

Public Comments of Brian Johnson
Greater North Dakota Chamber of Commerce
ND Department of Health
State Implementation of the Clean Power Plan

My name is Brian Johnson and I am here today representing Greater North Dakota Chamber of Commerce, champions for business in North Dakota. I would first like to thank you for the opportunity to offer our comments regarding the state implementation of the EPA's Clean Power Plan. Greater North Dakota Chamber works on behalf of more than 1,100 members, to build a stronger business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce.

The rule is unprecedented in scope and impact on the citizens of North Dakota. Local communities, school districts and businesses throughout the state have considered the potential impact of this rule, since the announcement in August. Put simply, the impact is disastrous for North Dakota and any loss to our coal industry would mean a loss of jobs for North Dakota residents, loss of revenue for the state, and will essentially shut down many local communities who rely on the coal industry as their primary source of employment, income and livelihood. The impacts of the EPA's rule goes far beyond the mine and power plant; the impacts will be felt throughout every community and in every household in North Dakota. As you begin to formulate a State Implementation Plan please take into consideration the far-reaching impacts.

Last week, a study released last week by the National Economic Research Associates, estimates that under this rule electricity rates in North Dakota would be on average 43% higher than they would be without the rule. This alone would be a devastating blow to our state's economy and then you add the near certain closure of coal mines and power plants, would bring devastating harm and countless job losses across the state. When someone is out of work, or has less disposable income to spend they will in turn have less income to spend on personal health care and nutrition, thus their health will potentially suffer. It could then be argued that increased unemployment and electric rate increases would actually harm public health within our communities. This would be detrimental and is completely unaccounted for by the EPA in their impact analysis.

It's important to note, that unlike traditional EPA air quality regulations, the Clean Power Plan is not intended to address a direct public health concern such as particulate matter or mercury exposure. Instead it is intended to address carbon emissions and climate change, which are global issues that do not have a direct impact on public health. While carbon emissions reductions sought by the rule will not benefit public health, it is clear increased unemployment and loss of discretionary income brought by this rule will actually harm public health. In light of the Department's mission to "protect and enhance the health and safety of all North Dakotans," we encourage the Department to consider these public health impacts when developing its response to the rule.

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Regarding the specific questions you have asked to have addressed, we believe the overriding objective should be to protect ratepayers by making preservation of all potential compliance options for, as long as possible, your top priority.

Having this priority is of paramount importance given the uncertain fate of the rule. Next year's presidential election and the numerous lawsuits filed by states, trade associations and labor unions could all have an enormous impact on the validity and implementation of this rule. It would be a tragedy for North Dakota if irreversible commitments were made to transform our electricity systems prior to resolution of these key points of uncertainty.

Fortunately, there appears to be a path that can preserve compliance options and protect ratepayers. A straightforward reading of the final rule indicates states should not have to make any commitments or even signal key details of plans in order to secure an extension of its implementation plan deadline until September of 2018. Specifically, EPA's final rule reads if states need only to include three basic items in their draft in order to secure an extension**:

- (1) An identification of final plan approach or approaches under consideration and description of progress made to date on the final plan components;
- (2) an explanation of why the State requires additional time; and
- (3) a description of opportunity for public comment on the initial submittal

It is our understanding that most states, if not all, will request an extension next September. The key will be how much detail is included in those draft plans. The EPA's goal is to lock-in commitments before the end of the current administration in order to force the shutdown of as much coal as possible prior to an adverse judicial ruling or a change in view from the next President.

With this in mind, states concerned about the damage this regulation will do should work together drafting plans that to secure an extension with minimal to no commitment. Such draft plans then may not need to specify the state's direction on other important questions.

While some risk may be involved, in the sense that the EPA could threaten to impose its own federal plan, if a draft plan is inadequate, it is important to remember that (1) there is little evidence that compliance under a federal plan would be much different than under a state plan (both heavily geared toward a cap and trade result), and (2) EPA has emphasized that any state which has a federal plan imposed on it can transition out of the federal plan by submitting a satisfactory state plan.

Again, thank you for the opportunity to appear before you today. On behalf of the GNDC and our members I urge you to consider the concerns I have laid out and move cautiously toward a State Implementation Plan. The GNDC would request that the Department ask for an extension on implementation and not commit North Dakota to any substantial changes in how we chose to regulate our coal industry until the foremost and important points of uncertainty are resolved. ^{Champions (for) Business} would be happy to answer any questions.

****60.5765 What must I include in an initial submittal if requesting an extension for a final plan submittal?**

(a) You must sufficiently demonstrate that your State is able to undertake steps and processes necessary to timely submit a final plan by the extended date of September 6, 2018, by addressing the following required components in an initial submittal by September 6, 2016, if requesting an extension for a final plan submittal:

(1) An identification of final plan approach or approaches under consideration and description of progress made to date on the final plan components;

(2) An appropriate explanation of why the State requires additional time to submit a final plan by September 6, 2018; and

(3) Demonstration or description of opportunity for public comment on the initial submittal and meaningful engagement with stakeholders, including vulnerable communities, during the time in preparation of the initial submittal and the plans for engagement during development of the final plan.