

1 SENATE COMMITTEE ON
2 ENVIRONMENTAL AND PUBLIC WORKS

3
4 FIELD HEARING

5
6 IMPACTS OF EPA'S PROPOSED OZONE STANDARD ON
7 MANUFACTURING AND UTILITIES

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10 Hearing held at the hour of 10:00 a.m. on
11 September 1, 2015, at the Fine Arts Center, Central
12 Community College, 4500 63rd Street, Columbus,
13 Nebraska.

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16 APPEARANCES:

17 Senator Deb Fischer Chair
18 Mr. Russ Baker Panel
19 Mr. John Kinter Panel
20 Dr. David E. Corbin Panel
21 Mr. Mark Zimmerer Panel

1 The EPA's proposal has been called the most
2 expensive regulation of all time. Regardless of
3 one's view on this proposal, we can all agree the
4 American people deserve to know the real cost of this
5 regulation.

6 Additionally, it is unclear whether the new
7 standard provides any real health benefits. There
8 are also serious flaws with the EPA's methods and
9 modeling for the proposal.

10 For example, the EPA did not consider
11 personal exposure to ozone, which is the
12 concentration people actually breathe in when setting
13 the standard. Instead, the agency used outdoor
14 monitoring data that significantly overestimates the
15 risk.

16 Furthermore, the EPA's own assessment
17 indicates that lowering ozone concentrations would
18 actually result in more deaths in some instances.
19 This alarming result either shows a stricter standard
20 would not achieve its objective or that there are
21 serious problems with the EPA's methodology.

22 while questions remain about the scientific
23 evidence used to justify the EPA's proposal, there is
24 no question that this new standard would be
25 economically devastating. A stricter ozone standard

1 would put 57 Nebraska counties in nonattainment.

2 This includes rural counties that have less than one
3 person per square mile.

4 This rule would also expose urban areas like
5 Omaha, which currently complies with federal clean
6 air standards, to harsh regulations that will stifle
7 new and existing industry growth, as well as impede
8 transportation infrastructure improvements.

9 Moreover, the EPA's proposal would require
10 power plants and industrial facilities across
11 Nebraska to install expensive ozone control
12 equipment, limit production or buy offsets, which
13 would stifle economic growth.

14 This means that our citizens, Nebraska is
15 the only 100 percent public power state in the
16 country, and this means that our citizens own the
17 electricity.

18 The additional compliance costs imposed by
19 this proposed rule would be passed down to small
20 businesses, it would be passed down to families and
21 it would result in a \$370 drop in average household
22 consumption per year.

23 Nebraskans value clean air. Our businesses
24 and utilities take seriously their roll in protecting
25 air quality. However, many communities are still

1 struggling to achieve the standards that were set in
2 2008. Stricter standards would put an additional
3 burden on communities across our state. In some
4 cases, due to background ozone levels, attainment
5 would be virtually impossible to attain.

6 I have serious concerns about imposing
7 additional rules, regulations and permitting
8 requirements on our jobs, our nation's job creators,
9 our electricity providers and our families. We
10 should not be in the business of creating unnecessary
11 regulations; instead, we need to explore policy
12 options that promote growth.

13 I am entering into the record comments
14 submitted by the Nebraska Department of Environmental
15 Quality, the Omaha Public Power District and the
16 Norfolk Area Chamber of Commerce. Each set of
17 comments states that the current ozone standard of 75
18 parts per billion should be retained.

19 Additionally, I am also submitting to the
20 record testimony from Dr. Bryan Shaw, he is the
21 commissioner of the Texas Commission on Environmental
22 Quality who provided testimony for the committee
23 hearing on this topic last December. He states, that
24 EPA's process of setting ozone standards has not
25 scientifically proven that further lowering of the

1 ozone standard will fail to provide any measurable
2 increase in human health protection.

3 Today's panel represents diverse
4 perspectives on the effect of the proposed rule to
5 lower the ground-level ozone standard. I am eager to
6 hear further details from our panelists on the
7 challenges that each industry and business will face
8 if and when the EPA finalizes this proposed rule.

9 Today's hearing will begin with a witness
10 who can speak to the importance of providing
11 affordable and reliable electricity to our Nebraska
12 ratepayers. Russ Baker is the manager for the Omaha
13 Public Power District's Environmental and Regulatory
14 Affairs Division. Mr. Baker plans, organizes and
15 directs OPPD's environmental compliance programs and
16 related regulatory matters across the district's
17 nuclear, coal, natural gas and ever-increasing
18 renewable generation fleet.

19 Mr. Baker has been with OPPD since 2000 and
20 has worked in environmental affairs for nearly a
21 decade. In addition to his tenure at OPPD, Mr. Baker
22 has also served on the Board of WasteCap Nebraska, a
23 non-profit organization dedicated to helping
24 businesses and communities in Nebraska reduce and
25 eliminate waste in Nebraska.

1 Russ, I am very eager to hear how this
2 proposed rule will impact our public power utilities,
3 please begin your testimony.

4 MR. RUSS BAKER: Thank you,
5 Senator Fischer.

6 Good morning. Thank you for inviting me to
7 testify. My name is Russ Baker and I am the manager
8 of Environmental and Regulatory Affairs at Omaha
9 Public Power District.

10 I am here testifying today on behalf of the
11 Nebraska Power Association. I would like to take
12 this opportunity to commend you for your hard work in
13 the support of our association members throughout the
14 state of Nebraska. We stand ready to continue to
15 work with you to maintain and improve Nebraskans
16 access to affordable, reliable and environmentally
17 sensitive electric power.

18 The Nebraska Power Association is comprised
19 of the 167 utilities that produce and deliver
20 electricity to Nebraskans. We are a voluntary
21 organization representing all segments of Nebraska's
22 power industry, municipalities, public power
23 districts, public power and irrigation districts and
24 cooperatives which are engaged in generation
25 transmission and distribution of electricity within

1 our state.

2 Nebraska is the only state in the U.S. where
3 every home and business is served by a publicly
4 controlled utility. Publicly owned utilities exist
5 to serve customers. There are no stockholders and
6 thus no profit motive. Public power electric prices
7 do not include a profit. Nebraskans utilities focus
8 exclusively on keeping electric rates low and
9 customer service high.

10 Today I will discuss the Nebraska Power
11 Association's view of the EPA's proposal to update
12 the air quality standards for ground-level ozone.

13 On November 25th of 2014, the EPA proposed
14 to strengthen the National Ambient Air Quality
15 Standards for ground-level ozone. EPA is proposing to
16 update both the primary ozone standard to protect
17 public health and the secondary standard to protect
18 the public welfare. Both standards would be an
19 eight-hour standard set within a range of 65 to 70
20 parts per billion.

21 Ozone is a pollutant that has respiratory
22 health effects in humans and also impairs plant
23 growth and damages crops. It is produced when
24 emissions nitrogen oxides and volatile organic
25 compounds react in the presence of sunlight.

1 Controls on nitrogen oxides and volatile
2 organic compound emissions from vehicles, power
3 plants and other sources have enabled many U.S.
4 counties to meet the 75 parts per billion standard,
5 but the number of counties in nonattainment status,
6 currently at 227, would jump to 358 or 558 if the
7 standard is revised to 75 parts per billion or 65
8 parts per billion respectively.

9 In the state of Nebraska, should the
10 standard be set less than 68 parts per billion, the
11 counties of Knox and Douglas would likely be
12 classified as nonattainment impacting 8,605 and
13 535,556 people respectively based on 2013 estimates.

14 The potential impact of these designations
15 can be found in a study by NERA Economic Consulting
16 that was commissioned by the National Association of
17 Manufacturers. The study estimated that an ozone
18 standard of 65 parts per billion could cost the
19 economy 140 billion dollars per year, eliminate 1.4
20 million job equivalents annually and cost the average
21 U.S. household up to \$830 per year in the form of
22 lost consumption.

23 we are hopeful that the EPA also considered
24 the adverse effect a lower ozone standard may have on
25 low income households and whether the possible

1 benefits of lower ambient ozone levels offset the
2 possible harmful effects of unemployment or having
3 less disposable income to purchase necessary goods
4 and services such as groceries, medicine, obtaining
5 proper medical care or the ability to afford
6 electricity which is needed for comfort, security,
7 cooking and overall well-being.

8 while the Nebraska Power Association is
9 supportive of Ambient Air quality standards that is
10 protective of public health, we are also concerned
11 with the rational, ramifications of the proposed more
12 stringent ozone NAAQS.

13 The impacts of a lower ozone standard in the
14 potential designation of Nebraska's largest
15 population center, the city of Omaha, as
16 nonattainment for ozone, will have significant
17 economic impacts on these areas and the state as a
18 whole.

19 with significant economic and job loss
20 impacts of a tight ozone standard, we feel the EPA
21 reconsider the ultimate benefit of finalizing an
22 ozone standard lower than the current 75 parts per
23 billion standard.

24 EPA's own analysis indicates that
25 significant reductions in ozone levels will be

1 achieved absent a new ozone air quality standard by
2 implementation of a number of other EPA regulations
3 including the Cross-State Air Pollution Rule and
4 Regional Haze Regulations. As such, the substantial
5 costs associated with large sections of the country
6 being designated nonattainment for ozone, will
7 needlessly be levied on those communities and states,
8 while EPA already has regulations in place that will
9 act to reduce ozone concentrations to the levels
10 anticipated in the proposed rule.

11 It seems a rational approach would be to
12 maintain the ozone standard at the current level and
13 allow other EPA regulations to act to lower ambient
14 ozone levels. EPA could then revisit the issue
15 during the next five-year air quality standard review
16 to assess the progress made in lowering ozone levels
17 and determine if setting a lower ambient air quality
18 standard is required as further incentive to reduce
19 ozone levels.

20 Alternatively, if EPA determines that a
21 newer lower ozone standard is required, the Nebraska
22 Power Association suggests that EPA set the standard
23 at 70 parts per billion and write the final rule such
24 that implementation of the standard has the least
25 economic impact on the country as possible.

1 EPA has already conducted modeling and an
2 assessment of future ozone levels under current and
3 proposed regulations and determined that ozone levels
4 will drop significantly. Because EPA analysis shows
5 that a majority of the country will achieve
6 compliance with a lower ozone standard without any
7 area-specific actions, at the discretion of the state
8 involved, the final rule should allow for EPA
9 analysis to substitute for the traditional
10 requirements associated with the nonattainment
11 designation.

12 There should be no need for a detailed
13 analysis to form a plan to achieve compliance, no
14 need for area-specific actions by existing sources of
15 emissions and no need for the area to be subject to
16 the stringent nonattainment new source review
17 permitting requirements that may act to stunt
18 economic development.

19 This approach will allow for achievement of
20 the ambient ozone goals while maintaining and
21 minimizing the costs.

22 In summary, the Nebraska Power Association
23 believes that the most prudent approach to attaining
24 lower ambient ozone levels, without imposing a high
25 cost on the country's economy, is to leave the

1 current ozone standard in place and allow the impacts
2 of other regulations EPA is implementing to act to
3 lower ambient ozone concentrations, as EPA has
4 determined they will.

5 Alternatively, if it is determined that a
6 lower standard is required, the Nebraska Power
7 Association believes that a standard set at 70 parts
8 per billion is appropriate and implementation of the
9 standard should allow states to use EPA's analysis
10 and modeling as a remedy, or part of the remedy, for
11 any area that is showing nonattainment with the new
12 standard.

13 Again, thank you for the opportunity to
14 appear today and I would be happy to answer any
15 questions you might have for me.

16 SENATOR FISCHER: Thank you
17 Mr. Baker.

18 Next I would like to welcome John Kinter.
19 He is the environmental manager of Nucor Steel which
20 is located in Norfolk. Mr. Kinter has over 18 years
21 of experience in environmental affairs, a graduate of
22 the University of Nebraska's Environmental Studies
23 Program. He has also served in the Nebraska
24 Department of Environmental Quality as an
25 environmental specialist.

1 we are very fortunate to have someone
2 testify today who has as much experience with
3 implications of environmental regulations as you do,
4 sir. So please begin your testimony.

5 MR. JOHN KINTER: Thank you,
6 Senator.

7 Senator Fischer on behalf of our more than
8 1,000 Nebraska teammates and our over 23,000
9 teammates across the country, thank you for the
10 invitation to testify today on behalf -- on the
11 Environmental Protection Agency's proposed standard
12 for ground-level ozone.

13 I am John Kinter, environmental manager of
14 Nucor Steel Nebraska in Norfolk. Nucor Corporation
15 is the largest steel producer in North America as
16 well as the largest recycling.

17 In order to put into context the impacts of
18 the administration's proposed ozone standard, I would
19 like to take a minute to describe briefly the current
20 state of the global steel industry.

21 For the past 18 months, steel imports have
22 been surging into the United States at record levels.
23 Our market is currently the strongest for steel
24 demand which is attracting these imports. However,
25 many of these steel imports are only competitive

1 because they are illegally dumped or subsidized.

2 All too often, foreign governments provide
3 their steel companies with substantial financial
4 support, in violation of international trade laws.

5 As a result, U.S. steel makers are not
6 benefiting from a stringer U.S. economy. In fact,
7 thousands of steel jobs have been lost this year
8 because of the impact unfairly traded imports are
9 having on our market.

10 The effect of these job losses ripple beyond
11 our industry since every one steel job supports an
12 additional seven jobs in America.

13 In this difficult global steel market, any
14 regulatory proposal that threatens to greatly
15 increase our cost is of concern. Margins are already
16 tight. By some estimates, the proposed ozone
17 standard could be one of the costliest regulations
18 ever.

19 Nucor operates 24 steel mills across the
20 country. Today only one of those steel mills is in
21 an area designated as being in nonattainment for
22 ozone. Should the EPA decide to set a new standard
23 at the lower end of the proposed range, Nucor will
24 potentially have 19 steel mills in nonattainment
25 areas, including our mill here in Nebraska. Going

1 from one to 19 mills in nonattainment areas would be
2 a drastic and costly change.

3 Lowering the ozone standard to 65 or even 70
4 parts per billion, would make it difficult to expand
5 or build new industrial facilities. Companies
6 wanting to building or expand will be faced with an
7 expensive permitting process and be forced to install
8 costly emission reduction controls. The EPA has
9 acknowledged that existing technology will not be
10 sufficient to achieve the level of reduction it is
11 proposing. This puts companies in a difficult spot.
12 We are being asked to make significant emission
13 reductions, but the technology to achieve then does
14 not exist.

15 Increased costs for emission control
16 technology would not be the only hit to our bottom
17 line. Nucor will also face increased energy prices
18 as energy producers pass their compliance costs on to
19 their customers.

20 Energy represents 20 percent or more of the
21 cost of making a ton of steel. As I've already
22 mentioned, steel companies compete against foreign
23 steelmakers that receive subsidies from their
24 governments, including energy subsidies.

25 To remain competitive, the steel industry

1 needs global, reliable energy. The proposed ozone
2 standard will make an already difficult competitive
3 environment for American steelmakers that much worse.

4 The proposed rule will also hurt economic
5 development for communities in Nebraska and around
6 the country. Lowering the ozone standard will reduce
7 investment, especially for the manufacturing sector
8 which provides high-wage jobs. The timing couldn't
9 be worse. Low energy prices make the U.S. an
10 attractive place for manufacturing, but reducing the
11 ozone standard will make building new facilities much
12 less likely. Nothing dries up business investment
13 faster than uncertainty.

14 Nucor believes the 2008 ozone standard of 75
15 parts per billion should be fully implemented and the
16 environmental and health benefits measured before
17 considering lowering the standard again.

18 EPA data shows the ozone precursor emissions
19 have been cut in half during the last ten years.
20 Full implementation of the 2008 standard will result
21 in additional emission reductions. Based on these
22 facts, we believe it is unnecessary to lower the
23 ozone standard at this time.

24 The U.S. is the one economic bright spot
25 globally right now, let's not jeopardize this

1 position by moving ahead hastily to implement a new
2 ozone standard before we have even fully implemented
3 the previous one. Thank you.

4 SENATOR FISCHER: Thank you.

5 Next we have Dr. David Corbin, a professor
6 Emeritus of the Health Education and Public Health at
7 the University of Nebraska in Omaha.

8 He is a fellow of the American School Health
9 Association, as well as the representative of the
10 Affiliate Governing Counsel to the American Public
11 Health Association from the Public Health Association
12 of Nebraska.

13 I would note that as is customary for senate
14 environment and public works committee hearings, we
15 worked in a bipartisan matter to select witnesses,
16 and I welcome Dr. Corbin to begin your testimony when
17 you are ready. Nice to have you here.

18 DR. DAVID E. CORBIN: Thank you
19 for the opportunity to present before you today. As
20 you heard, I'm Dr. David Corbin from University of
21 Nebraska in Omaha and you already heard my other
22 credentials.

23 My testimony will be both professional and
24 personal since I also suffer from asthma. Since the
25 main focus of this hearing is the impact of ozone

1 standards on manufacturing industry, electric
2 utilities and other stakeholders, I would first like
3 to draw attention to another public health issue that
4 I worked on to protect the public's health.

5 The issue was to the creation of smokeless
6 environments including bars and restaurants. Many
7 business owners testified about how they would go out
8 of business if the law passed. The law did pass,
9 business flourished and health improved. In short,
10 what is good for health is good for business.

11 The Wellness Councils of America founded
12 right here in Nebraska is one of the nations largest
13 and most respected organizations for promoting
14 healthy work sites.

15 They believe that the workplace is an ideal
16 setting to address employee health and well-being.
17 They also believe, as does any health-related
18 organization, that prevention is better and less
19 expensive than treatment.

20 A reduced ground-level ozone standard is a
21 known method of prevention. The American Public
22 Health Association and the American Lung Association
23 are two of the countless health-related organizations
24 that support a health protective standard for ozone.

25 A stronger ozone standard will prevent

1 deaths, hospital admissions, asthma attacks and days
2 missed at work and school. It is society's duty to
3 protect the most vulnerable, of which I am included
4 by virtue of being an older adult, having asthma and
5 being a person who desires to exercise outside.

6 Other vulnerable groups are children, people
7 with lung and cardiovascular conditions and even
8 healthy adults who work in the outdoors.

9 Imagine the dilemma of a public health
10 profession who has spent much of his or her career
11 promoting exercise to improve health, who then has to
12 advise people not to exercise outside because of high
13 ozone levels.

14 Businesses, including those testifying here
15 today, rightly promote safety and health. What
16 business would want to have their own workers or
17 their workers families exposed to a known health
18 hazard, especially since it can save the company
19 money and health care costs and miss workdays. And
20 since we already have effective methods of reducing
21 ozone levels.

22 Nebraska's blessed with an abundant wind and
23 solar resources that when exploited can help to keep
24 ozone levels low and produce energy without adding
25 more carbon dioxide to the atmosphere.

1 The world just experienced the hottest July
2 in recorded history. High temperatures, exacerbate
3 ozone levels. The world successfully addressed our
4 other ozone problem, the hole in the protective upper
5 atmosphere via a worldwide effort that resulted in
6 the banning of chlorofluorocarbons. Ground-level
7 ozone is the opposite of protective, but it is a
8 problem that can be solved.

9 The Lancet, one of the most prestigious
10 medical journals in the world, published a report on
11 June 23, 2015, in which they said quote,
12 "Ground-level ozone and particulate air pollutants
13 are elements that will be most affected by climate
14 change. Climate change is predicted to elevate
15 ground-level ozone levels over large areas of the
16 U.S. and Europe."

17 If the threat to human health isn't enough,
18 the very heart of our Nebraska agricultural economy
19 is threatened by ground-level ozone. A study
20 published in the journal of Atmospheric Environment
21 said this, quote, "Our results suggest that ozone
22 pollution poses a growing threat to global food
23 security even under an optimistic scenario of future
24 ozone precursor emissions.

25 Further efforts to reduce surface ozone

1 concentration thus provide an excellent opportunity
2 to increase global grain yields." End quote.

3 This information alone should be a call for
4 strict standards on ground-level ozone. My own
5 physician here in Nebraska, Dr. Linda Ford, who would
6 have liked to be here to testify today but couldn't,
7 she treats me for asthma and she's been the president
8 of American Lung Association. She summed up the
9 ozone situation succinctly, quote, "Every little bit
10 we decrease the levels of ozone, we'll save on health
11 care costs. So where do you want to spend your
12 money? If you want to take care of your people and
13 prevent disease, you spend it on decreasing ozone."
14 End quote.

15 I and millions of other Americans would love
16 to breathe easier and spend less money on my asthma
17 medication. Thank you.

18 SENATOR FISCHER: Thank you very
19 much, Dr. Corbin.

20 Next we have Mr. Mark Zimmerer, president
21 and CEO of the Norfolk Area Chamber of Commerce, a
22 life-long Nebraskan Mr. Zimmerer has also served as
23 the director of the Northeast Nebraska Child Advocacy
24 Center, Faith Regional Health Services, an advocacy
25 group dedicated to working to achieve child-focused

1 approaches and child abuse and negligent cases.

2 Mark, you are to be commended for your
3 community service and working with abused and at-risk
4 children.

5 Prior to being selected as the Chamber's new
6 president, Mr. Zimmerer served on the organization's
7 board of directors. I am looking forward to hearing
8 from you and I know you will offer great insight on
9 how the proposed ozone rule will impact the small
10 business community in Norfolk, Nebraska. When you
11 are ready, please begin.

12 MR. MARK ZIMMERER: Thank you.
13 Thank you. Thank you, Senator Fischer, for having me
14 testify today.

15 I'm Mark Zimmerer, president and CEO of the
16 Norfolk area Chamber of commerce. Representing our
17 650 businesses, in which Nucor is one, and we are
18 deeply concerned about the harmful impact of the
19 EPA's recent proposed rule to make ozone standard
20 more stringent could have on a struggling economy.
21 Ozone standards at the levels considered and EPA's
22 proposal could push virtually the entire country into
23 nonattainment.

24 where local communities face burdens in
25 attracting and keeping commercial and industrial

1 activity, not only vital to creating jobs, but also
2 to providing tax revenue that supports important
3 local services like public safety and education.

4 we all value clean air. The managers and
5 employees of the companies we represent, as well as
6 their families, we all breathe the same air. We are
7 proud that the emissions of ozone-forming emissions
8 have been cut in half since 1980. Leading to a
9 33 percent drop in ozone concentrations.

10 Moreover, EPA just updated these ozone
11 standards just six years ago. This country can
12 expect to see even greater reductions in ground-level
13 ozone as states make up lost ground in putting the
14 current standards into effect.

15 Indeed, states are currently committing
16 substantial resources, both in time and money,
17 towards achieving emission reductions under those
18 current ozone standards. Yet despite over three
19 decades of cleaner air and before states can catch up
20 with the EPA's delays on implementing existing ozone
21 standards, EPA is now proposing a new stringent
22 standard between 70 and 65 parts per billion.

23 In some areas, this proposed range is out or
24 near the level of ground -- background ozone that is
25 naturally occurring or internationally transported

1 pushing even remote counties far from industrial
2 activities into nonattainment.

3 According to EPA's own data, even the
4 pristine Grand Canyon and Yellowstone National Park
5 would fail proposed ozone standards.

6 If finalized, EPA's proposed stringent ozone
7 standards could limit business expansion in nearly
8 every populated region in the states and impair the
9 ability of U.S. companies to create new jobs.

10 The Clean Air Act carries even stiffer
11 consequences for nonattainment areas, directly
12 impacting economic vitality of local communities and
13 making it difficult to attract and develop business.

14 Increased costs associated with restrictive
15 and expensive permit requirements would likely deter
16 companies from sitting new facilities in
17 nonattainment areas.

18 We cannot stand by and allow our economy to
19 be collateral damage as a result of more unnecessary
20 and unfunded regulations. Nonattainment designations
21 will have profound impact on infrastructure
22 development vital to the business community.

23 Beginning one year from the date of
24 nonattainment designation, federally supported
25 highway and transit projects cannot proceed in

1 nonattainment areas unless the state can demonstrate
2 that the project will cause no increased ozone
3 emissions. These restrictions do not disappear when
4 an area finally comes into attainment. Instead,
5 former nonattainment areas face a legacy of EPA
6 regulatory oversight.

7 Against these economic consequences,
8 scientific uncertainties regarding the benefits of
9 more stringent ozone standards have increased.

10 Indeed, stringent ozone standards may have
11 severe unintended consequences for public health.
12 Indeed, stringent ozone standards may cause the
13 increase of cost of goods and services, such as
14 energy and decreasing disposal incomes. Regulation
15 can inadvertently harm social economic status of
16 individuals and thereby contribute to poor health and
17 premature death.

18 The Norfolk Area Chamber of Commerce
19 believes these scientific uncertainties should better
20 explored in order to best allocate resources in a
21 manner that strengthens both the economy and
22 environment.

23 The need for balanced government policies
24 and reasonable flexibilities has never been greater
25 and no single regulation threatens to disrupt this

1 balance more than the EPA's ozone rule.

2 The air is getting cleaner and current ozone
3 standards need an opportunity to work. Therefore, in
4 light of the economic hardship, reduction in funding
5 for crucial civic services and uncertain benefits all
6 related to the stringent ozone standard that EPA now
7 is considering, the Norfolk Area Chamber of Commerce
8 calls on the EPA to retain the existing ozone
9 standard of 75 parts per billion. Standard for
10 ground-level ozone. Let us meet these requirements
11 before once again moving the target. Thank you.

12 SENATOR FISCHER: Thank you very
13 much and I thank you all for your thoughtful
14 testimony.

15 It's clear that you and the groups you
16 represent have strong appreciation for the importance
17 of a healthy environment and strong driving
18 communities here in Nebraska. But there are clearly
19 some major issues with the proposed rule that would
20 impact both rural and metropolitan areas of the
21 state.

22 I would like to open up this first question
23 to all the members of the panel, if you would like to
24 weigh in on it.

25 In your view, how do we as Nebraskans ensure

1 that our air quality is at the highest standard and
2 how will this proposed rule impact efforts to
3 safeguard our air quality? Do you think the costly
4 topdown federal standard from Washington, D.C.
5 basically, is it a help or is it going to be a
6 hinderance? Why don't we start with you, Mr. Baker.

7 MR. RUSS BAKER: Thank you,
8 Senator Fischer, for that question.

9 I think, you know, from my perspective and I
10 think you've heard, for sure Mr. Kinter and
11 Mr. Zimmerer, speak about it, background levels of
12 ozone are about half of what that standard is and
13 it's influenced by a lot of different conditions that
14 are beyond our control.

15 For instance, when there is burning that
16 done in Kansas in the Flint Hills. We get
17 particulates in ozone that cross over into the state
18 of Nebraska and cause us air quality problems.

19 Global transport from Asia and from states
20 that are west of Nebraska also factor into it as
21 well.

22 The federal government in the way I think
23 that they're looking at this ozone standard in
24 ratcheting down basically to a background of, will
25 not allow any states that are going to be impacted to

1 have any sort of economic development opportunities.

2 I think as you heard Mr. Kinter talking and
3 I would wholeheartedly agree from a utility
4 perspective, we're getting to the point right now
5 where there is not a technology that's available that
6 you can deploy to reduce the kinds of emissions that
7 EPA is calling for. So it really is -- it is a
8 hinderance and it's almost like we're at the law of
9 diminishing returns on lowering a standard down a
10 level that's almost immeasurable.

11 The health impacts of it, I would -- I would
12 argue to some of Dr. Corbin's points that he's making
13 are hard to measure. We don't have absolute data
14 that shows a direct cause and impact, it's
15 extrapolated across a whole population of a country
16 and not looked at specifically on a county or city
17 basis.

18 The lowering of that standard I think is a
19 hinderance to our nation and to our communities as a
20 whole. That would be my perspective.

21 SENATOR FISCHER: If I can
22 follow-up with you on that, you mentioned fires in
23 the Flint Hills of Kansas and then you talked about
24 states west of us and even overseas. We're seeing
25 millions of acres burn west of us and we've all seen

1 the effect on the red sky in the morning and at night
2 that we see all across the state. I've traveled all
3 across the state this month, I can tell you that
4 every part of Nebraska has been affected by those
5 fires to the west of us.

6 Is there anything in the proposed rules that
7 would take that into account that would allow for
8 flexibility for a natural-occurring event that we as
9 a state have absolutely no control over when they're
10 measuring the parts per billion on this, or is it
11 just -- is it just strict and we would be in
12 nonattainment and then how do we get out of
13 nonattainment?

14 MR. RUSS BAKER: Thank you,
15 Senator, for that question.

16 There are provisions that they speak about
17 in the regulations where a state would be able to,
18 more or less make a plea to EPA to say we've got
19 certain conditions that are existing that are beyond
20 the control that you can -- that you should take into
21 account.

22 But the fact of the matter is, there are no
23 real definitive boundaries on what they can do, it's
24 subjective and up to the interpretation of EPA and
25 the agreement of EPA on whatever -- whatever evidence

1 or whatever sort of information that you bring
2 forward from a state. That's the way that I
3 understand that.

4 It's not as -- it's not as definitive as
5 what is stated to the regulation, so there are
6 provisions to do that.

7 I would say most, or at least from a utility
8 perspective, you probably view that as maybe being a
9 little sceptical of how -- of how they would
10 interpret that and maybe apply that given the
11 plethora of other regulations that we're facing in
12 the utility industry for sure, I'm sure some of the
13 other, if not all the other industries, in the state
14 of Nebraska.

15 SENATOR FISCHER: Okay, thank you.

16 Mr. Kinter?

17 MR. JOHN KINTER: Yes, thank you.

18 Mr. Baker hit on a lot of -- a lot of good points
19 that I would just echo for Nucor. And no one would
20 disagree that we want to live in a prosper and
21 healthy community and have clean air. What Nucor is
22 concerned about is the uncertainty.

23 we're talking about specifically
24 ground-level ozone and looking at a 65, 70 or keeping
25 it at 75, there's uncertainty with that. We just

1 don't know where this thing's going to eventually go.
2 And to Mr. Baker's point about what's happening
3 that's out of our control in Kansas, how is that
4 really going to impact us when that can be a huge
5 impact on raising the background levels which even
6 tightens it even more for us.

7 The permitting process that's already in
8 place is effective. We believe the 75 parts per
9 billion number is the right number right now. We're
10 making significant progress to getting to that point
11 and would challenge anybody to question the quality
12 that we have here in Nebraska specifically on our air
13 quality.

14 The other point is that on the regulatory
15 burden side is that we have to stay competitive. And
16 in order to stay competitive on a global market,
17 we're competing with countries that basically are
18 cheating the system through manipulating currency and
19 trading practices that are currently in place that
20 are being allowed. And the more that we have these
21 stringent, burdensome regulatory, and costly I might
22 add, regulations, the harder it's going to be for us
23 to compete. And where is the return on that?

24 Again as I said, the health's important to
25 us. We all work and live in these communities as

1 well, that's part of our mission statement at Nucor,
2 but there has to be a cost benefit analysis and were
3 getting to the point of, as Mr. Baker said, a point
4 of it just doesn't make any sense.

5 SENATOR FISCHER: Thank you,
6 Dr. Corbin.

7 DR. DAVID E. CORBIN: I agree
8 about uncertainty. The uncertainty that I'm
9 concerned about is when I'm going to have my next
10 asthma attack or when my asthma is going to get
11 worse.

12 It would be hard for me to believe as a
13 public health professional that all of these medical
14 associations and public health groups that I've
15 listed on the hand out are some how conspiring
16 against business. They are trying to make the
17 country healthier and they are all of the belief that
18 lowering the standards will do that.

19 The -- and by the way, I should point out
20 conspire means breath together, the original and
21 that's what we should all be doing: we should all be
22 breathing together, not working against each other.

23 So there's ample evidence and usually we
24 have what's called a precautionary principle and that
25 it says when it's -- when you're in doubt about when

1 it's going to harm your health, you error on the side
2 of good health.

3 SENATOR FISCHER: Thank you.

4 Mr. Zimmerer?

5 MR. MARK ZIMMERER: well, part of
6 my resume you left off, I ran the wellness program at
7 Faith Regional Health Services as one of my other
8 duties --

9 SENATOR FISCHER: My apologies, my
10 apologies.

11 MR. MARK ZIMMERER: Appreciate --
12 I appreciate the doctor's comments on this, you know,
13 but I'm also a Husker fan and you say, well, how is
14 that related? well, you know, when we talk about the
15 new coach, Coach Riley isn't setting the team goal to
16 reach the Super Bowl. Of course not. That's not
17 attainable through the college system. So what they
18 do is they set goals to win the Big 10 and then maybe
19 win the national championship, but those are all
20 attainable goals. Those are something you can put
21 the teams efforts towards.

22 This goal that they're setting now is
23 unattainable and it's unrealistic and it's just going
24 to put our businesses at risk, so I'll leave it at
25 that.

1 SENATOR FISCHER: If I can
2 follow-up with you. I believe from the standard that
3 was set in 2008, California basically is in
4 nonattainment; do you know about that?

5 MR. MARK ZIMMERER: I do, yes.

6 SENATOR FISCHER: And they get,
7 like, a waiver or something, is that right, for the
8 next 20 years and it's accepted that they will never
9 attain the previous standard or the current standard
10 that we have from 2008; is that correct?

11 MR. MARK ZIMMERER: Absolutely.

12 SENATOR FISCHER: What happens --
13 what happens to California if we see the standard
14 lower? Are we just saying, well, you couldn't meet
15 the previous one, we know that, and we know you're
16 never going to meet this one too? What happens?

17 MR. MARK ZIMMERER: And that is
18 the concerning part, Senator, when we're talking
19 about, you know, you're in a nonattainment area, we
20 talk about critical infrastructure needs of our
21 highway system, you know, possibly being at risk
22 here, how is that fair that Nebraska is hindered by
23 these restrictions and not some other state? These
24 are --

25 SENATOR FISCHER: To California

1 wouldn't have to -- they wouldn't be affected by any
2 of those restrictions even though they're in a
3 nonattainment area, because they have this waiver
4 basically 20 years right now, so they can continue to
5 build roads, they can continue to build manufacturing
6 plants even though they're never meeting the
7 standards?

8 MR. MARK ZIMMERER: I believe EPA
9 has yet to clarify that, but I believe if they are
10 lifting the ban on the restrictions for California,
11 then that would, yet, eliminate the violations.

12 SENATOR FISCHER: Okay. Thank
13 you.

14 I have some questions for Mr. Baker. And I
15 do thank you for your testimony and I'm very happy
16 you're here today.

17 As you mentioned, Nebraska's a hundred
18 percent public power state. I happen to be very
19 proud of the fact that Nebraskans own the electricity
20 that we use. Do you believe that Nebraska and
21 Nebraskans will be disproportionately affected by
22 this rule because we are a public power state and
23 what actions are the utilities in the state going to
24 have to take in order to meet the standard if it --
25 if it is lowered to 65 parts per billion? what

1 actions are going to have to be taken, and do you
2 have any idea what the cost of that will be?

3 MR. RUSS BAKER: Thank you for
4 that question, Senator.

5 You know, as a public power entity, I don't
6 know that it would be fair to say that public power
7 in and of itself would be singled out or have a
8 disproportionate impact. I will go back to some of
9 my testimony that says we have no profit margin
10 that's built into our rate structure, so any and all
11 costs on this regulation, and the myriad of other
12 regulations, are a direct pass-through to our
13 customer owners because of that.

14 You know, you might be able to draw a
15 conclusion and say at, you know, public power
16 entities without a profit, it is -- it is a direct
17 impact to our customer owners, so in that way, you
18 could, but I don't know that the --

19 SENATOR FISCHER: So basically,
20 every Nebraskan's going to be paying more for
21 electricity?

22 MR. RUSS BAKER: They will pay
23 whatever -- well, whatever those utilities that are
24 representing them need to spend more money in order
25 to be in compliance with this particular rule, it

1 will directly impact that bottom line.

2 To some of your other questions on that, you
3 know, logically and as we talked about before, you
4 know, when you're facing a regulation and when
5 something with the ozone they're looking at nitrogen
6 oxides, I think it would be reasonable to assume the
7 EPA is looking for any industries, in particular
8 though electric generating companies and those
9 facilities, to put in technologies that would control
10 nitrogen oxides.

11 I would say in most cases, almost all of the
12 utilities in the state of Nebraska have deployed
13 technologies to remedy that. We have put in
14 catalytic reduction units, you know, much like a, you
15 know, much like a catalyst on a car, you know, to
16 control the emissions on many of our big units.

17 We also deploy what they call low nitrogen
18 oxide burners and technologies that do some things to
19 reduce nitrogen oxides that way as well. Again,
20 we're getting to a point where there wouldn't be much
21 more that we could really do.

22 I would also cautious and bring to the
23 forefront that half of the ozone that we're measuring
24 comes from natural background. Of the half that's
25 remaining, it's only a fractional part that's really

1 coming from industry. The large majority of that
2 remaining fraction is coming from transportation.

3 It seems to me that a strategy would be
4 better to focus on kind of the mobile sources much
5 like in the state of California. Those are some of
6 the reasons why those areas suffer from such huge
7 attainment issues because they have so many people
8 that are on the roads and that's why you see a lot of
9 the California emissions on vehicles, they're
10 different than the rest of the nation. It's because
11 of transportation.

12 So it seemed with fuel, fuel efficiency
13 standards and such like that, you can make more. You
14 can get more bang for the buck than you would on
15 limiting the economic development opportunities of
16 whole parts of our country and whole parts of our
17 state by reducing that standard. There would be very
18 little on the industrial side that you could do to
19 control some of those emissions.

20 SENATOR FISCHER: Are there
21 discussions by the EPA to further reduce emissions
22 from vehicles? Do you know or has the focus been on
23 utilities and manufacturing with these rules?

24 MR. RUSS BAKER: You know, my
25 experience has been it's hard to say with EPA right

1 now. We've -- I've got my hands full just worrying
2 about producing electricity in the myriad of
3 regulations that we're facing on that front. And of
4 course, we've just recently had the Clean Power Plan
5 which is, you know, trying to do other things, you
6 know, to the industry.

7 So would they be looking at fuel efficiency
8 standards, I think a reasonable person would say that
9 they probably are looking at ways to ratchet that
10 down.

11 But I don't know if the fuel efficiency
12 standards, how much they actually take credit for
13 that in issues like ambient air quality standards
14 with ozone. I'm not sure about that.

15 SENATOR FISCHER: Okay. I would
16 like to take a minute and highlight the -- what you
17 believe is a very robust energy portfolio that many
18 Nebraska utilities are now incorporating and I
19 commend our utilities for taking the initiative to
20 introduce these new fuel sources like natural gas for
21 utilizing renewable energy sources to produce
22 electricity. I think a balanced energy portfolio is
23 very, very important for all of us here in this state
24 and in this country.

25 And I also know that we are blessed that we

1 have an abundance of natural resources in this
2 country and they need to be managed correctly so that
3 we can ensure domestic energy security as we move
4 forward.

5 Mr. Baker, I would ask if you can describe
6 more about the impact that these proposed standards
7 and if you want to throw in other EPA regulations,
8 that would be fine, would have on our energy
9 reliability and what are the potential costs that
10 utilities face.

11 You know, we as Senators, we always hear
12 about regulations and most of the time the negative
13 impact that they have on Nebraska families, so I
14 would ask your opinion on that.

15 MR. RUSS BAKER: Thank you,
16 Senator. I appreciate that question and that
17 perspective.

18 You know reliability, as I stated in my
19 opening remarks, is, you know, is critical to the
20 success of utilities in the state of Nebraska. We
21 want reliable, affordable and environmentally
22 sensitive electric generation for our customer
23 owners.

24 Reliability, I would say would be impacted
25 in some ways and it should be no surprise, I think to

1 you, that, you know, the EPA has a concerted effort
2 to try and reduce the dependence of coal fire
3 generation in the United States. The regulations --
4 an objective observer would say there's a whole-scale
5 effort to try and limit the amount of electricity
6 that's produced by that fuel source.

7 A reduced ozone standard could have, when
8 measured with all the other regulations that we're
9 facing, have the impact of reducing our ability to
10 generate electricity using coal. That added to all
11 the other, you know, the Cross-State Air Pollution
12 Rule, the Clean Power Plan, limitations that we have
13 on coal ash of where we can bury it and what we need
14 to do with it and how we need to measure on that and
15 issues on water discharges and thermal issues and
16 just the entire, you know, the entire list of
17 different regulations that we face, really limit our
18 ability to produce coal.

19 Two of the utilities in the state of
20 Nebraska have nuclear in their portfolios. Omaha
21 Public Power District does. Nebraska Public Power
22 District does. We're very proud to have that
23 zero-carbon-producing generation in our portfolios,
24 and many utilities have been -- begun adding a lot of
25 renewables into the mix as well.

1 If you diminish the amount of coal fire
2 generation that we have and only to our proximity to
3 mines where we have very affordable transportation
4 rates, you know, to use that coal and to generate
5 electricity in a very clean manner with proven
6 technologies, you know, to capture some of these
7 contaminants, what you're left with are a lot more
8 renewables, right.

9 The Clean Power Plan is really pushing to
10 bring more renewables into a portfolios. That's the
11 tie-in to the reliability because the renewables
12 aren't there all the time; solar is not there at
13 night. Wind doesn't blow in July in the state of
14 Nebraska, or in many parts of the country when it's
15 very, very hot. So what do you do when you can't
16 produce base-load generation using our tried and true
17 and clean, you know, coal fire generation and you
18 have limited access to nuclear in these days, you
19 have nothing left. You have some natural gas which
20 we have in the state of Nebraska, but we need a huge
21 amount of infrastructure build-out to bring a lot of
22 natural gas, unlike maybe the state of Texas.

23 So you would -- that is where you would have
24 the unreliability aspect, because you would need to
25 have some base-load generation to supply activity

1 when the sun's not shining. And when the wind's not
2 blowing.

3 And absent -- absent having a build-out of
4 natural gas or fossil reserves that you can rely on,
5 that I think would be the tie into to the
6 reliability.

7 SENATOR FISCHER: Statewide, could
8 you tell me how much of our portfolio for electricity
9 is a percentage that would be reliant upon a
10 coal-fired plant? I've heard two-thirds, is that
11 about what it is?

12 MR. RUSS BAKER: I think somewhere
13 a little more than 50 percent right now in its
14 current state, but you may or may not be familiar,
15 like at Omaha Public Power District, last year our
16 board of directors made an announcement we're
17 retiring three of the units. Three of the five units
18 that we have at our north Omaha power plant.

19 It wasn't a direct result of the Clean Power
20 Plan, it wasn't a direct result of the Mercury and
21 Air Toxic Standard, it wasn't a direct result of the
22 Cross-State Air Pollution Rule. I'm just naming a
23 couple, two or three right now, as an example; it was
24 because of the myriad of regulations that we were
25 facing where we looked and said that these units were

1 not going to be viable and it wasn't economically
2 feasible to invest a whole lot of money for their
3 continued operation. And when we look to the future
4 and, of course, our planning horizon is 15 or 20
5 years into the future, you know, we needed to make
6 some certainty in decisions that we were making. So
7 we last year made a decision to retire three units at
8 our north Omaha power station.

9 That will have a consequence of improving,
10 you know, on an air quality emission profile that
11 will be less air emissions coming from those units
12 because they will no longer be in operation.

13 SENATOR FISCHER: How do you
14 handle your base-load capacity then? If, I mean, you
15 mentioned with renewables, if the wind doesn't blow,
16 you can't turn on the lights, there's no storage
17 right now for the electricity produced in that way?

18 MR. RUSS BAKER: Correct.

19 SENATOR FISCHER: So how are you
20 going to manage -- if we have a turnover really
21 quickly, which I don't think is possible to see that
22 happen very quickly, to close coal-fired electric
23 plants, but if you do have a turnover, how do you
24 handle base-load capacity and what -- what do you
25 see, I guess, happening to the utility in the future

1 then?

2 MR. RUSS BAKER: So at Omaha,
3 Nebraska Public Power District, I can tell you we had
4 some excess capacity that was in our portfolio so we
5 could take those units out of service, and keep in
6 mind three units of the five is about half of the
7 generation from that facility, so it's a little shy
8 of 300 megawatts of generation that we were going to
9 take out of or portfolio.

10 That margin, we were still okay looking to
11 the future from my company's perspective, I don't
12 foresee us building another nuclear plant for
13 baseload. Renewables, as I've already stated, are
14 kind of there to fill in some gaps. With an
15 inability to build any future coal-fire generation,
16 the only thing that we would really have left to add
17 for extra capacity would be natural gas combined
18 cycle is where we would look to meet that gap. I
19 would say that would.

20 SENATOR FISCHER: And you would --
21 you would have to fill that gap with a source like
22 natural gas, correct?

23 MR. RUSS BAKER: At some point you
24 would have to build extra generating capability to
25 take up the slack and to cover those times when

1 renewables aren't there. And right now the only
2 thing that's really left would be natural gas, in my
3 opinion, and kind of looking at, you know, looking at
4 the future right now in the short term, that's --
5 that would probably be it.

6 SENATOR FISCHER: We had talked
7 about a nonattainment designation and the impact that
8 it may have, I would like to know since you represent
9 OPPD, what impact do you think a designation of
10 nonattainment would have on Omaha, how would that
11 affect further development really in the metropolitan
12 area of our state?

13 MR. RUSS BAKER: Thank you,
14 Senator.

15 You know, as you have heard, I think it
16 would be crippling. The permitting that you would
17 need to undergo for bringing in any new sources, any
18 new industries into the area would be massive and
19 very expensive. Not to mention some of the
20 unintended consequences that you would have.

21 I know from first hand working with
22 organizations like the Metro Area Planning Agency in
23 Omaha metro area, we've been looking at this issue
24 for over five years. Omaha Public Power District,
25 the state of Nebraska and really even the state of

1 Iowa, because this isn't -- it would affect Omaha for
2 sure and Douglas County and some of the surrounding
3 counties, it would also effect Iowa, so the Iowa
4 Department of Natural Resources have been involved.

5 We have been in a partnership with some of
6 those other groups to do what they call Little Steps,
7 Big Impact. And so some of the consequences of
8 nonattainment from the perspective of the inability
9 to bring in other industries which are so vital to
10 kind of the economic viability of those communities,
11 but some of the simple things like the way that you
12 would dispense your gasoline may have to change and
13 some limitations that we would have on our ability to
14 car-pool, there might be local standards or state
15 standards or maybe even a federal, you know, through
16 EPA imposed on us where you would have to do more,
17 you know, more car-pooling.

18 which, you know, on the surface would be a
19 good thing, but there's also that negative impact of
20 what kind of build-out you would need from a public
21 transportation perspective, which we may not have the
22 ability to do.

23 But for the last five years, we've been
24 trying to work to educate the communities of what
25 these negative impacts would be, absent really any

1 industrial impact, just on the lifestyles of people
2 and try to encourage them to car-pool when it made
3 sense, try to encourage them to mow their lawns in
4 the evening.

5 There are a lot of unintended consequences
6 of setting that standard too low which at this point,
7 depending on where that level is, could really
8 impact -- could impact individuals and families in
9 the community in very negative ways.

10 SENATOR FISCHER: Thank you very
11 much for your -- for answering my questions, I
12 appreciate it.

13 Next, Mr. Kinter, you're up. Here we go.
14 You mentioned the very difficult global environment
15 that we're seeing with our steel companies now. I
16 guess I would like you to expand on that a little bit
17 and really how that's going to affect Nucor
18 specifically, if you could, and how you're going to
19 deal with your competition.

20 MR. JOHN KINTER: Okay, first off,
21 Nucor is never afraid of a fight, as long as it's on
22 a level playing field.

23 SENATOR FISCHER: I've toured your
24 plant, so tough people.

25 MR. JOHN KINTER: And that's what

1 we talk about a lot is that we're not afraid to
2 compete as long as it's on a level playing field.

3 SENATOR FISCHER: Exactly.

4 MR. JOHN KINTER: So I would start
5 off with that and say that again, to what we have
6 here in America versus the air quality in different
7 parts of the world is completely different. And
8 we're asked to continue to operate and be permitted
9 under such regulatory burden, it's hard for us to
10 compete.

11 Again, not saying that the rules and
12 regulations and the permits that are in place are for
13 the right thing. We do agree we need to operate in a
14 healthy and safe manner, but in order to stay
15 competitive with the markets right now, and some of
16 this understand is outside of the scope of the EPA;
17 it has to do with the trading issues that of course
18 we've talked publicly a lot about, I'm sure you're
19 aware of as well.

20 Just to put it in perspective -- and
21 Mr. Baker did a great job of covering as well -- but
22 our second largest input to making steel is energy.
23 We are the largest fired electricity in the state of
24 Nebraska, so as you can imagine our power bill is
25 significant the way it is already.

1 Our estimates are looking at 20 to
2 30 percent increase in electrical costs, specifically
3 to this rule, and that's on not to mention the
4 Greenhouse Gas Rules and the Clean Power Rule and
5 things that are coming along the pipeline there as
6 well.

7 So to put it in perspective, we have 24
8 operating steel mills in this country, billions just
9 for us specifically here in Nebraska, which multiply
10 it by all our other plants. Again when our margins
11 are so tight, as I mentioned in our testimony, that
12 millions of dollars equates to less profit and less
13 success for the company.

14 Of course, we have a number of shareholders
15 and folks that we need to continue to be profitable.
16 And there are numerous examples of steel companies
17 today, right now, that are shutting down because
18 they're no longer profitable and successful. So we
19 definitely have concerns with that.

20 In regards to the renewable discussion, I
21 would just add that for Nucor, we have many customers
22 that are into their own business as well, so we are
23 supportive of that. Under two circumstances: One,
24 it needs to be reliability, and it also needs to be
25 economical. Those are the two things that we should

1 be looking at when we're looking at renewables.

2 Right now, because of coal and what it is,
3 specifically for Nebraska that's a huge baseload for
4 us. And we are concerned about the new born in the
5 renewable energy business, where is the reliability
6 going to be and of course the costs associated with
7 it.

8 SENATOR FISCHER: Can you tell me
9 the difference in how you produce steel as a company
10 here in the United States and compare it to how steel
11 is produced overseas and what you can tell us about
12 the environmental impact on both of those cycles?

13 MR. JOHN KINTER: Sure. Sure.
14 Nucor, hundred percent of the steel that
15 Nucor makes is with the electric arc furnace
16 technology --

17 SENATOR FISCHER: Tell us, how
18 does that work, though.

19 MR. JOHN KINTER: We use
20 electricity to basically create an arc in our furnace
21 which melts the steel at approximately 300 degrees
22 Fahrenheit, that's the electric arc furnace
23 technology. Nucor basically invented that and it was
24 started -- it started in Europe in the early '60s,
25 and Nucor kind of took that and expanded upon it. We

1 now produce almost 20 million tons of steel in the
2 United States all using electric arc furnace
3 technology.

4 In doing so, our greenhouse gas emissions
5 are a third to two-thirds less than what we would
6 call an integrated facility which uses the natural
7 iron ore out of the ground to produce steel. So
8 significantly much more energy intensive process,
9 because you're taking it from the ground and produce
10 the steel, where a lot of the process has already
11 happened when we take the scrap metal and put it to
12 electricity.

13 So environmentally, our impact is much less.
14 Obviously, we're recycling a product that otherwise
15 would have ended up in a landfill. And that's a
16 success story on the scrap side as well because, you
17 know, there are still many countries that don't have
18 a way of recycling scrap. We have that here. We
19 have a great network of scrap handlers and
20 dealerships throughout the country that scrap has
21 become a great example of how recycling should work.
22 I mean, we've always said we were green before green
23 was really cool, because we've been doing it since
24 the 1960s.

25 SENATOR FISCHER: Good. Your

1 comment that the proposed rule will hurt economic
2 development, and you said reduce investment in
3 communities in Nebraska that that's disturbing to
4 hear. Can you talk about how the manufacturing
5 sector typically grows around one of your steel mills
6 and do you see additional facilities develop around
7 your steel mill, what about jobs, you know, just the
8 effect on a local area with say one of your 24
9 plants?

10 MR. JOHN KINTER: Sure. Sure.

11 with every one steel job, seven more are created in
12 the community. And when you look at various partners
13 that we have specifically in Norfolk, we have a
14 number of facilities and industries have grown around
15 Nucor and buying various pieces of steel or supplying
16 us with inputs that we need for making steel.

17 One thing to point out, and we focused a
18 little bit on Omaha and the concerns there, but one
19 thing to consider is I would -- we would consider
20 Norfolk to be in a rural part of the state, more or
21 less. And when it comes to ozone and how we're going
22 to get to the levels EPA is proposing is through two
23 ways: is through offsets and it's through technology.

24 SENATOR FISCHER: You said the
25 technology's not there to reach, to reach the

1 proposed rules. Did I hear that correctly in our
2 opening?

3 MR. JOHN KINTER: For the
4 steel-baking electric arc business, the SER
5 technologies that Mr. Baker talked about are out
6 there. We have yet to find somebody that can put a
7 CR system on an the electric arc furnace. As you've
8 seen the facility before that would be very
9 challenging to do that.

10 It's not there yet, could it be there in 10
11 to 20 years, possibly. Offsets is the way that Nucor
12 would have to go and in looking at a rural community,
13 where do we get the offsets from? There isn't a
14 whole lot of manufacturing, although we're proud of
15 our manufacturing areas that we have in Norfolk,
16 there are some, but when you look at Nucor and what
17 we do and where we need to get those offsets.

18 Technology isn't there yet and there really
19 isn't offsets for us to grow. So to your point about
20 growing in Norfolk and bringing in more business,
21 quite honestly the last thing from the environmental
22 perspective what we would probably want to do right
23 now is try to attract somebody that produces a lot of
24 NOX and volatile organic compound emission in Norfolk
25 because that would keep us from growing.

1 SENATOR FISCHER: Under the
2 proposed rule, do you have to find an offset in a
3 local community within a certain radius? You said
4 the offsets aren't available in Norfolk, can you
5 look -- can you look elsewhere? Can you look
6 anywhere in the state? Can you look in other states
7 or is it specific to a region that you're located in?
8 I don't know the answer.

9 MR. JOHN KINTER: There is some
10 flexibility in that. Again, it's how it's
11 interpreted and how even the state of Nebraska would
12 look at that and how the different areas are set up
13 when a nonattainment actually comes in place.

14 And again, speaking on -- to the uncertainty
15 about 65 percent, 70, that's a big difference. 70
16 versus 65. 70 is one thing, but when you start
17 talking about 65, that would stop Nucor from growing,
18 period. There just wouldn't be any way we can get
19 down to the levels we need to, as far as expanding.

20 Does Mr. Baker eluded to 70 offers some
21 flexibility, but again, it's just the challenge to
22 figure out how we would get there and where those
23 offsets would come from.

24 1.8 million people in Nebraska. We do have
25 some industries in Nebraska, but unfortunately it

1 would be hard to come up with where those offsets
2 would come from, no matter where it is in the state.

3 SENATOR FISCHER: You know, a lot
4 of times I hear about, you know, rules and
5 regulations, how burdensome they are. Can you tell
6 me any current rules, regulations out there, if you
7 have to go through a permitting process, to expand,
8 what's the effect of that? You know, I can speak to
9 environmental impacts statements with road building,
10 they can last six to eight years. We have a case
11 where one lasted 19 years to go through, what kind of
12 permitting process do you have to go through with
13 your company and what are we looking at for a time
14 frame there?

15 MR. JOHN KINTER: Sure. We're
16 what you would call a class one major source of
17 Nebraska. There's very few, I think there is 20 or
18 so on that list. And we go through a process called
19 new source review and -- new source review -- new
20 source review and the prevention of sedimentary
21 program and the also the Title 5 operating permit
22 process -- the Title 5 operating permit process and
23 in private business, we don't have a whole lot of
24 patience, of course, and there's always opportunities
25 for us to get better with project planning and

1 working with the state agencies to get the permits.

2 But as an example, when we went through our
3 recent expansion here, about two years ago, it took
4 us approximately 15 months to get our most recent air
5 quality permit. Typically, EPA and even DEQ will say
6 12 to 18 months for that process to happen. We're
7 concerned that if we move into these lower ozone
8 ground-level numbers we're talking about, and
9 nonattainment specifically, who knows how long it
10 would take. Because you're looking at what they call
11 a lowest achievable emission rate technology, which
12 is, again, back to this whole technology thing that
13 we don't even know what that is right now on an
14 electric arc furnace. So to go in with a new permit
15 to try to talk about some technology that doesn't
16 even exist yet to get to us where the levels we need
17 to be, we don't know how we would do it.

18 So yeah, it's a -- the permitting process
19 right now that we have in place takes time. Again,
20 the DEQ here, specifically in Nebraskans, been great
21 to work with, been a great, you know, to work with
22 over the years. But again, this uncertainty and then
23 moving into these new levels that we're talking about
24 and the process it would take to get there, not to
25 mention EPA oversight on all of our permits, which is

1 what we have, we may never get a permit.

2 SENATOR FISCHER: Does the EPA
3 ever account for costs in the permitting process? Do
4 they ever consider that, or is that just up to you?

5 MR. JOHN KINTER: Well, again,
6 when we're talking specifically about establishing
7 ambient air quality levels such as the ground-level
8 ozone, EPA is required to do a cost benefit analysis.
9 And the recent case ruling that came out in regards
10 to EPA not specifically doing that cost benefit
11 analysis, I think, came back to haunt them a little
12 bit.

13 And again, that's where our concern is with
14 this one as well is that where is the cost benefit
15 analysis and are we really getting enough bang for
16 our buck, quite honestly, to -- in having the
17 healthier air and citizens being more healthy. We're
18 not -- we don't see that correlation, quite honestly.

19 SENATOR FISCHER: Okay. Good lead
20 in for my question, thank you very much. Good lead
21 in for questions for Dr. Corbin. And again, thank
22 you so much for being here. I appreciate your
23 testimony.

24 DR. DAVID E. CORBIN: I feel a
25 little alone.

1 SENATOR FISCHER: That's what
2 happens when you're a minority witness, so. No, but
3 I'm very, very happy that you're here. I appreciate
4 your views on this, sir.

5 The EPA concludes that long-term exposure to
6 ozone likely causes respiratory mortality based on a
7 single study, and you mentioned that I believe the
8 Jerrett 2009 study. Did you mention that in your
9 testimony?

10 DR. DAVID E. CORBIN: No, I
11 mentioned the Lancet study.

12 SENATOR FISCHER: The Lancet
13 study, okay. The study that I have here was a
14 Jerrett 2009 study, and that study found that there
15 was an association between long-term ozone exposure
16 and mortality caused by respiratory diseases, but
17 it -- but not in southern California where the
18 highest ozone concentrations in the country occur.

19 That didn't make any sense to or for me.
20 Wouldn't it make -- wouldn't it make sense that there
21 would be an association found where we have the
22 highest ozone concentrations exist?

23 DR. DAVID E. CORBIN: Yeah, that's
24 a 2000 -- I'm not familiar with that study.

25 SENATOR FISCHER: Okay.

1 DR. DAVID E. CORBIN: But there's
2 been plenty since then that don't say that. And I
3 might just want to respond a little bit because I've
4 been attending OPPD meetings for at least three years
5 now on a regular basis, their board meetings. I'm
6 familiar with their goal for renewables with
7 10 percent, and now I'm very proud to say because of
8 people have gone before OPPD and tried to make a case
9 for renewables, that they've -- that they are going
10 to close down those units and change to coal and that
11 we also live in a different environment in terms of
12 how the -- we're part of the Southwest Power Pool
13 here and OPPD and so when people talk about, you
14 know, businesses, the fastest growing business in the
15 United States and, indeed, in most of the world is
16 renewables. And that's what's creating most the
17 jobs.

18 Companies like Facebook and Google are going
19 a hundred percent renewable energy and they'll -- the
20 reason they're going to Iowa instead of Nebraska is
21 because Iowa has higher renewable energy and they
22 also have a lower rates than we do in Nebraska. So
23 higher renewables; lower rates. So better health.

24 Warren Buffet is -- Berkshire Hathaway
25 Energy is heavily invested in that, and who here

1 wouldn't want to say that after Fukushima that we are
2 glad that there are regulations on our nuclear plants
3 to make sure that we are all safer and that we don't
4 have a terrible incident like they did there. That's
5 when federal regulations are at their best.

6 I can't deny that there are rules that
7 sometimes don't make sense, that's what we need to do
8 is make -- make those so that they really work and
9 that -- but to use your -- what you were saying
10 earlier, that California hasn't been in compliance,
11 so why is everybody worried about everything when
12 everybody can get extensions time and time again.
13 OPPD's had extensions on certain things.

14 So, if anything, you could argue the EPA is
15 too weak because they keep giving groups and all
16 kinds of things extensions. And then, of course, the
17 air is -- the air that we all breathe, and so you've
18 already talked about the fires and all of those kind
19 of things.

20 So it is something that we're all in it
21 together. And as I said to Russ before we started,
22 we're not adversaries, we want the same end. We just
23 disagree, somewhat, on how fast and when and what the
24 best ways to get there.

25 So I think that there's -- there's -- we

1 certainly are making progress in a lot of this from a
2 public health point of view. I don't think the
3 progress is fast enough; obviously, there are people
4 who differ in that opinion.

5 But I think there's a lot of evidence to
6 say -- and I know some people don't like to hear the
7 word climate change, but the fact is it's not a
8 belief. It's real. And it is those things that we
9 are talking about renewable energies and all of those
10 things that are going to hurt the state more if we
11 don't do something now.

12 SENATOR FISCHER: I've been
13 looking at the Clean Power Plan regulations that have
14 been finalized and you mentioned Iowa and perhaps
15 Nebraska has lost some business opportunities here in
16 the state because of the less expensive energy
17 electricity in Iowa.

18 Iowa joins Nebraska as being one of the 10
19 biggest losers under the Clean Power Plan, and
20 Nebraska, I always say, that that means that the
21 people of Nebraska are the losers because we do have
22 public power in this state.

23 But in Iowa, I'm just amazed -- and I'm off
24 topic here, I fully admit that -- but I am amazed
25 that they would be listed under this Clean Power Plan

1 as one of the 10 biggest losers because of their wind
2 development. And it just, to me, it shows how bazaar
3 some of these rules and regulations are that come out
4 because they don't get credit for that.

5 So being a Nebraskan, I'm kind of hopeful
6 that we're going to see businesses come to the state
7 of Nebraska for our less expensive electricity
8 because Iowa doesn't get any credit.

9 DR. DAVID E. CORBIN: That's
10 one --

11 SENATOR FISCHER: -- so I mean.

12 DR. DAVID E. CORBIN: That's one
13 time when I would agree that the rules don't make
14 sense.

15 SENATOR FISCHER: Yeah, it's just
16 bazaar.

17 DR. DAVID E. CORBIN: You don't
18 get credit for what you've already done.

19 SENATOR FISCHER: Exactly, no, I
20 do fully agree with you, you know, that we're all
21 here to work and make sure that we do have clean air,
22 clean water in this state. It's a valuable resource,
23 so it, you know -- to find ways that we can work
24 together and continue to have an open dialogue and
25 respect, I think that's very important.

1 DR. DAVID E. CORBIN: And that
2 bureaucracy, by the way, runs both ways. So to try
3 to get a permit in some places in Nebraska to put
4 solar panels on your home, in some places it's
5 multi-page this and that, and you have to have -- if
6 it's a hot water, you have to have a steam fitter and
7 water doesn't get hot enough for a steam fitter and
8 electricians have to come and approve it and an
9 electrician may or may not know anything about solar.
10 So those -- I'm all for --

11 SENATOR FISCHER: You and I can
12 work on some issues here.

13 DR. DAVID E. CORBIN: -- for
14 streamlining the rules and making them as simple as
15 possible.

16 SENATOR FISCHER: No, I agree.
17 And both wind development now and the siting and the
18 building of transmission lines, there's a lot of my
19 neighbors and friends who are upset about the process
20 there. So there's -- there's always challenges.
21 There's always challenges that we're going to --

22 DR. DAVID E. CORBIN: And public
23 health, I mean, when aren't they? Did the automobile
24 industry say please let us put seat belts and air
25 bags into cars? That's nothing more that we would

1 remember do, but we did it, people are safer and the
2 roads are safer.

3 SENATOR FISCHER: If I can ask you
4 some specific questions with your credentials and
5 background with public health if you would know these
6 for me, the answers.

7 Do you know how many asthma attacks in
8 children nationwide would be prevented if we lower
9 that ozone standard? Do you have any information
10 available on that?

11 DR. DAVID E. CORBIN: I believe
12 it's in the -- in one of the documents that I did
13 that I handed in, but I don't have the exact, but
14 there are plenty of organizations that have computed
15 that and, of course, it is an estimate.

16 SENATOR FISCHER: Right.

17 DR. DAVID E. CORBIN: But they all
18 agree that it would definitely go up. And that's
19 when you get into the argument about what's -- how
20 many kids deaths are acceptable and how many aren't.

21 And so like I said, all of these
22 organizations that are on this one letter to
23 President Obama trying to urge the ground-level ozone
24 level to be more strict, they have studied this
25 extensively.

1 SENATOR FISCHER: Okay. And do
2 you know how many studies were done and that the EPA
3 looked at between the association between the ozone
4 and asthma symptoms when they did their integrated
5 some kind assessment, do you know how many studies
6 they looked at?

7 DR. DAVID E. CORBIN: I do not. I
8 would, again, put most of my -- the most respected
9 one that I've seen that's come out is a very
10 extensive report and it not all about ozone, but
11 that's the Lancet report which came out this year in
12 June.

13 SENATOR FISCHER: I had
14 information that there were 33 studies and only 12 of
15 those found an association between ozone and asthma
16 symptoms, can you address that?

17 DR. DAVID E. CORBIN: I can. I
18 cited my experience with working on tobacco issues.
19 We heard the same thing, how do you know it's tobacco
20 that's causing cancer and not the air pollution, the
21 mold in your house, and all of these kind of things?
22 It is complicated.

23 But there's no evidence, that I know of,
24 that says adding ozone will make your asthma better.
25 It almost -- it won't make everybody's worse; but it

1 will make a lot of people's worse.

2 SENATOR FISCHER: Okay. I just
3 wanted to point that out for the record that in the
4 33 studies, there were 12 that found an association
5 between the ozone and asthma symptoms. And this was
6 from the EPA with their integrated science
7 assessment.

8 DR. DAVID E. CORBIN: Remember the
9 ozone goes with the other pollutants that are coming
10 from some of the same sources, so.

11 SENATOR FISCHER: Right.

12 DR. DAVID E. CORBIN: They go
13 together.

14 SENATOR FISCHER: Right. Well,
15 thank you so much. Appreciate you being here today.

16 DR. DAVID E. CORBIN: Thank you.

17 SENATOR FISCHER: Mr. Zimmerer,
18 again, I thank you for your testimony on federal
19 regulations and the impact that they have on
20 businesses and how they affect growth, economic
21 growth in our communities, which in turn affects all
22 of our families here in the state of Nebraska.

23 I know that local businesses work hard to
24 provide their communities with jobs, they have public
25 service support and, of course, everyone tries hard

1 to protect the environment, it's a priority it for
2 all of us.

3 You mentioned in your testimony that the
4 ozone standards considered in the EPA's proposal
5 would impose real and immediate hardships to the
6 American worker. Can you tell me what you mean about
7 that?

8 MR. MARK ZIMMERER: Absolutely.
9 And I think my colleagues to my right also mentioned
10 these in their statements, but just talking about the
11 capital investment needed for companies to come into
12 compliance. Great companies like Nucor Steel, they
13 have to invest capital in these projects where, in
14 fact, they could be invested in increasing their
15 goods and services and increasing their market to
16 create jobs that will put more taxes in our
17 communities, tax dollars in our communities, to pay
18 for those community service programs that help
19 enhance the lives of our neighbors.

20 SENATOR FISCHER: So this --
21 obviously, you believe then that this proposal would
22 have a really large ripple effect, then, throughout a
23 local community in the workers that live there?

24 MR. MARK ZIMMERER: Absolutely.
25 You know, when we're talking about a large tax base,

1 you know, those taxes are divvied up amongst many
2 programs and services, but some of those expenses
3 will have to come out of that. The state burden for
4 these types of regulations will trickle down to the
5 city, and in that case, programs will have to be cut,
6 services will have to be cut. And, you know, I would
7 hate to be at the city council chambers when I have
8 to decide which one of those programs is more
9 important than the other.

10 And so I think that's where I look at it
11 from a city perspective as well is we need to do this
12 in a balanced approach. And I understand the doctor
13 here, and I was going to give him a hug when he
14 wasn't feeling loved.

15 But you know, we have to do it with balance.
16 And that's what I ask for. We can't have EPA acting
17 as its own form of government; it is an agency to be
18 controlled by, you know, by the people, and when I
19 hear, you know, 14 state governors wrote in a letter
20 with concerns that, you know, bring us to the table
21 when we're discussing this. Help us help you get to
22 where the doctor wants to be, you know. That's --
23 that's what we want. We just want balance. We can't
24 have one without the other. So to be successful, we
25 have to work together.

1 SENATOR FISCHER: We talked about
2 a little bit earlier when I was interrupting to ask
3 questions, but the EPA updated their ozone standards
4 in 2008 and you mentioned in your statement the EPA
5 delayed implementing the 2008 ozone standard for two
6 years while it pursued reconsideration, and so states
7 are just now catching up with implementing that
8 standard.

9 Particularly, since the EPA proposed
10 implementation rules for the standard, I think it was
11 just this past December; is that correct?

12 MR. MARK ZIMMERER: Correct.
13 Correct.

14 SENATOR FISCHER: Now, the EPA is
15 proposing new ozone standards that are going to
16 overlap those 2008 standards, so how does the -- how
17 does the delay in implementation challenge local
18 communities, local businesses when they're tasked
19 with putting together a plan in order to meet the
20 new -- the news standards coming when they're still
21 working on the old ones, where does that put
22 businesses?

23 MR. MARK ZIMMERER: Right. Well
24 the bad part about presenting last is John pretty
25 much answered that question. That uncertainty in the

1 life of businesses is chaos. It leads to more
2 expenses. It leads to inefficiencies in management
3 and, obviously, that does have a ripple effect.

4 And I think the states are experiencing the
5 same thing, that's why the governors are so concerned
6 about it.

7 So we are managing, you know, we weren't
8 quite sure where we were going to go and now we're
9 sure again, but yet we're going to add more
10 uncertainty by bringing it to the 70 or 65 level,
11 that's just absurd.

12 SENATOR FISCHER: So when you're
13 working on implementing the standards, what, do you
14 have a partnership with the State Department of
15 Environmental Quality? Are you working more with the
16 states since they're trying to implement the EPA's
17 rules; is that true?

18 MR. MARK ZIMMERER: well, you
19 know, just and --

20 SENATOR FISCHER: I guess I'm
21 saying instead of directly with the EPA, you're
22 working more with the state level, right?

23 MR. MARK ZIMMERER: Absolutely.
24 I'm starting at the city level. I'm working with our
25 partners at Nucor Steel, you know, how can we make

1 them better? How can we improve the quality of
2 services they provide in their work? How can they
3 make the environment better? And I'm doing that with
4 all of our businesses.

5 But this is just one example of, you know,
6 everybody -- like said in my statement: We're
7 breathing the same air. We all want what's best.
8 The ozone levels continue to decrease, so let's see
9 where they go. And then we can have time to study.
10 We can see what that -- what that foreign pollutants
11 are doing to our ozone. We can tell what the fires
12 are doing to it. We can do more studies on how it
13 affects asthma in children.

14 But, you know, these things need further
15 study. And I think my two gentlemen to my right
16 said, you know, they don't even know how to get to
17 where they want to be. So if we don't have any ideas
18 of how to get there, then we are putting the cart in
19 front of the horse.

20 SENATOR FISCHER: You know, I
21 understand and hear from our utilities. I hear from
22 large businesses who know about these proposed rules
23 or final rules, as the case may be, when they come
24 through, what about our Main Street businesses, our
25 smaller businesses that truly are, I believe, the

1 life blood of our communities around this state from,
2 you know, from Omaha to Valentine? It's our local
3 folks that are, you know, working hard. Are they
4 aware in your position with the chamber? Are they
5 aware of what may be coming and do they have any idea
6 of what's -- what the effect will be?

7 MR. MARK ZIMMERER: well, I think
8 some of them like to -- suffer from the ostrich
9 hiding, you know, his head in the sand and -- but,
10 you know, it's my job as the chamber president to
11 educate them on the possible consequences of such
12 regulation. And I think Russ mentioned that, you
13 know, were looking at a 30 percent utility increase,
14 that is significant.

15 I mean, we are super conservative here in
16 Nebraska. We all know that and, you know, we beared
17 the recession pretty well. We're not out of it by
18 any means, but we did that because we keep our costs
19 low, you know. We're conservative. We don't spend
20 over and above what we can. And so to add this
21 30 percent cost onto these already burdened
22 businesses will have significant costs.

23 SENATOR FISCHER: When we had
24 talked earlier if an area has to go into a
25 nonattainment classification and is then able to

1 reach attainment, what's the process there that the
2 EPA follows? Is there a certain number of
3 restrictions that have to be in place for a
4 designated time period or is it just lifted and
5 growth can continue, you can continue building roads,
6 you know? How does that work? And what's the time
7 period from the nonattainment to attainment to being
8 able to grow again?

9 MR. MARK ZIMMERER: The time
10 period is unclear, other than what I've mentioned as
11 far as how it affects our roads and infrastructure
12 that way.

13 But, you know, once an area comes into
14 attainment, they have to -- they have to put in a
15 plan of action with the state -- through the state
16 and then through the federal government to stay and
17 remain in that action, or in that attainment area,
18 and that can be significant because what they're
19 going to be looking at is new businesses, new
20 industry coming in there that are going to have ozone
21 emissions.

22 And to be honest, even if you go back from
23 out of attainment to attainment, there are
24 businesses, businesses like to be conservative as
25 well, they like to have the facts and uncertainty

1 about whether they can fall back into that area of
2 compliance, really is going to prohibit them from
3 creating new businesses or growing in our -- in that
4 particular area. And that's probably the scariest
5 part is they're just not going to do it. And what's
6 really scary is, I think to John's point, is they're
7 going to do it in other countries.

8 SENATOR FISCHER: So you believe
9 that even when restrictions are lifted, it's really
10 going to be hard to encourage businesses to come to
11 an area that's been in a nonattainment
12 classification?

13 MR. MARK ZIMMERER: Yeah, I guess
14 I would have to think the EPA's got a mindset and say
15 I really don't know what's going to happen. You
16 know, but let's just do it anyway. I don't want to
17 go that approach. It doesn't make sense. We have to
18 know what the consequences are, how we're going to
19 get there before we can put these restrictions in
20 place.

21 SENATOR FISCHER: Okay. I would
22 like to ask you all just a couple questions here for
23 closing.

24 First of all, how do you view EPA
25 regulations -- and we've touched on this -- but how

1 do you view EPA regulations when we look the economic
2 growth for our communities and for our state? If you
3 have an opinion on what kind of impact they have --
4 and we've touched on that somewhat -- but I would
5 like to just hear any closing comments you may have
6 on that.

7 MR. RUSS BAKER: I have some
8 comments that I would love to make on that.

9 You know, we're not opposed to EPA. You
10 know, I have a recollection of EPA being created
11 because we have rivers that were catching on fire, we
12 had open dumps that were in people's backyards that
13 were contaminating groundwater, that were
14 contaminating drinking water for many communities. I
15 mean, it was necessary, and some would argue maybe
16 even overdue at that point.

17 I think what I'm feeling and maybe what my
18 company and my industry are feeling right now is
19 just, you know, we've taken care of maybe the largest
20 percentage of big problems. We don't have rivers
21 that are catching on fire. We don't have open dumps
22 that are out there. We, you know, we have mechanisms
23 and processes and permits that are in place right now
24 that really have improved our environment.

25 And I don't think anybody in the United

1 States -- and I would argue maybe even worldwide --
2 would want to have a perspective, well, we're going
3 to go out and destroy the environment. We want to
4 preserve our natural resources and we want to use
5 them as good stewards of the land that, you know,
6 that we're -- that we have communities in.

7 So we support preservation and enhancement
8 of natural resources and that. I think, and I go
9 back to maybe a little bit of some of my comments
10 that I provided earlier, you know, we're now -- now
11 that we've taken care of a lot of really big issues
12 and have really improved the situation across our
13 nation with these laws. Now, what we're facing
14 are -- we're facing energy policy that's being
15 enacted through regulation.

16 So trying to change the whole source, at
17 least from the energy perspective, of how you're
18 going to generate electricity. Not what limitations
19 you should have on conducting commerce, but actually
20 transforming the country through regulatory process.

21 And we're also maybe down on the tail end
22 where some of these regulations, you don't have a
23 direct cause and effect of ratcheting the standard
24 lower or limiting an emission further or pushing for
25 technology development that is very, very costly and

1 may have very marginal benefit in the long term.
2 That's the part I think that, at least from my
3 company and maybe from electric utility perspective
4 in the state Nebraska, that's the part where we have
5 problems.

6 There's a lot of unknowns, a lot of
7 uncertainty that, you know, we tried to express to
8 you in our testimony and that, marginal benefit for
9 what could be a very extreme cost and really not for
10 the sake of improving the environment in the way that
11 I think Congress foresaw EPA and the creation of EPA
12 to do. So that's kind of my perspective, Senator.

13 SENATOR FISCHER: Thank you.

14 MR. JOHN KINTER: No doubt that
15 there was and there still is a need for EPA
16 regulations, I don't think anybody will disagree with
17 that.

18 We are reaching a point of dominiums impact
19 and return on these rules to the point where it's
20 hard to run a business because of the scrutiny we
21 have with our permits and how we're required to
22 operate our facilities. Much more hands-on approach
23 now, and as Russ eluded to, we're getting much more
24 detailed in our permits.

25 So definitely a need for EPA to be there.

1 we've had a great relationship with EPA over the
2 years and working through issues, but where do you
3 draw the line between, you know, the American way and
4 being able to operate your company the best way
5 possible, and still being in compliance and the
6 definition of compliance continues to change?

7 SENATOR FISCHER: Thank you.

8 DR. DAVID E. CORBIN: I used to
9 teach high school right outside Washington, D.C. at
10 Bladensburg and I would take my students to the EPA
11 for field trips. As you know, the EPA started under
12 the Nixon Administration, and I agree with all the
13 reasons why it was created because we did have rivers
14 catching on fire and we had smog that was worse than
15 it is today, and I guess the argument would -- it
16 is -- the critical thing is where you draw the line.

17 And the way I understand right now with the
18 Clean Power Plan also is that the states have the
19 opportunity to submit their plan. I would encourage
20 Nebraska to do that and to work with all the people
21 to create that plan. Not to let it go to the federal
22 government and say you're not going to create your
23 own plan, so we're going to create it for you.
24 That's exactly what people have been arguing against,
25 yet the way I understand it, too, we -- we've filed a

1 lawsuit saying it wasn't even a good thing to do.

2 So the EPA is good. Like I've said before,
3 there are times when any law -- and the reason why we
4 don't just have one session and then say, oh, well,
5 the laws are done is because we try to improve upon
6 them as time goes on.

7 The question is: what is the improvement
8 and what side does it fall towards? And, obviously,
9 being in public health, I'm most interested in the
10 public -- in preserving the public's health, which I
11 think a lowering of the standard would do.

12 MR. MARK ZIMMERER: Yes, EPA, it
13 is a need -- it's needed here in the United States
14 and I believe that, you know, when we talk about that
15 balance, and I've said that more than once today,
16 that's what we're looking for. We're looking for,
17 you know, with the economy and with our public health
18 and -- you know, I agree with the doctor here. But
19 there are other health consequences. If we're taking
20 money out of family's pockets, we know what they are,
21 they have higher rates of depression, they are higher
22 rates of obesity, they have -- don't receive
23 appropriate medical care, and I could go on and on.
24 And those -- that isn't coming from research, that's
25 coming from my personal experience in dealing with

1 these families and working with them.

2 And so that's, I think, you don't always
3 have to -- you know, you also have to balance economy
4 with health, but you have to look at all aspects of
5 health as well. So that's where I leave that.

6 SENATOR FISCHER: Okay. Thank
7 you. As we conclude the hearing today, I want to,
8 again, expression my gratitude to each of the
9 witnesses for testifying. We were privileged to hear
10 from a group of Nebraska stakeholders who provided
11 details on the challenges faced by businesses,
12 families and communities as the administration
13 finalizes the proposed rule to lower the ground-level
14 ozone standard.

15 Nebraska is unique. We are the only
16 100 percent public power state in the nation. We own
17 the electricity that is generated and consumed within
18 our borders.

19 Nebraska is also blessed to have a robust
20 manufacturing industry and small business community,
21 and these are important assets that create jobs,
22 ensure that our rural communities and municipalities
23 continue to thrive.

24 Currently, Nebraska has zero counties in
25 nonattainment; however, under the proposed rule, 57

1 Nebraska counties will be classified as being in
2 nonattainment, and many of these communities are in
3 rural and primarily agricultural areas.

4 Furthermore, or the EPA's modeling and data,
5 interpretation cannot verify that tightening the
6 ozone standard will result in health benefits. So I
7 have serious concerns about the impact of the
8 proposed rule and what it will do to impose on small
9 businesses and energy-intensive businesses and
10 industries some really, I believe, negative impacts.

11 It is clear that imposing additional rules
12 and permitting requirements on our utilities and job
13 creators will only stifle economic growth and drive
14 up the costs of important projects. We should not be
15 in the business of creating unnecessary regulations
16 that generate more red tape. Instead, we need to
17 explore policy options that promote growth and enable
18 our job creators communities and our families to
19 prosper.

20 So I look forward to utilizing the insights
21 that I received from all of the stakeholders here
22 today at this hearing to do exactly that.

23 Again, I thank you, the witnesses, for
24 appearing today. And the hearing is now adjourned.

25 (Hearing adjourned at 11:46 a.m.)

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