to have more meaningful environmental regulations
867 that do indeed help to protect the health of those individuals

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

868 that we are sworn to help to protect.

869 I believe that this planning time frame will help us to
870 analyze and do the heavy lifting to understand better what is
871 causing the respiratory health issues, to be able to develop plans
872 to make sure those are being addressed and those regulations will
873 indeed have a reasonable likelihood of yielding those
874 environmental and health benefits.

875 So I think that providing that time frame and requiring a
876 more detailed analysis of the standard before it is lowered will
877 be very helpful.

878 Otherwise, we tend to have -- find ourselves in a cycle where
879 we lower the standard trying to achieve the health benefits that
880 we failed to the last time we lowered the standard and I think
881 there's some science that needs to be done to answer that.

882 Mr. Olson. Is it true too that ozone concentrations are
883 lower when -- as medical reactions are higher in Texas so there's
884 no coordination between more ozone and health, correct?

885 Mr. Shaw. That's correct. In the state of Texas we have
886 a higher asthma hospitalizations in the winter time during our
887 low ozone concentrations and nationally as well we have seen
888 significant reductions in ozone concentrations and yet the level
889 of asthma continues to increase.

890 Mr. Olson. Sounds like need more studies.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

47

891 As you know, last year EPA decided to pick a new standard
892 of -- well, they had a goal between 70 and 60 parts per billion.
893 They chose 70. Their advisor said that rule net range would keep
894 people healthy.

895 Under our bipartisan bill, we call on EPA to give secondary
896 consideration to whether a standard is achievable. It doesn't
897 tell them to set an unhealthy standard but it keeps them available
898 -- it keeps that technology available, that edge, so they know
899 they're protecting our air.

900 Do you think this bill is a reasonable approach?

901 Mr. Shaw. I do. I think that, you know, one of the other
902 things that EPA has talked about is that even in absence of this
903 standard being lowered that I believe that you talked about 85
904 percent of counties would achieve the standard by doing nothing.

905 I think that there is an opportunity for us to provide reason
906 to this and let the market and let some of these innovations take
907 place and I think that this bill helps to ensure that we are
908 investing our environmental efforts from the state from dollars
909 and from what we are asking our regulated community to invest to
910 actually lead those health benefits that we look at -- that we
911 are looking for.

912 Mr. Olson. Thank you. And now Mr. Sadredin. Wow.
913 Seventy parts per billion really hurts the San Joaquin Valley,

914 huh?

915 As was mentioned, one section of this bill deals with what's
916 called exceptional events. That part of the law is designed to
917 make sure that our communities aren't punished for pollution they
918 can't control such as droughts or fires.

919 But as you know, EPA does not provide relief relating to
920 certain events beyond an area's control. My question is can you
921 explain why this exception is so important to this change for your
922 county?

923 Mr. Sadredin. Thank you, Congressman Olson.

924 In 2012, San Joaquin Valley was on the verge of meeting the
925 65 microgram per cubic meter standard for PM and then we had the
926 drought that I am sure you heard about, have experienced it in
927 other regions, where we had concentrations never seen before in
928 terms of the magnitude of PM concentrations that we were
929 monitoring throughout the valley.

930 Unfortunately, the Clean Air Act as it is written right now
931 it says you cannot take into account a stagnation or
932 precipitation.

933 Now, this is another one of those well-intentioned
934 provisions that is leading to unintended consequences. I think
935 the Congress, when they put that in there, they meant, you know,
936 you cannot come on a daily basis.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

49

937 Well, say, today is hot, today is stagnation. So this is
938 an exceptional event on a daily basis. But when you have a
939 situation like we experienced in San Joaquin Valley where we had
940 a 100-year drought, conditions that had not been seen before for
941 100 years, and they have already gone away this year thanks to
942 El Nino and almost a normal weather condition, the language in
943 H.R. 4775 simply says that when you have extraordinary
944 circumstances such as what we experienced in California you should
945 not be held responsible, have the valley businesses, residences
946 be penalized for something that we have zero control over.

947 Mr. Olson. And so you're saying 100-year drought is
948 exceptional. Is that right?

949 Mr. Sadredin. That is all we are asking, yes.

950 Mr. Olson. Wow. I yield back. Thank you.

951 Mr. Whitfield. The gentleman yields back. At this time,
952 I will recognize the gentleman from Illinois, Mr. Rush, for five
953 minutes.

954 Mr. Rush. Well, thank you, Mr. Chairman.

955 Mr. Mirzakhilili, as I -- as I referred to in my opening
956 statement, the ozone standards has not been updated since 2008.
957 H.R. 4775 would further delay any new standards from being
958 implemented for up to another eight years.

959 Are there any health implications that would be impacted if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

50

960 this bill were to become law and we waited for a period of almost
961 16 years before updating these standards?

962 Mr. Mirzakhilili. Thank you, Mr. Rush. Obviously, the
963 sequence of events that takes place by setting the standard --
964 when the standard is set, the designations take place, the states
965 begin taking action to reduce their emissions.

966 We depend on our upwind state emissions reductions to help
967 us achieve attainment. If they are not designated, if they are
968 not implementing measures to reach attainment, we are not going
969 to -- as a downwind state, we are not going to see the benefit.

970 Moreover, the standard -- we are telling the people probably
971 an untruth saying that standard -- they are being protected by
972 the ozone standards. We issue forecasts. We issue air quality
973 alerts.

974 We issue advisories based on the standard. If the standard
975 is not protective, the forecast obligation is not going to tell
976 people the whole story.

977 Mr. Rush. What are the implications, Mr. Mirzakhilili --
978 what would the implications be if we were to extend the renew
979 period for all air pollutant standards from every five years to
980 ten years?

981 For instance, there is a concern that new developments in
982 scientific research in regards to health impacts may occur more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

51

983 frequently than every decade.

984 Also, just because the EPA is required to review the data
985 every five years does not mean that the agency must automatically
986 update the standards every five years.

987 Do you have any comments on --

988 Mr. Mirzakhali. Absolutely. The five-year review -- we
989 need to follow science. The decision regarding the standards
990 should be science driven.

991 As everybody here on the panel has talked about, we need
992 additional information. We need to do research and we need to
993 be informed by that -- by the research.

994 We can't just arbitrarily prohibit and prevent EPA to
995 lengthen the time that they go back and revisit the standard to
996 some period of time because it is not convenient.

997 I think five years has been a good timer and tied with --
998 if we want an alignment with implementation your marginal areas
999 have to come in with three years of the standard.

1000 So if you are going to -- one could argue that there should
1001 be a three-year review of the standard as opposed to a five-year.
1002 As the new science becomes available, EPA doesn't have to, and
1003 they have a number of occasions, not changed the standard.

1004 They have reviewed it, said science doesn't indicate that
1005 we need to change the standards and they have moved on. That's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

52

1006 the case with carbon monoxide. That is the case with the last
1007 time there was a motion for reconsideration of the 75 standard.

1008 We are not happy with 70 ppb. I don't think it was -- you
1009 know, I would have been happier with a lower standard. We think
1010 that some of the science indicated that 65 would have been a more
1011 protective standard.

1012 However, EPA followed the science advisory committee's
1013 recommendation and adopted that. And so we are trying to
1014 implement that. They should not be barred from implementation.
1015 There should not be a provision that would delay the review of
1016 available scientific data that will come before it.

1017 Mr. Rush. H.R. 4775 would also change the reporting
1018 requirements for states by allowing them to claim, quote,
1019 exceptional events, end of quote.

1020 Can you discuss the practical implications of changing air
1021 quality monitoring protocols in ways that could lead to under
1022 reporting of poor air quality conditions and how this might impact
1023 mostly health and environmental conditions for an affected
1024 community?

1025 Mr. Mirzakhali. I just go back to what triggered the --
1026 prompted the Clean Air Act and us, the Congress, acting on adopting
1027 clean air measures. The northern Pennsylvania event was an
1028 exceptional event. It killed people. We had a bad inversion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

53

1029 that caused a high air quality event and a number of people died
1030 as a result of air pollution.

1031 Just because meteorology is adverse it doesn't mean air
1032 pollution doesn't occur and you should be dismissed. The
1033 language that is being proposed here it opens the door that we
1034 say if there is a hot day we don't -- it doesn't count. An
1035 inversion doesn't count.

1036 So we are reduced to managing air quality on good days and
1037 I don't think that's the way you intend us to do.

1038 Mr. Rush. Thank you. I yield back.

1039 Mr. Whitfield. Gentleman's time has expired. At this time
1040 I will recognize the gentleman from Texas, Mr. Barton, for five
1041 minutes.

1042 Mr. Barton. Thank you, Mr. Chairman.

1043 I am going to ask most of my questions to Chairman Shaw but
1044 if anybody wants to answer them they can. I just know him a little
1045 bit better.

1046 What was the original ozone standard set back in 1971?

1047 Mr. Shaw. The standard has, obviously, changed over time
1048 and we had a one-hour standard and the number was 120 parts per
1049 billion, I believe, was the standard.

1050 Mr. Barton. It was over 100.

1051 Mr. Shaw. Yes. Yes.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

54

1052 Mr. Barton. But it was set in a different way on a one-hour.

1053 Mr. Shaw. Correct.

1054 Mr. Barton. We've changed it to an eight-hour.

1055 Mr. Shaw. That is correct.

1056 Mr. Barton. And has consistently gone lower every time it's
1057 been set. Isn't that correct?

1058 Mr. Shaw. That's correct.

1059 Mr. Barton. How low can it go? I mean, why don't just put
1060 into law every five years we are going to reduce it five parts
1061 per billion and be done with all this? Because that is what
1062 happens, basically.

1063 Mr. Shaw. It is certainly part of where I am encouraged by
1064 a longer time period between the review. But that is most
1065 effective if that is a more thorough review because as I alluded
1066 to earlier it is my perception that we are in a cycle to where
1067 we are -- the process that is being used by EPA to determine whether
1068 to lower the standard is flawed and this is certainly
1069 characterized and captured in our comments we submitted.

1070 But we are looking at epidemiological studies that show a
1071 correlation and therefore they are assuming that there must be
1072 a causal relationship.

1073 And yet, in order to get clinical studies to show an impact
1074 on the ability of people to bring air in and out of their lungs

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

55

1075 they had to subject folks to six -- over six and a half hours per
1076 day of moderate to extreme exercise while being exposed to levels
1077 we are talking about just to get a measurable degradation in lung
1078 function.

1079 And by the way, those levels were reversible. Those weren't
1080 permanent. And so in order to get any response they had to have
1081 people exercise it in a way that -- I won't speak for you but
1082 certainly I can't do on a regular basis and it is -- while we agree
1083 that EPA used them as a surrogate for the sensitive populations,
1084 it is unreasonable to expect people to be exposed to that.

1085 And the key point I am making, Congressman, is that EPA is
1086 continuing to lower the standard but we are continuing to get the
1087 same result. If you lower the standard over and over again but
1088 you're not providing those health benefits then one would question
1089 maybe we are missing something.

1090 Mr. Barton. Well, now, the standard is parts per billion.
1091 Isn't that right?

1092 Mr. Shaw. That is correct.

1093 Mr. Barton. And we are going from 75 parts per billion to
1094 70. So we are changing it five parts per billion. Can I tell
1095 the difference? If I breathe air right now, can I tell the
1096 difference between 70 parts per billion and 75 parts per billion?

1097 Mr. Shaw. I would argue that in order for EPA to get a

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

56

1098 measurable difference that you would have to follow that protocol
1099 and exercise rigorously for six and a half hours each day while
1100 you were being exposed to that in order to potentially, and not
1101 all -- not all parties would show a measurement. So unlikely that
1102 you would experience that.

1103 Mr. Barton. I tried to exercise for six and a half hours
1104 that would kill me. That would be a measurable impact on my
1105 health.

1106 Mr. Shaw. I am with you, Congressman.

1107 Mr. Barton. Can a monitor -- what is the sensitivity of the
1108 best air quality monitors -- in other words, the variance -- they
1109 measure parts per billion plus or minus -- it used to be about
1110 10 parts per billion but it may be better now.

1111 Mr. Shaw. We are better than that now and certainly we can
1112 -- we can measure to the parts per billion and that is getting
1113 -- you know, the science an ability to monitor is improving
1114 significantly.

1115 Unfortunately, that doesn't necessarily -- because you can
1116 measure it to a finer detail it doesn't necessarily mean that
1117 you're -- that you are better able to understand what those
1118 implications are.

1119 We can measure it very accurately. But the bigger errors
1120 aren't in the measuring the concentration at the monitor. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

57

1121 bigger errors are the fact that folks that we are comparing them
1122 to that are hospitalized and/or unfortunately, pass away we are
1123 tying them to a monitor that they may never have been around.

1124 And in fact, in all likelihood someone who is in a hospital
1125 or, unfortunately, passing away likely didn't spend their final
1126 days exercising six and a half hours a day.

1127 In fact, they probably spent most of their time indoors,
1128 which we, as a general population, spend about 90 percent of our
1129 time indoors where ozone levels are about 30 percent, I believe,
1130 of ambient and we are exposed to much other pollutants in the
1131 indoor environment than we see in the ambient environment.

1132 And so in all likelihood, any environmental input into that
1133 person's hospitalization and mortality were effectively
1134 something besides ozone and I think that is where we need EPA to
1135 assess and help us to come up with --

1136 Mr. Barton. Let me ask Mr. Cabrera a question.

1137 What do you do in these rural counties like you mentioned
1138 where the natural occurring ozone is probably higher than the
1139 standard? You just -- there is nothing you can do. What -- I
1140 mean --

1141 Mr. Cabrera. Congressman Barton, that is exactly why we are
1142 challenging the standard in court.

1143 There are many areas that would be forced to put requirements

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

58

1144 on industry for air pollution that they did not create and that
1145 the state cannot regulate, and that puts rural counties in a very
1146 odd position.

1147 We have looked at this very, very hard. Our stance as an
1148 agency is typically to cooperate with EPA whenever we can and on
1149 this particular issue we have looked at all of the mechanisms for
1150 relief that EPA provides and none of them work well for Arizona.

1151 And so rather than holding counties accountable for air
1152 pollution that they did not create, we decided to challenge the
1153 standard in court.

1154 Mr. Barton. Thank you.

1155 Mr. Whitfield. The gentleman's time has expired.

1156 At this time, I will recognize the gentleman from New Jersey,
1157 Mr. Pallone, for five minutes.

1158 Mr. Pallone. Thank you, Mr. Chairman.

1159 I wanted to ask my questions of Mr. -- is it pronounced
1160 Mirzakhilili? Okay.

1161 I see you share many of my concerns about this bill. In my
1162 opinion, H.R. 4775 is a major rollback of valuable Clean Air Act
1163 protections and will give any area that has air quality problems
1164 numerous new avenues to avoid cleaning up the air.

1165 So, first, I would like to ask some questions about the air
1166 quality monitoring provision. Exceptional events -- large

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

59

1167 wildfires, for example -- are accounted for now in air monitoring.

1168 I mean, that is true. Do you want to just briefly explain that?

1169 Mr. Mirzakhilili. Certainly. Thank you, Congressman.

1170 Right now, the policy -- as exceptional events come into play
1171 when we look at the air quality and see what -- whether or not
1172 the violator attained the standard or met the standard and that
1173 is the communication that we make back to our community.

1174 During certain events -- you know, Canadian wildfires, for
1175 instance, contributed -- caused a problem for certain areas in
1176 our region -- we were able to go back, make the case those are
1177 exceptional events and eliminate those -- reading those air
1178 quality data points from our overall assessment of air quality
1179 and attainment/nonattainment.

1180 So to go back and say well, and that is very limited -- EPA
1181 works on it. They have -- they're working on the guidance. There
1182 was just recently a meeting where they brought up and trying to
1183 address Mr. Sadredin's and others' issues regarding, you know,
1184 what should or should not be exceptional events.

1185 But I think what this proposed language does it creates a
1186 big gaping road for inversions, fires, having hot days and those
1187 are not supposed to be considered exceptional events. We are
1188 supposed to protect the public from --

1189 Mr. Pallone. So then if now you expand this definition, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

60

1190 know, this -- these exemptions, what are some of the real world
1191 implications for such a policy change?

1192 Mr. Mirzakhilili. Well, ozone is formed during the hot days
1193 and require hot days to create ozone. It's a secondary pollutant.
1194 You need VOC and NOx in the presence of sunlight and hot
1195 temperatures.

1196 So if you take out days we eliminate hot ozone days. So we
1197 can -- we can declare victory that way and before that we have
1198 met the standard whereas we are not meeting the standard.

1199 Mr. Pallone. So for downwind states like yours and mine
1200 also, by the way, I am concerned that this change, you know, makes
1201 the air quality problems from transport a lot worse.

1202 I mean, is it possible that downwind states could receive
1203 additional air pollution? I mean, they are likely going to
1204 receive a lot more air pollution.

1205 Mr. Mirzakhilili. Absolutely. Like I mentioned, if the
1206 trigger for controls is by designation on air quality,
1207 nonattainment areas usually have to implement more requirements,
1208 and to the extent that they are not part of the planning, if they
1209 manage -- if the open area manages to exclude their poor air
1210 quality that is based on exceptional events they will not be
1211 required to implement the reduction strategies that would then
1212 directly benefit the downwind areas such as ours and your state,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

61

1213 obviously.

1214 Mr. Pallone. All right. So as I understand it, the
1215 monitoring data is also used to report the daily air quality index,
1216 which gives people warnings when the air pollution is at unsafe
1217 levels.

1218 So how would expanding what can be considered an exceptional
1219 event impact those alerts to the public? Would it lead to fewer
1220 warnings or would the public wonder why the numbers of warnings
1221 of bad air quality days are increasing while their area was
1222 declaring that they were meeting the air quality standards? I
1223 mean --

1224 Mr. Mirzakhilili. It certainly would create a confusion and
1225 mixed messages to the public. You know, we provide access to air
1226 quality data to the public.

1227 Our monitoring stations are -- you know, you can go online
1228 to our website and get near real-time air quality data and they
1229 will see it is measuring, you know, above the standard and yet
1230 we are saying well, that this doesn't count.

1231 Mr. Pallone. Well, is there any justification for this
1232 change other than making bad air quality look good to avoid
1233 controlling air pollution or what is the justification other than
1234 that?

1235 Mr. Mirzakhilili. That is what -- that is what I get and

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

62

1236 that is why we are not supporting it. I believe there are
1237 instances that are truly exceptional events that EPA already
1238 considers.

1239 But to open it up to the extent that is being proposed is
1240 not warranted.

1241 Mr. Pallone. All right. Well, I just -- I want to thank you,
1242 because as I see it this Section 3(h) would create a loophole that
1243 would allow localities to disregard dangerous air pollution and,
1244 basically, the bill requires the EPA and the states to pretend
1245 that real harmful air pollution doesn't exist and isn't hurting
1246 our kids when in fact it may very well be.

1247 So thank you very much. Thank you, Mr. Chairman.

1248 Mr. Whitfield. Chair recognizes the gentleman from
1249 Illinois, Mr. Shimkus, for five minutes.

1250 Mr. Shimkus. Thank you. This has been a great hearing. I
1251 am sorry, I just had to step out.

1252 So I want to start with Mr. Mirzakhali. I am sorry if I
1253 butcher it. I am Shimkus. I get it butchered all the time, too.

1254 The -- you don't question anybody on the panel with you and
1255 their concern about air quality, do you? I mean, all your
1256 colleagues there, in essence, you don't -- you don't question that
1257 they are doing their best for the air quality of the areas that
1258 they represent?

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

63

1259 Mr. Mirzakhali. Absolutely not. I copy their programs
1260 quite often. I go through --

1261 Mr. Shimkus. Let me go on because -- yeah, I mean, this is
1262 -- this is great testimony that we have heard from some of your
1263 colleagues, and Mr. Sadredin, I think we would pull up -- I would
1264 encourage people to look at his testimony and look at the two
1265 charts he refers to in his testimony.

1266 If we can -- I don't know if you can pull it up. We are having
1267 trouble and so that is why I was bouncing back and forth.

1268 The reality is in San Joaquin Valley the success of what you
1269 have been doing is undeniable, and you are coming before us.

1270 Then you go to chart two, then you are coming to us and says,
1271 even if I stop all this activity I can't meet it. Is that -- is
1272 that how I observe your opening statement and your testimony?

1273 Mr. Sadredin. Yes. Thank you, Congressman.

1274 As we speak today, the San Joaquin Valley is on the verge
1275 of having ten active state implementation plans for ten different
1276 standards for ozone and particulate matter.

1277 There is nothing in this bill that would take this impossible
1278 mandate that is before us as we speak that by next August our region
1279 is required to put a new state implementation plan together to
1280 reduce emissions down to zero from all these sources, very near
1281 zero, and even then it is questionable whether we meet the standard

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

64

1282 because the background concentration that we have.

1283 So when people talk about this bill rolling back or holding
1284 back requirements, there is nothing like that. Just meeting the
1285 current standards we have to go to the Nth degree of throwing more
1286 than the kitchen sink because we've already thrown that in.

1287 Mr. Shimkus. And let me go to Mr. Cabrera because I saw you
1288 shaking your head when the ranking member was talking.

1289 I mean, you are in the same position, in essence. So what
1290 do you do?

1291 Mr. Cabrera. There is very little that we can do. And so
1292 to answer the question about the exceptional events, the Clean
1293 Air Act and the rule will regulate an area that exceeds the
1294 standard on four days only the same as an area that exceeds the
1295 standard every day.

1296 So an area that exceeds the standards on four days of the
1297 year versus an area that exceeds that standard every single day
1298 of the year get treated the same and that is the reason why you
1299 need exceptional events.

1300 Mr. Shimkus. Yes, and Congressman Olson showed me a picture
1301 of an exceptional event in Texas and actually told me that there
1302 was ten exceptional events that he could speak to.

1303 How many of those got kind of a waiver or whatever the EPA
1304 does to say okay, we will take that into consideration, Dr. Shaw?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

65

1305 Mr. Shaw. I don't have that number but I will speak to it
1306 general and it is challenging and it is uncertain whether you're
1307 going to have success.

1308 It takes an awful lot of personnel input to get there and
1309 oftentimes before you get there the damage is done from that.

1310 And so I can't speak, unfortunately, to the number of those
1311 that were successful. But in general those are some of the
1312 challenges with those exceptional events.

1313 Mr. Shimkus. So Mr. Mirzakhali, part of the -- why I
1314 focused on you at first because in your opening statement you made
1315 a comment -- this is why we find this debate troubling -- that
1316 even though there is not technologically a feasible way to get
1317 to a level, you are testifying that we should meet it anyway.

1318 Mr. Mirzakhali. What I said was --

1319 Mr. Shimkus. That is what you said in your opening
1320 statement.

1321 Mr. Mirzakhali. I said that in setting the health -- air
1322 quality standard should be independent of technological
1323 feasibility because so the science indicates --

1324 Mr. Shimkus. Yes, so there is no -- so even though there
1325 is not technology to get there they need to have that as a standard.
1326 That is why we have -- let me go real quick. I am almost done
1327 with -- I only have 30 seconds and I apologize.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

66

1328 So the other issue that I have dealt with numerous times is
1329 the public domain doesn't understand the multiple different
1330 environmental rules and regs that are -- that are imposed upon
1331 air quality folks in this country.

1332 So we -- here we are talking about ozone PM. So the public
1333 out there, the CSPAN viewers are saying what's the deal -- it's
1334 one air provision.

1335 Well, we know it's not, right. You guys deal with it, and
1336 I always bring it up and I am going to do it again. You are dealing
1337 with MACT. It was mentioned in some opening. We got mercury air
1338 toxic.

1339 We have got air quality standards for particulate matter.
1340 We have got cooling water intake rule. We have coal ash startup
1341 shutdown malfunctions, clean power plan, ozone rule.

1342 This is just one of a multitude of a cavalcade of rules and
1343 regulations that are imposed upon people who are trying to protect
1344 the air quality for their citizens and they -- you all need help
1345 and you all need a delay in implementing this and that is why this
1346 is -- this is a good bill and I appreciate my colleague for bringing
1347 it forward and I yield back my time.

1348 Mr. Whitfield. At this time, the chair recognizes the
1349 gentleman from California, Mr. McNerney, for five minutes.

1350 Mr. McNerney. Well, I thank the chair. You know, the San

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

67

1351 Joaquin Air Pollution Control District has done an excellent job
1352 over the years and I think should be a model for some of the
1353 districts across the country.

1354 For example, the last couple years have been some of the
1355 cleanest on record. Would you discuss some of the
1356 accomplishments of the air district and how you have attained
1357 those accomplishments?

1358 Mr. Sadredin. Yes. Thank you, Congressman McNerney.

1359 We have been doing this, as you know, for over three decades
1360 now in San Joaquin Valley.

1361 But, unfortunately, as we speak today, the congressman
1362 mentioned, you know, when was the first ozone standard published
1363 -- 1979, when our ozone standard -- we made significant reductions
1364 in emissions and we are just barely in the process of meeting that
1365 standard because the way the Clean Air Act is constructed if you
1366 have one hour of exceedance --

1367 Mr. McNerney. But, I mean, that wasn't my question. How
1368 did you meet those?

1369 Mr. Sadredin. Well, we have imposed the toughest
1370 regulations on valley businesses from small ma and pa operations,
1371 service stations, paint shops, all the way to our largest power
1372 plant refinery that we have.

1373 Mr. McNerney. Have you -- have you been able to use

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

68

1374 technology -- new technology? Has there been incentive for you
1375 to use new technology that you've implemented?

1376 Mr. Sadredin. Yes. We support regulations or mandates
1377 that force technology. But we have to take a close look at, you
1378 know, where we are at this juncture in our history. This is not
1379 25 years ago when cars did not have catalytic converters and there
1380 was a lot of low-hanging fruit.

1381 There is nothing in this bill, in my opinion, that would hold
1382 us back in continuing to push technology because of the current
1383 standards. There is nothing in this bill that would make us go
1384 back and have any of these tough regulations that we have imposed
1385 to roll them back.

1386 Technology has been the savior. As we have moved forward,
1387 more technology is available. But today, unfortunately, even if
1388 money were not object, technology does not exist today even on
1389 the drawing board to get to some of the reductions that we need.

1390 And as I said, even if we eliminated everything, just say
1391 we don't have technology, let's shut down agriculture -- let us
1392 shut down all businesses, it will be difficult to meet the
1393 standard.

1394 Mr. McNerney. You have mentioned that the new standards
1395 will be detrimental to public health. Could you explain that?

1396 Mr. Sadredin. I said that there are a number of provisions

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

69

1397 in the Clean Air Act right now that are detrimental to public
1398 health and a couple of them are being addressed by this bill.

1399 The obvious one, which is a classic case of well-intentioned
1400 provisions that has led to unintended consequences is a
1401 requirement that extreme ozone nonattainment areas such as ours
1402 have to have contingency measures.

1403 Of course, contingencies make sense. Everybody said
1404 whatever you do let's have a contingency measure in place. But
1405 an extreme nonattainment by definition is an area that has to throw
1406 everything in the mix in their plan.

1407 There is not an A list of measures that we say oh, let's just
1408 do those and hold back. Some of those measures were contingency
1409 ARB's policy and the way the rule is written will force areas like
1410 ours to not put in place all the technology that is available.

1411 Hold some of it back for contingencies later. To me, that
1412 is detrimental to public health.

1413 The other thing that is detrimental to public health the way
1414 the Clean Air Act is constructed right now it does not distinguish
1415 the fact that various pollutants have different impact on public
1416 health.

1417 Not all PM 2.5, for instance, has the same impact. Some of
1418 it is ammonium nitrate, which might be, you know, respiratory
1419 irritant, whereas you have diesel carcinogens which cause cancer,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1420 toxic.

1421 In the Clean Air Act, it says you treat them all the same
1422 and waste a lot of resources and efforts on reducing pollutants
1423 that have much less benefit to public health versus what we could
1424 do with others.

1425 And then, finally, the whole bureaucracy of having ten plans
1426 -- it takes a lot of resources that are diverted from being able
1427 to do things to actually reduce air quality and improve public
1428 health. To me, those provisions are detrimental to public
1429 health.

1430 Mr. McNerney. Thank you. Mr. Mirzakhilili, does Delaware
1431 have any regions that are having difficulty meeting standards
1432 because of noncontrollable sources?

1433 Mr. Mirzakhilili. Certainly. Our struggle with ozone are
1434 -- is mainly I attribute to emissions that are outside of our
1435 jurisdiction and are transport related.

1436 Mr. McNerney. So have you been able to work with the EPA
1437 to develop the flexibility you need to deal with that?

1438 Mr. Mirzakhilili. What we have -- we have been struggling
1439 with EPA trying to get them to actually expand in nonattainment
1440 areas. That was a case that we delegated with EPA, saying that
1441 more areas outside of Delaware should be designated because they
1442 contribute to our nonattainment.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

71

1443 As nonattainment be subject to the requirements of -- that
1444 we are subject to to get -- put the emissions reductions in place
1445 in order for us to attain.

1446 We are not successful in that effort but by delaying the
1447 standards, by not implementing the reductions Mr. Sadredin's
1448 problems aren't going to go away and if the emissions reductions
1449 don't take place in upwind areas our problems aren't going to go
1450 away. In order to solve air pollution we need to reduce air
1451 pollution.

1452 Mr. McNerney. Thank you, Mr. Chairman.

1453 Mr. Whitfield. The chair will recognize the gentleman from
1454 Ohio, Mr. Latta, for five minutes.

1455 Mr. Latta. Thank you, Mr. Chairman, and very good hearing
1456 today and thanks to our panelists for being here today.

1457 If I could start, Mr. Sadredin, if you would like to respond
1458 if you can remember exactly what Mr. Mirzakhilili comments on --
1459 exceptional events. Could you comment maybe on what he had
1460 commented on?

1461 Mr. Sadredin. Yes. There are a couple of areas that I don't
1462 agree with, let's say.

1463 First, Congress, even 25, 40 years ago when the act was passed
1464 recognized the fact that exceptional event provisions make sense
1465 because there are times when everything is overwhelmed by things

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

72

1466 you have no control over and regions should not be penalized.

1467 The misunderstanding that I see in some of the discussions
1468 there is that somehow what is in this bill or allowing a more
1469 reasonable approach to an exceptional event is being
1470 characterized as misleading the public or not letting the public
1471 know what's going on.

1472 There is nothing with exceptional events that says you do
1473 not measure air quality and do not report to the public what the
1474 air quality actually is, and if you have programs like we do,
1475 working with the school districts on bad air quality -- to stay
1476 indoor -- whether that air quality is bad because of an exceptional
1477 event or a source of air pollution, those things will stay in
1478 effect and the public is fully aware of those.

1479 The only thing that an exceptional event provision that says
1480 it will keep the area being penalized from having had this
1481 violation that they have no control over -- and, as you know, there
1482 a number of penalties, sanctions in the Clean Air Act when you
1483 don't meet the standards -- as was mentioned, if you have one day
1484 of exceedance in the region you still have all the requirements
1485 applying to you.

1486 It is just when you have an exceptional event we say don't
1487 hold that against us for the sanctions and other obligations that
1488 come into play.

1489 There is nothing in this bill that would take that away in
1490 terms of communicating to the public what true air quality is and
1491 all the protections that you need to put in place with respect
1492 to that.

1493 Mr. Latta. Thank you very much.

1494 If I could turn to Mr. Matheson, and this has come up before.
1495 But when you see that the National Park Service released data that
1496 at many national parks -- this is the Joshua Tree National Park,
1497 Sequoia, Kings Canyon National Parks, even Yosemite -- had ozone
1498 exceedances in 2015 you note in your written testimony that many
1499 rural Western national parks, the canyon lands in Utah are located
1500 far from any emission sources yet routinely are above the new ozone
1501 standard levels of 70 parts per billion.

1502 And so I guess my question is are you concerned that from
1503 many parts of the western United States there may be few if any
1504 options I know we just heard a little bit about, but what options
1505 are there then to complying with this -- these regulations? How
1506 do you do it?

1507 Mr. Matheson. It is a significant challenge and I know the
1508 Western states' air resource council, which is the 15 states in
1509 the West and their air directors have been looking at this issue
1510 and they found that there has been some recent research suggesting
1511 that there are 12 counties in six states in the inter-mountain

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

74

1512 West where the design values exceed the 70 parts per billion but
1513 the human in-state contribution to that pollution is 10 percent
1514 or less.

1515 Mr. Latta. Let me interrupt for one second because, again,
1516 I am from Ohio. We have 88 counties. My home county is one of
1517 the top ten counties in size. It's 619 square miles.

1518 I noticed Yuma County -- I did a quick check -- is 5.519 square
1519 miles. You know, we are looking at size differences and you are
1520 lumping everybody together as a county. How do you adjust for
1521 that and how do you account for it? How are you going --

1522 Mr. Matheson. And I will give you another example in Utah.
1523 San Juan County, where Canyon land National Park is far away from
1524 any urban areas, it's about the size of New Jersey, has a
1525 population under 16,000. The industrial emissions for NOx are
1526 400 tons a year total. For VOC it is 100 tons a year total.

1527 So if you look at the standards that are applied based on
1528 ozone formation typically in the East and in urban areas, the
1529 requirements are looking at fuel reformulation, looking at
1530 emission testing for cars, control requirements on business,
1531 traffic controls, et cetera. Those provisions don't apply and
1532 don't work in a county like San Joaquin County that does at times
1533 exceed the 70 parts per billion.

1534 Now, we are committed to clean air and we are looking at every

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

75

1535 option available. But at times those options just aren't
1536 available. We have seen many situations in the southwestern part
1537 of the state where we measure the air mass coming into the state
1538 and it is above the standard.

1539 It goes through the metropolitan area of St. George and
1540 measured on the other side. The ozone is just the same. And in
1541 fact, if you measure at night, ozone goes down because of NOx
1542 scavenging.

1543 It's a -- you have a chemical reaction that takes some of
1544 the ozone out of the air. So, again, we are finding it hard to
1545 justify how in the East you reduce NOx and VOCs and ozone has gone
1546 down. In many parts of the West, we have dramatically reduced
1547 NOx and VOCs and over the last 20 years ozone has stayed relatively
1548 constant.

1549 Mr. Latta. Thank you very much. My time has expired.

1550 Mr. Whitfield. At this time, the chair recognizes the
1551 gentleman from New York, Mr. Tonko, for five minutes.

1552 Mr. Tonko. Thank you, Mr. Chair, and certainly having
1553 worked, before entering Congress, on a number of environmental
1554 and energy concepts, it is nice to know that we can protect the
1555 environment and public health and grow the economy and that they
1556 are not mutually exclusive.

1557 In fact, they do indeed support each other, and I know that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

76

1558 Representative Rush had quizzed some of you about the five-year
1559 review cycle, the rationale there, and citing some of the
1560 experiences.

1561 I would like to dig a little deeper into that and, if I could,
1562 as you, Mr. Mirzakhilili, the -- about some of the five-year cycle.

1563 Were there significant amounts of new research and
1564 scientific knowledge that informed the recent revision to this
1565 standard?

1566 Mr. Mirzakhilili. I am sorry. Could you repeat that?

1567 Mr. Tonko. Yes. Are there significant amounts of new
1568 research and scientific knowledge that informed the recent
1569 revision to this standard?

1570 Mr. Mirzakhilili. Absolutely. There was a wealth of
1571 additional studies. I don't recall the exact number of
1572 additional studies that were a part of the record of the decision.

1573 But CASAC considered all of those and there are -- we are
1574 getting at additional studies coming out every day. Right now,
1575 a new study that came out tying air pollution to preterm, for
1576 instance.

1577 It is -- need to be considered. They need to be in front
1578 of the scientific community and inform EPA of our policy
1579 decisions.

1580 Mr. Tonko. So if we create this construct of a five-year

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

77

1581 window or have, new and significant research can become available.
1582 Is it fair to say that delay of this proposal -- of the proposed
1583 -- of this proposed legislation would hinder the agency's ability
1584 to ensure the latest science being incorporated into EPA's
1585 decision making?

1586 Mr. Mirzakhali. It would certainly bar them from using
1587 it and will not -- as is the agency is -- can review it in a timely
1588 manner and make revisions as necessary. What lengthening the
1589 cycle would do is just set it aside until the time comes up.

1590 Mr. Tonko. And under the current law, if EPA finds that a
1591 change is not warranted in that five-year cycle does it have to
1592 revise the standard?

1593 Mr. Mirzakhali. No, they do not.

1594 Mr. Tonko. Is it correct that the recently revised standard
1595 is consistent with the recommendations of the Clean Air Scientific
1596 Advisory Committee and the latest science?

1597 Mr. Mirzakhali. It is.

1598 Mr. Tonko. In fact, that committee, I concluded, I believe,
1599 that the latest science supports a standard within a range of 70
1600 parts per billion down to 60 parts per billion. So EPA's standard
1601 is on the high end of that range.

1602 The purpose of these standards is to establish a level of
1603 air quality that adequately protects public health based on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1604 latest scientific knowledge.

1605 The increase to a ten-year review cycle would undermine that
1606 effort. The current five-year cycle provides a reasonable amount
1607 of time for the development of new research.

1608 So the intent of this bill, I believe, is to obstruct EPA
1609 from performing its duty to promote public health by increasing
1610 the length of its review cycles. But I see the possibility for
1611 that to backfire.

1612 Apparently, EPA has discretion to not change standards and
1613 in its last revision it decided on the high end of the range
1614 suggested by the independent Clean Air Scientific Advisory
1615 Committee.

1616 And after a ten-year span existing standards will no longer
1617 be based on the latest scientific evidence and proposed
1618 regulations may have to be even more ambitious to meet future
1619 long-term public health needs.

1620 Now, you may be changing the standard less often but the
1621 changes may have to be much more drastic. So do you think that
1622 may be a possibility, what I just said?

1623 Mr. Mirzakhali. I completely agree with your assessment.

1624 Mr. Tonko. I think that, you know, what we have here is an
1625 opportunity for us to move forward with science and technology
1626 to assist us in strengthening the outcomes and would strongly

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

79

1627 encourage the community to -- your given technical community to
1628 encourage us to do the most effective outcome here.

1629 Mr. Mirzakhilili. I completely agree. I think it is -- the
1630 large number of health care community out there that also agrees
1631 with you.

1632 Mr. Tonko. And erring with that great growing sentiment I
1633 think is the way that will allow us to achieve the best results.
1634 So with that, Mr. Chair, I yield back and thank you.

1635 Mr. Whitfield. Gentleman yields back. At this time, the
1636 chair recognizes the gentleman from West Virginia, Mr. McKinley,
1637 for five minutes.

1638 Mr. McKinley. Thank you, Mr. Chairman.

1639 Let me try to understand. I want to cut to the chase a little
1640 bit on this. I think the whole rationale for lowering from 75
1641 to 70, as I recall, with McCarthy and others who have come in and
1642 testified, was it was to improve our health, particularly address
1643 asthma.

1644 Is that a fair statement, that that is generally why they
1645 lowered it from 75 to 70? I am hearing that from testimony.

1646 But yet, we have -- time and time again others have come in
1647 here and said there is not relationship between ozone and asthma.

1648 We have -- Utah State came out with a report on that. A Los
1649 Angeles study came out in 2011 on it. Johns Hopkins just came

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

80

1650 out a couple years ago, said there was no connection. So I am
1651 troubled with the rationale of lowering it from 75 to 70 when there
1652 is no connection, especially when we hit rural areas or states
1653 with nonattainment zones and the impact of it.

1654 I don't think -- and I refer to a lot of Mildred Schmidt --
1655 I don't think the lady on the street understands what has just
1656 happened when we've lowered this.

1657 So for Mildred Schmidt -- in West Virginia I have got the
1658 most -- these are the absolute latest, just printed today, that
1659 our capital this year hit 72. Another city was 74. My city was
1660 72. Another community was 77.

1661 Morgantown, home of the Mountaineers, 74. I am just
1662 troubled with where we are going with this. I guess it is
1663 fundamentally goes to that -- just because government can change
1664 or modify a regulation doesn't mean that it should. It has the
1665 power to do that but why are we doing this.

1666 So let me ask the question. If you are in a nonattainment
1667 county, what are you supposed to do? It is my understanding we
1668 can't get air permits -- or excuse me, you won't be able to get
1669 a construction permit.

1670 In West Virginia, in these towns I just referred we are the
1671 51st unemployment rate in the nation. We are the eighth most
1672 impacted by regulations in the country and yet we are just now

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

81

1673 going to put another layer on it that I am not sure is going to
1674 improve public health.

1675 Mr. Sadredin. I believe you bring an important issue to the
1676 light here that is really at the heart of this legislation that
1677 is before you which really gets to the implementation phase of
1678 the Clean Air Act.

1679 People could argue where the standards should be set or where
1680 it shouldn't be. There could be -- there are various opinions
1681 on that. But there is a misnomer out there that people equate
1682 cleanup in the air and improved public health by just setting a
1683 new standard.

1684 But the realities that we face today after 25 years, after
1685 40 years is that we are -- the best way you can describe it --
1686 the process that we face right now when standards change it's the
1687 chaos that leads to a lot of litigation, a lot of delay and no
1688 cleanup in the air.

1689 And then they, I think, the more -- what this bill essentially
1690 does it doesn't say ultimately the 70, if that's the best standard,
1691 will not take effect. It just says let's bring some order to the
1692 process.

1693 We have, in our case, ten other state implementation plans
1694 already for the existing plans that we have to deal with. Let's
1695 deal with those and then in eight years there's no rollback, no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

82

1696 change in the progress that we have made. Let's bring some order
1697 into the implementation phase of it.

1698 Mr. McKinley. But, Dr. Shaw, if I could -- you touched on
1699 something that has been dear to my heart because I think many
1700 people -- I was a professional engineer before I came here, one
1701 of just two in Congress and we dealt with a lot of indoor air
1702 quality -- and so the fact that you mentioned the 90 percent I
1703 am with you.

1704 That is exactly what it is. We focus a lot on indoor air
1705 quality. Are we chasing the wrong rabbit here? Should we really
1706 be looking at indoor air quality versus the exterior?

1707 Because if we are spending 90 percent of the time indoors,
1708 where should we -- so I would like to hear from you in the time
1709 remaining. Which should we be addressing? Which rabbit should
1710 we be chasing?

1711 Mr. Shaw. Thank you, Congressman. You used one of my
1712 favorite adages and that is that we are chasing the wrong rabbit
1713 and that is the reason that I am so motivated and why my staff
1714 has dedicated significant resources to trying to better
1715 understand both the ozone standard as well as helping to try to
1716 provide some input into a better process.

1717 Because what we do know is, as you point out, there's dubious
1718 connections between the respiratory health issues that we are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

83

1719 trying to address at this point and the ozone standard.

1720 The justification for lowering the ozone standard to try to
1721 improve asthma is primarily associated with epidemiological
1722 studies, looking at the correlation between ozone and people's
1723 hospitalization associated with that.

1724 Those don't hold up uniformly across the country and
1725 certainly I think we are missing the opportunity to chase the right
1726 rabbits and we need to find out if it is indeed indoor air quality,
1727 which I think probably plays a large part to that, or it is ozone
1728 plus something else or it's something else in the ambient
1729 environment. But just simply lowering the ozone standard, I am
1730 convinced, is not going to give us the health benefits that we
1731 seek.

1732 Mr. McKinley. Thank you very much. I yield back my time.

1733 Mr. Whitfield. Gentleman yields back. At this time, I will
1734 recognize the gentlelady from Florida, Ms. Castro, for five
1735 minutes.

1736 Ms. Castro. Good morning, everyone, and thank you, Mr.
1737 Chairman, for calling this important hearing on the Clean Air Act
1738 and I hope the committee and this Congress will not weaken the
1739 Clean Air Act or undermine the important progress America has made
1740 in cleaning our air since the 1960s.

1741 The Clean Air Act does require EPA every five years to review

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

84

1742 the air quality standards that govern the air we breathe and the
1743 law says make revisions as appropriate.

1744 So last October after thousands of studies and comments and
1745 recommendations from the Independent Clean Air Scientific
1746 Advisory Committee, the EPA proposed lowering the air quality
1747 standards by 7 percent, from 75 parts per billion to 70 parts per
1748 billion.

1749 This is an important revision and it keeps America on the
1750 track of continuing to make progress, and if you look back since
1751 the Clean Air Act was adopted in the 1960s and then amended in
1752 the '70s and especially the '90s we have been able to -- we have
1753 the strongest economy in the world and we have been able to make
1754 progress still with better air to breathe.

1755 And this is especially important because it has such great
1756 consequences for our families and neighbors back home. We have
1757 been able to reduce smog across country. According to the
1758 American Lung Association, inhaling smog pollution is like
1759 getting a sunburn on your lungs and it often results in immediate
1760 breathing trouble. And long-term exposures to smog pollution is
1761 linked to chronic asthma and other respiratory and lung diseases,
1762 reproductive and developmental harm and even premature death.

1763 The American Lung Association has determined that there are
1764 currently almost 150 million Americans living in areas with levels

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

85

1765 of smog pollution that are linked to health problems.

1766 It is particularly harmful to children whose lungs are still
1767 developing, particularly harmful to older adults because of their
1768 age and all of our bodies become increasingly susceptible to the
1769 assault from dirty air and it is particularly harmful to our
1770 neighbors and communities of color and in low income areas that
1771 often struggle with environmental justice issues because they
1772 live and their children grow up next to industrial plants and other
1773 large-scale polluters.

1774 But you have to compliment the industrial community in
1775 America. They have been able to make great progress, and the ag
1776 community too.

1777 So it's a balance, as we move forward. But I am concerned
1778 that the bill we are considering today is really going to throw
1779 a wrench into the progress that we are making and despite the
1780 importance of continuing to make progress, this is not -- this
1781 rule and these new standards aren't going to happen overnight.

1782 They say states will have between 2020 and 2037 to begin to
1783 -- or to address it and to make progress and I know the EPA has
1784 said we are going to work with the states.

1785 After reviewing the bill, it is clear to me that H.R. 4775
1786 would drastically alter the Clean Air Act to weaken air quality
1787 protections. It would allow more pollution and threaten the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1788 public health.

1789 The bill also undercuts our national ambient air quality
1790 standards process for all other pollutants. That is not
1791 appropriate.

1792 These proposed changes would undermine significantly the
1793 features of the Clean Air Act that have driven important progress
1794 in improving air quality and public health.

1795 And I have one specific problem that I wanted to ask
1796 Mirzakhilili about. It is the definition of exceptional events
1797 for air pollution such as it would expand that definition to
1798 include hot days, drought and stagnant air.

1799 And, unfortunately, what we used to think of as exceptionally
1800 hot days is now your typical summer day in Florida and in other
1801 places.

1802 So what's the practical impact of including these types of
1803 occurrences in the definition of exceptional events?

1804 Mr. Mirzakhilili. You are spot on, Congresswoman. It is
1805 why declaring those conditions which are required to create
1806 pollution as an exceptional event you are essentially barring --
1807 defining a -- you must also define clean air and not -- you know,
1808 whereas before was -- there were exceptional events they were
1809 subject to rigorous demonstration to EPA in order to exclude them
1810 from assessing the air quality designation.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

87

1811 Here, we are just -- it broadly opens up the definition to
1812 exactly what you suggested, which is hot days, inversions can be
1813 now included in a definition of an exceptional event. They are
1814 everyday events. They are not -- they can't be considered and
1815 shouldn't be considered exceptional.

1816 Ms. Castro. Well, I share your concern and as climate change
1817 continues to exacerbate droughts and heat waves, these events are
1818 becoming even more common and I have to say this is America, we
1819 can do this together with industry and with all of you as
1820 technological experts in concert with the Environmental
1821 Protection Agency and the Congress. But we shouldn't take a step
1822 backwards and we shouldn't undermine the Clean Air Act and not
1823 continue to move forwards.

1824 Mr. Whitfield. The gentlelady's time has expired.

1825 At this time, we'll recognize the gentleman from Texas, Mr.
1826 Flores, for five minutes.

1827 Mr. Flores. Thank you, Mr. Chairman.

1828 I want to talk about the impact of the conflicting
1829 regulations that have been proposed by the EPA on state resources.
1830 I will start with you, Mr. Sadredin.

1831 You testified that your local air district is subject to four
1832 standards for ozone and four standards for fine particulate matter
1833 and that each standard, quote, requires a separate attainment plan

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

88

1834 which leads to multiple overlapping requirements and deadlines,
1835 unquote.

1836 And so how does your agency harmonize all of these
1837 overlapping requirements?

1838 Mr. Sadredin. Unfortunately, under the current state of the
1839 act with the current framework we are not able to do that which
1840 causes a great deal of confusion for the public, for the businesses
1841 that have to comply with these redundant requirement with multiple
1842 deadlines and time lines that they have to comply with.

1843 What we hope this process would allow by giving some
1844 additional time before the next standard kicks in that perhaps
1845 we could make a case to EPA that if we took the most stringent
1846 parts from all these eight standards that we are subject to, put
1847 them in a single plan with a single set of regulations to be able
1848 to do that.

1849 So that is why I don't think this legislation rolls back
1850 anything. It just gives us the time to do it right and do it in
1851 a harmonious fashion.

1852 Mr. Flores. So what you have to deal with now requires
1853 significant staff and resources and you've got -- so you are
1854 spending all this time and resources on these conflicting plans
1855 and are we getting any corresponding health benefits out of this?

1856 Mr. Sadredin. We are not, because as I was trying -- when

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

89

1857 Congressman McNerney asked me about your accomplishments the
1858 reason that I mentioned the one-hour ozone standard is that we
1859 have been working on the existing standards, throwing in the
1860 kitchen sink at all of them. Simply setting a new standard will
1861 not clean the air.

1862 We still have to get to zero emissions with the existing
1863 standards. The new standards just make it impossible even if we
1864 get to zero emissions meet the standards.

1865 Mr. Flores. Right. Right. The prior questioner talked
1866 about rolling back -- that the bill rolls back several
1867 regulations. Does it -- Mr. -- Dr. Shaw, does it roll back any
1868 regulations?

1869 Mr. Shaw. No, it does not. As I understand and read the
1870 bill, it does not roll back. It simply provides for additional
1871 time with the implementation of the latest standard but it does
1872 not roll back those requirements that are in place.

1873 There is a lot of technological advancements that are -- that
1874 are in place that will continue to be in place and those areas
1875 that can meet this standard likely will. The challenge is those
1876 areas that are having difficulty because the technology is not
1877 there will be additionally penalized. And so this does not slow
1878 down the progress that we see underway to meet the current
1879 standards.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

90

1880 Mr. Flores. Back to the same question that I asked Mr.
1881 Sadredin -- sorry, I am messing your name up -- what is the impact
1882 of the multiple -- the conflicting standards on your resources?

1883 Mr. Shaw. Certainly it takes a huge impact on staff
1884 resources but also I think it's important to add to -- the comments
1885 are that it also prevents us or minimizes our ability to work
1886 cooperatively to find those things -- when we work and engage with
1887 the regulated community to find approaches that make sense for
1888 multiple pollutants that we are trying to obtain.

1889 It's often misperceived that what you do to reduce one
1890 pollutant also reduces others. Oftentimes, that's not the case.
1891 There's sometimes a parasitic component to that and raising one
1892 lowers another, lowering one raises another.

1893 Mr. Flores. Mr. Cabrera, any comments from you on the
1894 multiple standards that exist today?

1895 Mr. Cabrera. Well, we just want to clarify that the Clean
1896 Air Act has an escalation so you have time lines to meet the various
1897 standards.

1898 You have three years, then six years, then nine years, and
1899 there is increasing regulation on businesses every time you don't
1900 meet the standard. And that is why the background issue, the
1901 international transport issue is so big because you would be
1902 increasing standards on localities that have not caused the air

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

91

1903 pollution in the first place.

1904 Mr. Flores. Okay. And Mr. Matheson, would you like to
1905 comment on the conflicting standards?

1906 Mr. Matheson. Thank you. We share some of those concerns
1907 and I think we've been talking generally about two different
1908 issues.

1909 One is the standard itself and its health impacts. The other
1910 is how you implement that, and the implementation does have an
1911 impact on our air quality.

1912 When we've got limited resources and are spending that time
1913 on paper exercises rather than on working on getting the
1914 information, the science, the data to ensure that in the unique
1915 chemistry that we see sometimes we are actually targeting those
1916 emissions that make the biggest difference, not just those that
1917 are imposed on it.

1918 Mr. Flores. Okay. And there was some commentary that going
1919 to a five-year review period -- going to a ten-year review period
1920 from a five-year review period causes great harm.

1921 I look at the rollout of various standards over the years.
1922 There was eight years between the first two -- I mean, from '71
1923 to '79 before you changed standards.

1924 Then there was 18 years between '79 and '97 and then there
1925 was nine years. So in all this time our environment situation

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

92

1926 has gotten better.

1927 So it doesn't sound to me like the world ended because we
1928 weren't adhering to a five-year standard. Do any of you all
1929 disagree with that? Okay. Thank you. I yield back.

1930 Mr. Whitfield. Gentleman yields back. At this time, the
1931 chair recognizes the gentleman from Texas, Mr. Green, for five
1932 minutes.

1933 Mr. Green. Thank you, Mr. Chairman and the ranking member.
1934 I thank the witnesses for being here today, specifically Bryan
1935 Shaw, the chair of our Texas Commission on Environmental Quality.
1936 It's always nice to have a Texan testify here.

1937 I would also like to acknowledge Alan Matheson, cousin of
1938 our longtime colleague from this committee, former Representative
1939 Jim Matheson. I miss Jim because on my side of the aisle he voted
1940 with me a number of times.

1941 But it is not secret in Houston we have air quality
1942 challenges. Just yesterday the EPA granted the
1943 Houston-Galveston-Brazoria region an additional year of
1944 compliance.

1945 The region currently sits on 80 parts per billion, which is
1946 still above the 2008 ozone standard. So we needed more time.

1947 That being said, we have come a long way in Houston since
1948 the 1970s when the ozone measure was 150 parts per billion. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1949 think today's discussion is an invaluable exercise.

1950 While I don't support the majority's legislation, I think
1951 there is reasonable efforts that can be made to improve
1952 implementation of NOx.

1953 Chairman Shaw, in your testimony you stated the Clean Air
1954 Act's requirement of the EPA ignore technological and economic
1955 considerations may have made sense 40 years ago but now pollution
1956 reduction is economically burdensome.

1957 We've repeatedly discussed the issue of technological
1958 feasibility and economic achievement. But the Supreme Court has
1959 stated the most important forum for consideration of
1960 technological and economic claims is before the state agency where
1961 you sit.

1962 Can you -- your agency consider the cost in technology in
1963 drafting a SIP?

1964 Mr. Shaw. No, sir. We have to come up with a plan that meets
1965 the standard and we have to satisfy the model. So we have to find
1966 what approaches where we can make arguments. But we have to
1967 develop a plan that will achieve the standard.

1968 Mr. Green. But are you allowed to consider the cost in
1969 technology?

1970 Mr. Shaw. I don't believe that I have had any success or
1971 that we were asked to be able to offer to do anything besides meet

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

94

1972 the standard because of cost and technology. We basically have
1973 to find a way to get there, even including very draconian if
1974 necessary.

1975 Mr. Green. My big concern is if we want to do what's
1976 technologically possible and hearing the testimony from parts of
1977 the country that just -- unlike in Houston.

1978 You know, part of our problem is that we need some better
1979 roads instead of all the dirt that flows up and dust that flows
1980 up into the air, particularly an industrial area like I represent.

1981 So there's things we can do. But if it is not
1982 technologically possible I really do think that the state agency,
1983 as the court said, or maybe EPA ought to consider it. I am just
1984 glad we got another year so we can continue to work. But I wish
1985 I could say we would pave those places in my district in the last
1986 year. I've been working on that for dozen years now.

1987 But if the state can already consider it by the court order
1988 why is it not sufficiently flexible to meet the new requirements?

1989 Mr. Shaw. I think the key there is somewhat similar to the
1990 issue here where we talk about concerns over exceptional events.
1991 It's that we have no process where we have some certainty and
1992 ability to actually get -- to move the needle based on those
1993 options.

1994 We can talk about exceptional events but those are very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

95

1995 challenging and oftentimes the damage to the location is already
1996 done because the jobs that you need to be able to afford the new
1997 environmental benefits get impacted because you basically have
1998 to go through this process and hoping that you get some relief.

1999 But we typically don't find that relief. And so the
2000 implications is while there may be the potential for it, it's long
2001 coming and often not available.

2002 Mr. Green. What will we do in Texas for the year extension
2003 we have? Because we still don't meet the standards that, you
2004 know, that we were earlier.

2005 Mr. Shaw. Right. Well, we will continue doing the things
2006 that we are doing, which is looking for new technologies, better
2007 ways to move forward.

2008 We continue to try to attack 60 percent of the ozone
2009 challenges, NOx emissions from mobile sources in this area and
2010 so we have the innovative programs, the TERP program -- Texas
2011 Emissions Reduction Plan -- where we incentivize turning over
2012 older vehicles.

2013 So we try to get any fruit we can, recognizing that we need
2014 a ladder or an extension bucket to get to that fruit these days.

2015 Mr. Green. Well, and in my area we have industrial
2016 facilities, refineries, chemical plants. But they're stationary.
2017 You know what they're doing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

2018 But our problem is we also have tremendous truck traffic not
2019 only from those plants but also the ship channel and so the mobile
2020 sources are an issue.

2021 Is there a split between what the stationary sources are as
2022 compared to the mobile sources?

2023 Mr. Shaw. About 60 percent of our NOx emissions are from
2024 the mobile side of that. So that's where -- and the stationary
2025 sources have been controlled to the point where there is not --
2026 it is very difficult to find technologically and, certainly,
2027 economically feasible but technologically even feasible
2028 reductions.

2029 And so our primary areas for opportunity are continued in
2030 the mobile sources but those we are not -- we are not regulating.
2031 The federal government regulates those. So we can incentivize
2032 programs to turn over trades trucks and railroad locations and
2033 diesel engine retrofits.

2034 Mr. Green. Okay. Director Sadredin, in December '15 as
2035 part of the 2015 ozone standard the EPA released a white paper
2036 on background ozone, which discussed exceptional events.

2037 The white paper requested comments from stakeholders. Last
2038 month, EPA had a workshop to follow up on these. During the
2039 workshop none of the participants raised the issue of drought or
2040 stagnation. Some stakeholders are interested in development of

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

97

2041 further guidelines and templates for exceptional events. A few,
2042 however, were concerned, that spending limited resources on
2043 development of exceptional events guidance.

2044 In Texas, we know the issue of drought and in fact I am worried
2045 we are getting back into it in some cases. Would your control
2046 district consider additional guidance regarding qualifying
2047 events a worthwhile use of time or recourse?

2048 Mr. Sadredin. Thank you for the question. Unfortunately,
2049 EPA has closed the door on considering drought and these
2050 extraordinary conditions from being considered as exceptional
2051 events because the Clean Air Act as written is silent on that and
2052 EPA has interpreted that as meaning no, you cannot do that.

2053 So with that door closed we didn't think that we could have
2054 any productive discussions with EPA because they've already told
2055 us no.

2056 We just think a 100-year drought -- we'll argue, well, maybe
2057 100-year droughts that we are facing that will become ordinary
2058 because of climate change. But we are not quite there yet even
2059 if you accept that on the face value.

2060 All this, though, says if you have extraordinary conditions
2061 such as a 100-year drought under EPA's guide, EPA ultimately will
2062 be the arbiter on that -- does it qualify as an exceptional event.

2063 You still have to follow all the procedures and guidelines

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

98

2064 that EPA has laid out for any exceptional event.

2065 We are saying that should -- the door should be open to have
2066 that discussion that this was -- this was extraordinary and should
2067 qualify as an exceptional event.

2068 Mr. Green. Thank you for you answer. Thank you for your
2069 time. I know I've run over a lot. Mr. Chairman, thank you.

2070 Mr. Whitfield. At this time, the chair recognizes the
2071 gentleman from Virginia, Mr. Griffith, for five minutes.

2072 Mr. Griffith. Thank you very much, Mr. Chairman.

2073 Mr. Sadredin, my understanding is is that even after a
2074 nonattainment area is redesignated as being in attainment it is
2075 still subject to EPA oversight and maintenance plans for an
2076 additional 20 years. Can you explain if I am right on that
2077 understanding and how that works?

2078 Mr. Sadredin. That is correct. As I have said, you know,
2079 we have made major progress over the years to meet the standards.
2080 We used to be nonattainment until 2010 for PM 10 and we came into
2081 attainment.

2082 But what happens right after that you write a maintenance
2083 plan, which is essentially identical to a state implementation
2084 plan. You still have to maintain all of those regulations that
2085 you had in place if all of a sudden you end up in, you know, not
2086 meeting the standard or various new requirements that kick in.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

99

2087 So it's a never-ending process in terms of maintaining the
2088 control and you will never have an opportunity or a circumstance
2089 where you can roll back any of the existing measures that you have
2090 put in place to come into attainment.

2091 Mr. Griffith. All right. So let me -- let me see if I can
2092 clarify and go from there, and I see some other, particularly Dr.
2093 Shaw, nodding his head.

2094 So you've now -- you've now hit the attainment and you said
2095 you have to put a maintenance plan in which, to me, makes some
2096 sense. But then you said you have to keep all the controls.

2097 Does that mean that your new -- you can have a new plan that
2098 says here's what we are going to do to maintain or do you have
2099 to keep all the controls in place that were in place even if there's
2100 no evidence that a particular control was relevant to bringing
2101 you into attainment?

2102 Mr. Sadredin. Essentially, when you put a maintenance plan
2103 you cannot roll back any existing regulations that you had. If
2104 there is a potential scenario like that, that would be the case.
2105 That is exactly as you describe it.

2106 But given that we have four -- eight other plans to meet with
2107 there is always regulations that are needed to meet those new
2108 requirements and they can also be used to satisfy the existing
2109 maintenance plan.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

100

2110 Mr. Griffith. And I just want to make sure that I am not
2111 miscommunicating because my wife accuses me of doing that
2112 sometimes. So as I understand it, even if there is -- even if
2113 there is evidence that one of the plans had nothing to do with
2114 you coming in to attainment and may just be superfluous, you still
2115 have to maintain that particular component?

2116 Mr. Sadredin. Yes. There is a general legally accepted
2117 provision that once a particular control measure becomes part of
2118 a state implementation plan you can never relax that regulation.

2119 Mr. Griffith. Okay. Yes, sir. My time is running out so
2120 if you could be brief.

2121 Mr. Mirzakhaili. I will be -- I will be quick.

2122 Mr. Griffith. You disagree?

2123 Mr. Mirzakhaili. I disagree. I think, first of all, the
2124 way EPA has addressed it, the standards of clean data
2125 determination in a lot of areas get -- be designated to attain
2126 them without having to develop a maintenance plan.

2127 So there isn't another way of getting to where the
2128 requirements don't carry over. For a maintenance plan
2129 developments if the plan is -- it can, it gives you the flexibility
2130 to show that you are achieving the reductions and maintaining
2131 those reductions while mixing and matching.

2132 We can do that under our attainment plan strategies. I can

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

101

2133 take and measure out what I have to replace it with something else
2134 that gives me that reduction so that I can -- I can show that
2135 attained.

2136 Mr. Griffith. Okay. So the distinction would be, however,
2137 if you've got a -- if you're taking something out that does nothing
2138 but you have to put something back in, based on what I am hearing
2139 from both of you but it's a legalese thing, I may still have to
2140 put something back in even if I don't think it does any good if
2141 I am taking something out that doesn't do any good because you
2142 have to replace it with something that does the same type of thing.

2143 And so -- and we could debate this all day, but it sounds
2144 like to me that while there may be a slight distinction between
2145 what the two of you are saying it is basically the same.

2146 You still -- you've still got to plan. You've got a
2147 component. You can't just eliminate that component if it turns
2148 out to be not accurate.

2149 I've got to move on because I do have another question I want
2150 to get in and I don't have much time left. Mr. Sadredin again,
2151 when the EPA revokes a standard do states or localities continue
2152 to be subject to obligations under those standards?

2153 Mr. Sadredin. I looked at Ms. McCabe's testimony and that
2154 was cited as one the streamlining measures in the act currently
2155 that if you revoke a standard, say no harm no foul, you can move

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

102

2156 on. I have to say, first of all, before I comment on Ms. McCabe's
2157 testimony she has always been gracious, generous with time and
2158 creativity in helping us do everything that we need to do and we
2159 worked well together with her and with EPA.

2160 And in fact, I was happy that in her testimony she did not
2161 object to a couple of things that are in this bill that we had
2162 advocated for the contingency measure elimination for extreme
2163 areas and also economic feasibility with relation to RFPs.

2164 But on that particular issue relating to revocation of the
2165 standards, I think it's a bit misleading to say when the standard
2166 goes away we don't have to do anything.

2167 As I am sitting here before you, June of this year we have
2168 to write a plan for the 2008 ozone standard, which is about to
2169 be revoked.

2170 We have a plan in place actively for the 1997 ozone standard.
2171 We still have a plan in place for the 1979 ozone standard.
2172 Everything that is in the act remains in place when you revoke
2173 a standard.

2174 The only thing that goes away is you can do a new
2175 transportation budget. Otherwise, every other requirement stays
2176 in place and to somehow say revoking the standard takes away
2177 requirements it's absolutely incorrect.

2178 Mr. Griffith. I appreciate it and I yield back. That's the

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

103

2179 end of my time. Thank you, Mr. Chairman.

2180 Mr. Whitfield. Chair recognizes the gentlelady from
2181 California, Ms. Capps, for five minutes.

2182 Ms. Capps. Thank you. Thank you, Chairman Whitfield and
2183 Ranking Member Rush, for holding this hearing. Thank you to each
2184 of you witnesses for your testimonies today.

2185 You know, I am sort of like the catch up questioner now and
2186 many of the things probably I will say or ask may have been said
2187 one way or another. But I want to make sure we get some things
2188 on the record.

2189 Over 40 years ago, our predecessors in this place recognized
2190 they had the power to protect the health -- this is about health
2191 -- of all Americans and the environment in which we live.

2192 Several landmark laws were created to do just this right
2193 about that sort of pivotal time. During the 1970s, even before
2194 we saw the creation of the National Environmental Policy Act --
2195 NEPA -- the Clean Water Act, the Safe Drinking Water Act, the
2196 Endangered Species Act -- so many at that particular time.

2197 In addition, Congress passed a significant overhaul of the
2198 Clean Air Act in 1970. All of these laws have provided the
2199 foundation for a safer cleaner environment and have drastically
2200 improved our public health and it goes without saying we are still
2201 benefitting from the creation of these landmark laws.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

104

2202 However, since the enactment of the laws we have seen
2203 countless attacks to weaken them despite the fact that we are
2204 benefitting from them and I think this is the nature of the society
2205 in which we live.

2206 Instead of prioritizing the public health and the
2207 environmental safety issues, we have seen push after push to
2208 marginalize these protections that are in place.

2209 So my questions are now for you, Mr. Mirzakhali. In your
2210 testimony you highlighted -- I probably butchered your name --
2211 some serious concerns with this legislation we are discussing and
2212 I share -- I will just be honest -- I share many of these concerns
2213 with you.

2214 One of my major concerns relates to Section 3(b), which
2215 changes the criteria for establishing an air quality standard from
2216 one that is based solely on protecting public health -- true to
2217 confession, I am a public health nurse by background -- to one
2218 that includes the consideration of the, quote -- and we have been
2219 using this phrase a lot -- technological feasibility of the
2220 standard, and my background tells me that I have always -- tells
2221 you that I have always appreciated that we should recognize that
2222 protecting our health is really the number-one priority.

2223 In fact, you stated that this provision that we are
2224 discussing today could -- I quote from your testimony -- unravel

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

105

2225 the entire framework of the Clean Air Act. Those are pretty
2226 strong words.

2227 My first question -- do you believe that economic or
2228 technological feasibility should be considered in the air quality
2229 standard-setting process at all? Is there a reason that we should
2230 stray from the precedent of only considering public health?

2231 Mr. Mirzakhilili. I do not.

2232 Ms. Capps. You probably said this but if you'd say it again.

2233 Mr. Mirzakhilili. Yeah. No, I say it again because I think
2234 it's worth repeating that the economic affordability shouldn't
2235 be something that is used to set the standard. It is the science
2236 that should dictate what the lungs can handle, how the body
2237 responds, how -- and we are charged with protecting the sensitive
2238 individuals and the population. The standards need to reflect
2239 that.

2240 Now, how we manage to implement that that's the -- where the
2241 rubber hits the road and the economic and technological
2242 feasibility come into play.

2243 We should not put the target where an arrow lands. That is
2244 just not the way we do things -- not as a nation. That's not how
2245 we've done it and that's not how we should proceed. I understand
2246 the challenges of Mr. Sadredin's exasperation with meeting a real
2247 stubborn problem with air quality.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

106

2248 I understand my colleagues to my left here about their issues
2249 as well and, you know, the difficulties that Mr. Shaw -- that Dr.
2250 Shaw has with the science behind this. I think it's something
2251 that's going to get litigated and debated. But that's where it
2252 should end. Science should dictate where the standard is.

2253 Ms. Capps. And you've sort of said this too even just now,
2254 but why is it so important to separate the cost -- consideration
2255 of cost from setting the standard?

2256 Mr. Mirzakhaili. It becomes what can we afford.

2257 Ms. Capps. Right.

2258 Mr. Mirzakhaili. This is the health care that we can
2259 afford. This is the health protection that we can afford and
2260 let's -- and where does this slippery slope end?

2261 On the East coast we can -- we like to pay more and therefore
2262 we get better protection, better standard and some localities get
2263 -- they can't afford it so they get a higher standard.

2264 How do we do this? This is -- this just doesn't make sense.
2265 There has to be a standard that science indicates is going to
2266 protect the public health and that's what we should follow.

2267 Ms. Capps. And so, again, you touched on this but is there
2268 -- are we really clear in your mind of the charge to the United
2269 States Congress in the -- in this area and is there a more
2270 appropriate place for the kind of consideration that is brought

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

107

2271 up in this legislation?

2272 Mr. Mirzakhali. I think the consideration for -- goes to
2273 the implementation phase of it and I think it can be done
2274 administratively through how EPA implements -- it does
2275 implementation rules and how us as professionals manage to meet
2276 the air quality challenges that we face.

2277 Ms. Capps. Okay.

2278 Mr. Whitfield. Gentlelady's time has expired.

2279 Ms. Capps. Thank you.

2280 Mr. Whitfield. At this time, I recognize the gentleman from
2281 Oklahoma, Mr. Mullen, for five minutes.

2282 Mr. Mullen. Thank you, Mr. Chairman, and thank you, panel,
2283 for being here.

2284 I don't think it's any secret where my heart lies with the
2285 EPA. I think they overreach every day and are putting more and
2286 more pressure on states, on counties, manufacturers, job creators
2287 and the whole nine yards.

2288 And it goes into -- it goes into questions what are they
2289 thinking. Are they listening? Are they paying attention to
2290 what's actually happening out there? I'd say no.

2291 And Dr. Shaw, I'll start with you just simply because you
2292 got a hat on the table and I -- Lord, I appreciate seeing that.
2293 Don't see that enough up here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

108

2294 But I am kind of interested to know, you don't look like you
2295 had to be bald. Did you just choose to do it? I mean, if I wore
2296 a hat all the time it would be sticking to my head if I was --

2297 Mr. Shaw. My wife has breast cancer and when the chemo took
2298 her hair I decided to lose mine in support of her.

2299 Mr. Mullen. Well, what's her name?

2300 Mr. Shaw. Dana.

2301 Mr. Mullen. Dana. I will tell you right now just because
2302 I feel like I stuck my foot in my mouth, I will -- I will be praying
2303 for Dana.

2304 Mr. Shaw. Thank you. Thank you.

2305 Mr. Mullen. And God bless you for being such a supporting
2306 husband.

2307 Mr. Shaw. She's got the tough role, but thank you.

2308 Mr. Mullen. Yes, but you're there and you're going to be
2309 walking her through the whole thing. So God bless you for that.

2310 Switching gears just a second, you know, you're from Texas
2311 and even though we beat you in football all the time I really do
2312 appreciate the idea that we work together and we have similar
2313 experiences.

2314 Explain to me a little bit about what this ozone rule is going
2315 to do to the state and maybe even the cost that is going to require
2316 you all to take on at a time when really the -- you know, we are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

109

2317 an oil and gas state too -- at a time when really we need to be
2318 looking at shoring up our state and the jobs within it, not costing
2319 jobs by spending money where it's not needed.

2320 Mr. Shaw. Thank you. I'll start with saying we recognize
2321 that we are not -- as a state agency we are not choosing between
2322 the environment and the economy.

2323 We have to have both or we'll have neither and a big part
2324 of what we are looking at also when we think about the public health
2325 component of this is especially for a standard that has very
2326 limited and questionable benefits.

2327 We're at a point now with the great success we've had in
2328 lowering our pollution and cleaning up our air and water across
2329 the state and across the country is that your health impact is
2330 likely more driven by your opportunity for economic success than
2331 it is by the environment that you're faced, and we want to continue
2332 to clean that environment.

2333 But we take very seriously that some of what we can do to
2334 help our people to have a better healthier life is to pick them
2335 up out of poverty and make sure they have good job opportunities.

2336 And so when we look at this issue, one that has questionable
2337 scientific value for moving forward and we look at the fact that
2338 we are compounding by putting a number of regulations on top of
2339 one another and it makes it difficult both for the agencies to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

110

2340 develop the rules but also for industry to be able to be
2341 implementing those and us to work with them, I see this as an
2342 opportunity to improve our environmental outcome as opposed to
2343 one as might be otherwise suspected as one that helps industry
2344 to compete.

2345 I think it does help industry to have more reasonable time
2346 frames. But I am convinced if we take advantage of a length and
2347 time opportunity especially and we look at a better scientific
2348 -- more rigorous scientific evaluation we'll actually get the
2349 better environmental health outcomes.

2350 Mr. Mullen. Well, and by the EPA's on a mission they said
2351 that the 2015 ozone standard will be reached by 2025 by just
2352 implementing the 2008 rule. So it calls into question why.

2353 Mr. Shaw. It certainly does, and that's one of the comments
2354 I sort of alluded to earlier. Their own data suggests that most
2355 places are going to get there without the rule so why do you need
2356 the rule, especially if it's going to cause undue economic impact
2357 on a number of areas that really can't afford it.

2358 And, quite frankly, the market does a very good job of driving
2359 innovation and we have a lot of innovation in place that if we
2360 can allow that to move forward we could instead of going through
2361 this process of developing complex rules to try to meet a standard
2362 that is very close to background in many areas -- we have some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

111

2363 areas where 65 parts per billion is an often background -- we could
2364 instead focus on what are the real environmental and health issues
2365 that are out there that need to be tackled next.

2366 Mr. Mullen. And just to kind of make a point here and maybe
2367 it's been brought up already, but even the National Park Service
2368 is saying that the Grand Canyon and the Sequoia National Forest
2369 where I am sure there's a tremendous amount of industry and work
2370 going there, it is going to be out of compliance with this.

2371 So it does leave us all the question what is the motive.
2372 Other than just busy work, what is the motive behind this?

2373 And, look, I live -- my kids are the fourth generation on
2374 our farm and I want clean air and clean water, too. A creek runs
2375 in front of our place. I used to drink out of it as a kid.

2376 I don't think we are arguing that, and we are doing -- we
2377 are good stewards of the land behind us but we don't need this
2378 rule. It's undue cost and undue harm to state and manufacturers
2379 around.

2380 And so we'll be praying for Dana --

2381 Mr. Shaw. Thank you.

2382 Mr. Mullen. -- sir, and I do sincerely mean that. God
2383 bless you for being such a supporting husband to her, and I yield
2384 back. Thank you, sir.

2385 Mr. Shaw. Thank you.

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

112

2386 Mr. Whitfield. The gentleman yields back, and that
2387 concludes the questions today except for me and I've waited
2388 patiently for quite a while now, Mr. Rush.

2389 But I would just like to make this comment, that certainly
2390 Congress has a lot of purposes but one purpose is to provide an
2391 opportunity for constituents who have a problem to come and
2392 petition the government for some help and that is what I view this
2393 panel as.

2394 I mean, some of you are having some problems in your states
2395 of meeting a federal requirement. I know that Mr. Mirzakhilili
2396 has a different view on some of this than some of you, although
2397 he has admitted, I believe, that there are some areas in Delaware
2398 that are in Nonattainment as well but not to the extent that we
2399 have in the San Joaquin Valley or certainly Arizona, parts of Utah
2400 or even in Texas.

2401 And one question I wanted to ask you, Mr. Sadredin, in the
2402 past the EPA has advised our committee that while it doesn't
2403 consider technological and economic feasibility in setting the
2404 standard, it does consider it when implementing it. Would you
2405 agree with that or has that been your experience?

2406 Mr. Sadredin. That's definitely a bit misleading and
2407 incomplete view of the world and the realities that we face.
2408 There has been a number of discussions here about economic

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

113

2409 feasibility and setting the standard.

2410 Mr. Whitfield. Right.

2411 Mr. Sadredin. I believe that standards should be set with
2412 science only and I don't think this bill really goes away from
2413 that.

2414 What it says is that when CASAC makes a recommendation and
2415 they give a range to the administration to consider, right now
2416 it goes through the administration.

2417 Depending on who's in charge they make these various
2418 assumptions and set the standard where it needs to be and then
2419 they come up with something. This really brings some order, some
2420 law into how you can actually pick within that range what is an
2421 appropriate standard.

2422 But to your exact question, unfortunately, Supreme Court
2423 ruled that since Congress was silent economic feasibility cannot
2424 be considered. It wasn't that Congress intentionally --

2425 Mr. Whitfield. Right.

2426 Mr. Sadredin. -- and specifically said do not consider
2427 economic feasibility. But the bottom line is when the standard
2428 is set it says you have to come into attainment by such and such
2429 year.

2430 You have X number of years. There is no cost effectiveness
2431 economic feasibility you can -- argument you can use to say we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

114

2432 are not going to meet that deadline.

2433 Mr. Whitfield. Right. And that's how many of us feel and
2434 the forums indicated that that when you have laws that have been
2435 out there for a while even the Clean Air Act, relating to EPA,
2436 Congress should be able to respond to address some of these
2437 problems that are there.

2438 Now, you know just from the questions today there are a lot
2439 of members of Congress who say because it's EPA nothing should
2440 be changed because health is the most important issue.

2441 And yet, we do understand that poverty does have a direct
2442 impact on health. Clean air is not the only thing. And so the
2443 thing that struck me today is listening to the four of you. I
2444 mean, you all touched on it a little bit more than our gentleman
2445 friend from Delaware.

2446 But you can't meet the standards in many areas. It cannot
2447 be done, and so what is the impact of that? What does that mean
2448 for the people in your area when you cannot meet the standard?
2449 Mr. Cabrera.

2450 Mr. Cabrera. What it means is those requirements on
2451 business that keep business from opening up. What it means is
2452 that there's requirements on agriculture that keeps agriculture
2453 less efficient and what it means is that we are imposing
2454 restrictions on American business for pollution that's coming

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

115

2455 from international sources.

2456 Mr. Whitfield. Correct. Correct.

2457 Do you want to make a comment, Mr. Sadredin?

2458 Mr. Sadredin. In San Joaquin Valley, unfortunately we have
2459 a lot of communities of color with great deal of poverty, where
2460 economic well-being is the key factor in quality of life.

2461 If we are not able to meet these standards, draconian
2462 sanctions will kick in. No new businesses can locate in the area
2463 without significant costs. We will lose highway funding, federal
2464 takeover and then nonattainment penalties to the tune of about
2465 \$40 million a year. Right now we are paying for the 1979 one-hour
2466 rules on standards.

2467 Mr. Whitfield. And Mr. Matheson, I know up in Utah, I mean,
2468 even things going on in Asia has an impact on you, right?

2469 Mr. Matheson. It does, and we've been able to measure that
2470 and see that in several counties we've seen pollution come in
2471 that's very close to the standard or above.

2472 Mr. Whitfield. Right. We know the International Monetary
2473 Fund is having their meeting in Washington right now and they're
2474 talking about world stagnation.

2475 They're talking about excessive regulations, and so Congress
2476 does have a responsibility when you have a predicament where a
2477 federal standard cannot be met.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

116

2478 Now, this is the standard for the country but yet under the
2479 clean energy plan, which was stayed by the Supreme Court, EPA went
2480 to individual states and set different standards in the states
2481 for the states. Yet, this is the standard that applies and even
2482 when EPA looks at cost they automatically exclude any costs
2483 relating to California because California is not going to be able
2484 to meet the standard.

2485 And so we have a real problem and one comment I would make
2486 about Mr. Olson's legislation is some have suggested that we are
2487 mandating that only -- it be reviewed every ten years.

2488 That is not the case. 4775 does not bar EPA from setting
2489 a new national ambient air quality standard whenever they want
2490 to but they're not required to review it for at least ten years.

2491 Every ten years they've got to be required instead of five.
2492 So that information is misleading.

2493 And so I want to thank all of you for being here today. We
2494 appreciate your time and we look forward to continuing our efforts
2495 to try to pass this legislation.

2496 I have some documents here I want to introduce into the
2497 record. Have you all seen it? You all seen that one?

2498 So without objection, we'll enter those into the record and
2499 did you --

2500 [The information follows:]

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

117

2501

2502

*****COMMITTEE INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

118

2503 Mr. Rush. I have two letters, Mr. Chairman, I'd like to
2504 enter.

2505 Mr. Whitfield. Okay. Without objection, we'll enter those
2506 two letters into the record as well and we'll keep the record open
2507 for ten days.

2508 [The information follows:]

2509

2510 *****COMMITTEE INSERT*****

This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.

119

2511 Mr. Rush. All right.

2512 Mr. Whitfield. And yeah, well, unanimous consent for any
2513 member who wants to enter a statement in the record we'll do that
2514 as well.

2515 I think all of them are here though, aren't they? Oh, I felt
2516 like all of them were here. But it's an important issue.

2517 So that will conclude today's hearing. Thank you all once
2518 again for joining us and for your invaluable input.

2519 Hearing is now adjourned.

2520 [Whereupon, at 12:37 p.m., the hearing was concluded.]