



U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE

May 9, 2016

TO: Members, Subcommittee on Energy and Power

FROM: Committee Majority Staff

RE: Subcommittee Markup of H.R. 4775 and H.R. 4979

I. INTRODUCTION

The Subcommittee on Energy and Power will meet in open markup session on May 11 and 12, 2016, in 2123 Rayburn House Office Building.

On Wednesday, May 11, 2016, at 5:00 p.m., the Subcommittee will convene for opening statements only. The Subcommittee will reconvene on Thursday, May 12, 2016, at 10:00 a.m. to consider the following:

- H.R. 4775, Ozone Standards Implementation Act of 2016; and
- H.R. 4979, Advanced Nuclear Technology Development Act of 2016.

In keeping with Chairman Upton's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. EXPLANATION OF LEGISLATION

A. H.R. 4775, Ozone Standards Implementation Act of 2016

H.R. 4775 was introduced on March 17, 2016, by Rep. Pete Olson (R-TX), together with Rep. Bill Flores (R-TX), Rep. Bob Latta (R-OH), and House Majority Whip Steve Scalise (R-LA). House Majority Leader Kevin McCarthy (R-CA) and Rep. Henry Cuellar (D-TX) are also original cosponsors of the bill. The Subcommittee on Energy and Power held a legislative hearing on April 14, 2016. Provisions include the following:

Section 1. Short Title: This section provides the short title of "Ozone Standards Implementation Act of 2016."

Section 2. Facilitating State Implementation of Existing Ozone Standards: This section provides a schedule for implementation of the national ambient air quality standards (NAAQS) for ground-level ozone published in 2015. Section 2(a) provides that states shall submit designations to implement the 2015 NAAQS for ground-level ozone not later than October 26,

2024, the Administrator of the Environmental Protection Agency (EPA) shall promulgate final designations with respect to those standards not later than October 26, 2025, and states shall submit implementation plans not later than October 26, 2026.

Section 2(b)(1) provides the standards shall not apply to the review and disposition of a preconstruction permit application required under part C or D of title I of the Clean Air Act (42 U.S.C. 7470 et seq.) if the Administrator or the state, local, or tribal permitting authority, as applicable, has determined the application to be complete prior to the date of promulgation of final designation of an area, or has published a public notice of a preliminary determination or draft permit before the date that is 60 days after the date of promulgation of final designation.

Section 2(b)(2) provides that the section shall not be construed to eliminate the obligation of a preconstruction permit applicant to install best available control technology and lowest achievable emission rate technology, as applicable, or limit the authority of a state, local, or tribal permitting authority to impose more stringent emissions requirements than the NAAQS.

Section 3. Facilitating State Implementation of National Ambient Air Quality Standards:
This section includes provisions to facilitate more efficient implementation of NAAQS by states.

Section 3(a)(1) would extend the current NAAQS review cycle for criteria pollutants from 5 years to 10 years. Section 3(a)(2) would provide that no revision of the ozone standards shall be proposed prior to October 26, 2025.

Section 3(b) provides that the Administrator, when establishing or revising a NAAQS, may consider, as a secondary consideration, likely technological feasibility.

Section 3(c) provides that the Administrator, prior to establishing or revising a NAAQS, shall request, and the Clean Air Scientific Advisory Committee shall provide, the advice provided for in CAA Section 109(d)(2)(C)(iv) regarding any adverse public health, welfare, social, economic, or energy effects, which may result from various strategies for attainment and maintenance of such national ambient air quality standards.

Section 3(d) provides that the Administrator, when establishing or revising a NAAQS, shall concurrently publish implementing regulations and guidance as necessary to assist states, permitting authorities and permitting applicants, and that the new or revised NAAQS shall not apply to preconstruction permit applications until such final regulations and guidance have been published.

Section 3(e) provides that in Extreme ozone nonattainment areas, contingency measures are not required to be included in nonattainment plans.

Sections 3(f)(1) and (2) ensure that economic feasibility, in addition to technological achievability, be taken into consideration in certain requirements for plans for Moderate or Serious ozone nonattainment areas. Section 3(f)(3) eliminates certain demonstration requirements in approving provisions of an implementation plan for an Extreme ozone

nonattainment and which anticipates development of new control techniques or improvement of existing control technologies.

Section 3(g) provides that, for particulate matter nonattainment areas, the milestones that must be included in plans to show reasonable further progress must take into account technological achievability and economic feasibility.

Section 3(h) provides that with respect to air quality monitoring data influenced by exceptional events, an exceptional event may include stagnation of air masses that are not ordinarily occurring, and may also include a meteorological event involving high temperatures or lack of precipitation.

Section 3(i) provides that within 2 years of enactment of the Act, the Administrator, in consultation with states, shall submit to Congress a report on (i) the extent to which foreign sources of air pollution impact the area designations and the attainment and maintenance of NAAQS; (ii) the EPA's procedures and timelines for disposing of petitions relating to emissions from sources emanating outside the United States that are submitted pursuant to section 179B(b) of the Clean Air Act (CAA); (iii) the total number of such petitions received by the agency and related information; and (iv) whether the Administrator recommends any statutory changes to facilitate more efficient review and disposition of such petitions.

Section 4. Definitions: This section contains the following definitions:

- (1) The term "Administrator" means the EPA Administrator.
- (2) The term "Best Available Control Technology" has the meaning given that term in CAA Section 169(3).
- (3) The term "Lowest Achievable Emission Rate" has the meaning given that term in CAA Section 171(3).
- (4) The term "national ambient air quality standard" means a national ambient air quality standard promulgated pursuant to CAA Section 109.
- (5) The term "Preconstruction Permit" means a permit that is required under part C or D of title I of the CAA for the construction or modification of a major emitting facility or major stationary source, and includes any such permit issued by the EPA or a state, local, or tribal permitting authority.
- (6) The term "2015 Ozone Standards" means the national ambient air quality standard for ozone published in the Federal Register on October 26, 2015 (80 Fed. Reg. 65292).

B. H.R. 4979, Advanced Nuclear Technology Development Act of 2016

H.R. 4979 was introduced on April 18, 2016 by Rep. Bob Latta (R-OH), together with Rep. Jerry McNerney (D-CA). The Subcommittee on Energy and Power held a legislative hearing on April 14, 2016. Provisions include the following:

Section 1. Short Title: This section provides the short title of “Advanced Nuclear Technology Development Act of 2016.”

Section 2. Findings: This section provides several findings about the importance of nuclear power for the United States, including national security and economic activity.

Section 3. Definitions: This section contains the following definitions:

- (1) The term “Advanced Reactor” means a nuclear fission reactor with significant design improvements over the most recent generation of nuclear reactors.
- (2) The term “Department” means the Department of Energy (DOE).
- (3) The term “Licensing” means Nuclear Regulatory Commission (NRC) activities related to reviewing applications for licenses, permits, design certifications, and requests for any other regulatory approval for nuclear reactors within the responsibility of the NRC under the Atomic Energy Act of 1954.
- (4) The term “National Laboratory” has the meaning given that term in section 2 of the Energy Policy Act of 2005.
- (5) The term “NRC” means the Nuclear Regulatory Commission.
- (6) The term “Secretary” means the Secretary of Energy.

Section 4. Agency Coordination: This section instructs DOE and NRC to enter into a Memorandum of Understanding regarding the following topics:

- (1) Technical Expertise,
- (2) Modeling and Simulation, and
- (3) Facilities.

Section 5. Reporting to Congress: This section requires the Secretary to report to Congress regarding the status of activities intended to facilitate the testing and demonstration of advanced reactors.

Section 6. Advanced Reactor Licensing Framework: Section 6(a) requires the NRC to report to Congress a plan for developing an efficient, risk-informed, technology-neutral framework for advanced reactor licensing including:

- (1) Unique aspects of advanced reactor licensing, including legal, regulatory and policy issues;
- (2) Options to license under existing NRC regulations, a proposed new framework, or a combination of the two;
- (3) Options to streamline and expedite licensing process for advanced reactors;
- (4) Options to incorporate consensus based codes and standards into the licensing process;
- (5) Options to make the framework more predictable, potentially establishing milestones;
- (6) Options for a phased review process, including conditional approvals for partial applications, early design information, and information that helps to inform the later phases of design review;
- (7) The extent to which NRC action or policy is needed to implement any part of the framework; and
- (8) The role of licensing advanced reactors within NRC's long-term planning, staffing, and funding.

Section 6(b) requires the NRC to seek input from DOE, the nuclear industry, and other public stakeholders.

Section 6(c) requires that the plan include a proposed cost estimate, budget, and implementation plan to implement the framework by 2019.

Section 7. User Fees and Annual Charges: This section authorizes appropriations for the purposes of developing a regulatory infrastructure for advanced nuclear reactor technologies. The authorization sunsets in 2020.

III. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Mary Neumayr, Andy Zach, or Tom Hassenboehler of the Committee staff at (202) 225-2927.