



DEVIN LEMAHIEU

STATE SENATOR

Senate Committee on Government Operations, Technology and Consumer Protection Testimony on Senate Bill 466 December 14, 2017

Chairman Stroebel and Members,

Thank you for hearing my testimony on Senate Bill 466, which will allow the Department of Natural Resources to utilize an accurate air quality monitor in Sheboygan County.

In response to EPA's decision to reclassify Sheboygan County to moderate nonattainment status, Representative Kremer, our fellow Sheboygan County legislators, and I introduced SB 466 to ensure the EPA uses data in its designation that best represents Sheboygan County.

The DNR operates two air quality monitoring stations in Sheboygan County, but the EPA is only considering data from one monitor. The first monitor, located at Kohler-Andrae State Park, is upwind from the City of Sheboygan and has been operational since June 1997. The second air quality monitor, known as the haven monitor, is located downwind from the city and has been active since April 2014.

EPA's nonattainment designation is based exclusively on data provided by the Kohler-Andrae monitor. However, the ozone being detected by the Kohler-Andrae monitor does not come from Sheboygan County, but southern communities along the Lake Michigan shoreline such as Chicago, IL and Gary, IN. In fact, source apportionment modeling from the Lake Michigan Air Directors Consortium has suggested that Sheboygan County sources contribute less than 10% of the ozone being detected.¹

Utilizing the Kohler-Andrae monitor for attainment decisions on Sheboygan County is also contrary to EPA's guidance on monitoring site selection, "For regulatory compliance, the **principle objective** is to measure the ozone concentration in the **high population density areas and the maximum downwind concentration from the urban region.**"² The Kohler-Andrae monitor is not downwind from point sources nor the highest population density urban areas in Sheboygan County and therefore should not be considered satisfactory under the EPA's own guidelines.

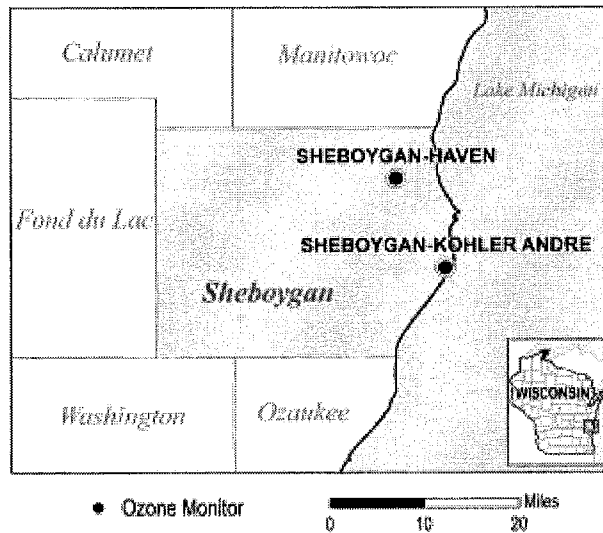
¹ See Lake Michigan Air Directors Consortium, "White Paper: Lake Michigan Ozone Study 2017." Available at http://ladco.org/reports/ozone/post08/Great_Lakes_Ozone_Study_White_Paper_Draft_v6.pdf, stating: "LADCO source apportionment modeling studies suggest that Wisconsin contributes to less than 10% of the ozone at Sheboygan (Figure 5), significantly limiting the state's options to reduce ozone concentrations at this site" (Page 7).

² U.S. Environmental Protection Agency, "GUIDELINE ON OZONE MONITORING SITE SELECTION." EPA-454/R-98-002, August 1998, Section 4.3.1.

New modeling indicates that, even if it were possible to eradicate all man-made sources of VOC (volatile organic compounds) and NOx (nitrogen oxide) emissions in Sheboygan County – a noticeably impossible situation – ozone design vales at the Kohler-Andrae monitor *would not decrease at all*.

Recognizing the inadequacies of the Kohler-Andrae monitor, the Legislature established the Haven monitor to more accurately examine air quality within Sheboygan County. Based on 2014-2016 data from the Wisconsin Department of Natural Resources the air quality within Sheboygan County would have been in compliance with the 2008 Ozone standard.

Photochemical modeling suggests that air quality in the inland portions of the lakeshore counties contains lower levels of ozone than the areas nearest to Lake Michigan. The Kohler-Andrae monitor is located within several hundred feet of the Lake Michigan Shoreline and Haven is located 3.2 miles from the shoreline. In Sheboygan County, at the Haven monitor, the fourth highest MDA8 (maximum daily 8-hour average) ozone concentrations were 4 to 14 ppb lower than those at the lakeshore monitor.



Communities classified as nonattainment zones are subject to a certain set of heightened environmental regulatory standards that impact local residents and area businesses. Anyone seeking to expand or start a business in a nonattainment zone must find emissions offsets either at an existing facility or through purchasing an unused “emissions credit” before they can grow.

Subjecting Sheboygan area businesses to increased regulations due to emissions being produced in other states is unfair and simply wrong. Nonattainment designations can have serious economic consequences and they should be limited to the geographic areas that are actually violating the applicable National Ambient Air Quality Standards.

Under SB 466, Wisconsin will continue to monitor air quality in Sheboygan County as required by federal law. The proposal requires DNR to request EPA approval to remove the Kohler-Andrae monitoring site from Wisconsin’s statewide network of air monitors. Upon approval, DNR will submit data acquired from the Haven monitor.

Thank you for your time and I am happy to answer questions from Members.



JESSE KREMER

STATE REPRESENTATIVE • 59TH ASSEMBLY DISTRICT

*Testimony before the Committee on Government Operations, Technology and Consumer Protection
State Representative Jesse Kremer
December 14, 2017*

Good morning Chairman Stroebel and Government Operations, Technology and Consumer Protection Committee members. I would like to thank you for holding a hearing on our bills in a package of "No Growth Zone" reforms. The issues that we will be discussing today provide unnecessary regulatory burdens on local businesses and stifle growth in certain areas of the state.

It is important to understand that, although these bills are clean air related, neither SB459 nor SB466 are intended to lower the regulatory level of air pollutants.

What is the issue?

Currently, the Sheboygan County Kohler-Andrae EPA air monitor is unscientifically located, upwind of the factories, and records foreign air samples (Gary/Chicago, etc.). This monitor's air samples have risen to the level of moderate non-attainment, a level that, even if there were no residents or fossil fuel engines operating in the county, would remain out of attainment.

The Sheboygan County Haven air monitor was installed by the state several years ago. It is located inland and downwind of the factories, is within federal Clean Air limits, but, because it is not the primary monitor per the EPA, its data cannot be taken into consideration.

Our office had been watching this issue carefully after being tipped off to the concerns of the business community in Sheboygan County – a locale that has become an island unto itself, so we drafted a possible solution nearly a year ago. SB466 had been sitting quietly in the wings in hopes that the new EPA administration would take it upon them to fix this at the federal level. This has not come to fruition, so, as state elected officials, we are taking it upon ourselves to shine a light on the situation and encourage federal agencies to use scientific data rather than inaccurate data from a poorly placed air quality monitor.

What does the bill do?

1. This bill prohibits the DNR from including the Kohler-Andrae monitoring site as one of the state's monitors in the next SIP (State Implementation Plan) that is submitted to the EPA.
2. Following approval of the SIP, the DNR may no longer fund, or collect data from the Kohler-Andrae site.
3. The DNR will also be required to request a waiver from the EPA of any implications related to discontinuance of the Kohler-Andrae monitoring site.



TERRY KATZMA

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P.O. Box 8952
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Date: December 14th, 2017
To: Senate Committee on Government Operations, Technology, and Consumer Protection
From: Representative Terry Katzma
Re: Senate Bill 466: Eliminating the Kohler-Andrae Air Quality Monitor

Dear Chairman Stroebel and committee members,

Thank you for convening a public hearing on Senate Bill 466. Thanks also to Representative Jesse Kremer and Senator Duey Stroebel for leading the work on this important legislation.

Since 2008, the Environmental Protection Agency (EPA) has classified Sheboygan County as an ozone nonattainment area, under the federal Clean Air Act, because of data collected at the Kohler-Andrae air quality monitor located on the shoreline of Lake Michigan. However, Lake Michigan is known to be an “ozone cooker,” where transported pollutants collect and interact in sunlight to form ozone.¹ As a result, ozone measurements near the shoreline can be significantly higher than measurements taken only a short distance inland. In Sheboygan County, the Kohler-Andrae monitoring site is within 100 yards of the lakeshore, *upwind* of the likely point sources of ozone precursors in the county. But another air quality monitor, the Haven monitoring site, is just three miles inland from the lakeshore, and it consistently produces ozone readings that are well within federal limits—despite being *downwind* of the City of Sheboygan and several large businesses and public utilities within.

As recently as December 2016, the EPA acknowledged for the public record that “the Kohler-Andrae monitor was not placed to monitor the maximum downwind impacts from the urbanized portion of the Sheboygan area, but to capture maximum upwind impacts from several urban areas along Lake Michigan, including Milwaukee, Wisconsin; Chicago, Illinois; and Gary, Indiana.”² Perhaps the data collected at Kohler-Andrae can serve a useful public purpose, but that site was not intended to take a representative sample of Sheboygan County’s air quality and should not now be used to justify burdensome regulations and unnecessary extra costs for local businesses.

EPA’s own data shows that Sheboygan County has made enormous strides in reducing emissions of ozone precursors. Emissions of nitrogen oxides declined 47 percent from 2008 to 2014. Emissions of volatile organic compounds declined 39 percent.³ In fact, only 12 percent of the pollutants being measured at the Kohler-Andrae site comes from anywhere in Wisconsin,⁴ let

¹ <http://legis.wisconsin.gov/eupdates/asm26/Apr%2028%202017/Administrative%20Petition%20for%20Reconsideration-Final.pdf>. See especially pg. 2.

² <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-30330.pdf>. See pg. 2.

³ <http://www.epa.gov/air-emissions-inventories>

⁴ http://www.ladco.org/reports/ozone/post08/Great_Lakes_Ozone_Study_White_Paper_Draft_v6.pdf, pg. 6.

alone Sheboygan County, and only 3 percent comes from Wisconsin businesses. Despite Sheboygan County's significant progress, ozone readings at Kohler-Andrae are actually rising, not falling, because that site is primarily measuring ozone that is arriving in Wisconsin from other states. The Haven monitor, which would continue to operate under the bill, is appropriately located to measure emissions from Sheboygan County's point sources and is producing ozone readings that prove that our businesses are fully compliant with federal clean air standards.

The Wisconsin Institute for Law and Liberty recently compiled a policy brief⁵ and documentary video⁶ that explain the economic impact of EPA's moderate nonattainment classification for Sheboygan County—and, potentially, for other Wisconsin lakeshore counties in the near future. Consequences include increased costs for industry, permitting delays and uncertainties, transportation planning delays and restrictions on industry expansion within the nonattainment zone.

Particularly troubling are so-called "emission offset" requirements in nonattainment zones. A business that wants to build or expand must offset any projected emissions by reducing its emissions at existing facilities or purchase unused "emissions credits" from others. Over time, though, emissions credits are used up, and businesses who have already invested in expensive emissions-reducing equipment to meet existing stringent standards may not have any options left for reducing their emissions any further. Under the EPA's nonattainment designation, Sheboygan County is quickly becoming a "No Growth Zone" where industry will have ever fewer opportunities to grow. Real economic harm is being done—but practically no environmental benefit is being derived from the extra costs that burden our businesses.

The best legislative and policy solutions for Wisconsin's problem must occur at the federal level, and conversations among local, state and federal partners continue in search of better ways to monitor air quality and hold responsible those states and industries who contribute the most ozone pollution. In the meantime, this legislation mitigates the harmful impact that EPA's unreasonable designation has caused by proposing to change how Wisconsin produces its annual monitoring network plan.

The federal Clean Air Act requires each state to produce and execute an "annual monitoring network plan." Each state's plan must identify the state's air quality monitoring sites and the type of data to be collected at each location; each state then transmits data on a quarterly basis to EPA from all monitoring sites identified in the plan. Wisconsin submitted its 2018 annual monitoring network plan in June 2017. Under this bill, Wisconsin's next annual monitoring network plan would no longer include the Kohler-Andrae monitoring site, and the Department of Natural Resources would no longer operate the site or include data from that site in its quarterly reports to EPA. With the science on our side, we are confident that EPA will accept Wisconsin's revised monitoring network plan.

Thank you for your time and consideration on this matter.

⁵ <http://www.will-law.org/wp-content/uploads/2017/07/CCF-EPA-Nonattainment-nonprint-FINAL.pdf>. See especially pp. 10-17.

⁶ https://www.youtube.com/watch?v=tSwgqrFk_oU&feature=youtu.be



SHEBOYGAN COUNTY

Thomas G. Wegner
Chairman of the Board

Adam N. Payne
County Administrator

WISCONSIN

Date: December 14, 2017

To: State Senators Duey Stroebel, David Craig, Chris Kapenga, Robert Wirch, and Tim Carpenter

Re: Testimony in Support of Senate Bill 466 and Assembly Bill 588

Dear Members of the Government Operations, Technology, and Consumer Protection Committee,

Thank you for your leadership and efforts to seek fairness in the Environmental Protection Agencies (EPA) administration of the federal Clean Air Act National Ambient Air Quality Standards. The people and businesses of Sheboygan County are being held accountable for air pollution generated in other states, and we strongly support your efforts to address this unfair and punitive situation.

The EPA is currently relying on an air quality monitoring station located along the shore of Lake Michigan in Kohler Andrae State Park that has detected elevated levels of ozone primarily caused by emissions originating from communities such as Chicago, Illinois and Gary, Indiana. As a result the EPA is subjecting Sheboygan area businesses to increased regulations and additional cost that not only puts them at a competitive disadvantage, but may limit their growth and expansion. The EPA regulations may also deter other companies from opening here and families from moving here.

In an effort to gather data specific to the actual air quality and emissions of businesses in Sheboygan County, in 2014 a new air quality measuring station was established by the State more inland. The data has shown that Sheboygan County is meeting federal air quality standards that would not require the additional burdensome regulations. The EPA now has the data to make better informed decisions and treat Sheboygan County businesses and citizens fairly. The ongoing challenge has been to get the EPA's attention to do something about it.

This predicament is an example of an unfair regulation that makes people cynical about government, yet, presents an opportunity to problem-solve and apply science and common sense.

Thank you again for your interest and support.

Sincerely,

Thomas Wegner, County Board Chairman

Adam N. Payne, County Administrator

cc: Senator Devin LeMahieu and Representatives Terry Katsma, Jesse Kremer, and Tyler Vorpapel
US Senator Ron Johnson, Congressman Glenn Grothman
Deidre Martinez, Chamber of Commerce Executive Director
Sheboygan County Board



To: Members of the Senate Committee on Government Operations,
Date: December 14, 2017
From: Sarah Barry, Director of Government Relations
Re: Opposition to SB 459 & SB 466, Air Quality Reduction Proposals

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air and clean energy issues. We were founded forty-seven years ago as Wisconsin's Environmental Decade and we have 20,000 members and supporters around the state.

Senate Bill 459, Air Quality Protection Reduction

This proposal will require Wisconsin to remove critical protective standards for emissions of hazardous air pollutants in the state. In 1988 Wisconsin created rules to protect communities from unsafe exposure to known pollutants. In 2004, these rules were revisited and updated with the support of a broad coalition of stakeholders, including business and industry. These protections have functioned well in Wisconsin, reducing unhealthy exposure to airborne hazards in a reasonable and functional way. Many other states, including our neighbors in Minnesota, Michigan, and Ohio, also have robust state-level standards of air pollutants that, as our DNR pointed out during a 2004 revision process, “plug important gaps in the federal hazardous air pollution rules.”

There is a common interplay between federal and state regulations. While the federal government sets limits for air emissions that impact the entire country, they often allow states to set limits on pollutants when there are local or regional considerations. As our DNR pointed out, ammonia and mineral spirits (stoddard solvents) are not regulated under the federal program. Emissions of these two pollutants in Wisconsin exceed one million pounds each annually. These pollutants are regulated under NR 445 for their acute non-cancer health effects and, in the case of ammonia, for chronic health impacts.

Our DNR also highlighted the fact that that the federal-level protections may not address the most dangerous air pollution emissions in Wisconsin. This is because those federal standards frequently apply only to very large facilities with tall exhaust towers and other measures to reduce public exposure. It is the state-level protections that provide safety for people who may be exposed to the pollution from smaller facilities that often are located near residential neighborhoods and have fewer measures in place, and therefore can pose a far greater public exposure and health risk.

The state protections for air pollutants are based on information from the American Conference of Governmental Hygienists, the National Toxicology Program, and the International Agency for Review of Carcinogens. These pollutants are identified as dangerous to human health in unsafe exposure amounts. Health effects include irritation of eyes and respiratory tract, headaches and nausea, increased cancer risk, and central nervous system and non-respiratory body organ effects. Under this proposal, the Wisconsin Legislative Council estimates that there will no longer be protections on 358 hazardous air pollutants in

the state. Children, the elderly, people with respiratory illness, and you and I--we all should be free to breathe clean air, maintain personal property value, live in healthy, thriving communities, and support our local economies.

Our state-level air pollution rules have proven to be highly effective: protecting the public from health threats of hazardous pollution, without being burdensome to businesses and industry. A facility does not test for all pollutants. Instead they can rely on existing information about chemicals that are known to be emitted by their industry and make emission estimates based on that information. If estimates show the facility would be regulated, the facility then can choose to conduct tests to improve the emissions estimate if desired. Facilities can comply with the protections in a variety of ways, many of which do not involve installing a control device. For example, a facility can:

- Reformulate or substitute materials to avoid producing a regulated air pollutant
- Use clean-burning fuels
- Alter processes to reduce emissions
- Raise stack height to achieve greater dispersion

This proposal would also remove critical reporting requirements, including all requirements from those potentially dangerous smaller sources that are near residential areas, as well as removing all requirements for facilities to report emissions levels to the state. This would leave our DNR and the public with much less information about what is being emitted in local communities and how those emissions could be impacting health and wellbeing. We won't know what we don't know, and with all the information we have now about air pollutant exposure impacts it is simply not worth the risk to go back to the drawing board and defy common sense by repealing these protections.

We urge you to oppose Senate Bill 459.

SB 466, Air Monitoring Prohibition

This proposal seeks to eliminate the collection of air quality data at the Kohler-Andrae State Park in Sheboygan County. This air monitoring site is part of a regional effort to manage ozone pollution in the Lake Michigan region. It is considered of high importance by the Lake Michigan Air Directors Consortium (LADCO); a group that includes Wisconsin, Illinois, Indiana, Michigan, Ohio, and Minnesota, wherein members cooperate on technical assessments and studies of regional air quality problems.

Ozone air pollution is a very serious public health issue - it can cause shortness of breath and coughing, inflame and damage airways, aggravate lung diseases such as asthma, emphysema, and chronic bronchitis, increase the frequency of asthma attacks, and can even continue damaging lungs after symptoms disappear. Even relatively low levels of ozone can have adverse health effects. Scientific analysis has also concluded that ozone exposure may increase the risk of developing asthma in the first place, as well as increase the risk of premature death from heart or lung disease.

Children, people with asthma or lung disease, older adults, and people who are outdoors during high pollution periods are at highest risk adverse health effects from ozone, although it has effects across the

population. For example, in Wisconsin asthma affects about 550,000 residents, including 1 in 13 children, and leads to over 18,500 emergency department visits, 5,000 hospitalizations, and an estimated cost of over \$100 million a year.

The Kohler-Andrae site is specifically designed to determine whether air quality in the area meets the requirements of the National Ambient Air Quality Standard to protect health, to detect elevated pollutant levels of ozone, and to provide pollutant levels for the daily air quality reporting and alerts that allow people to avoid exposure during the worst days. Those air quality alert days happen every summer in communities in Wisconsin, including in Sheboygan County, when children and others with asthma or other respiratory illness stay inside because the air is unsafe.

There is no question that ozone pollution is a regional problem in eastern Wisconsin and around Lake Michigan. Precursors to ozone pollution come from many places, including both local sources and sources outside of the state. While the Clean Air Act works to ensure that air quality is safe in a local area, those outside regional sources are also monitored, and held accountable for their contributions by regulations like the federal Cross-State Air Pollution Rule. This accountability is possible because of data from monitors like Kohler-Andrae, which was placed in a location where it could best measure regional ozone pollution.

Because of where the monitor was placed, it was not intended to measure peak ozone levels and exposures. Instead, its regional focus means that data the monitor provides is more akin to “background levels” of pollution; different local conditions can cause the ozone levels in those areas to be higher or lower. For example, additional local sources of pollution like vehicle traffic in an urban area or from an industrial facility would not be captured by the Kohler-Andrae monitor. What the data from that site has shown is that those background levels are already unsafe in Sheboygan County in areas close to the lakeshore like the City of Sheboygan.

It is critical that members of the public have information about what they are breathing and how it can impact health. Removing a monitor will not change the fact that there are elevated and unsafe levels of air pollutants in a community.

It does not make sense to have less information about air quality in Wisconsin and we urge you to oppose Senate Bill 466.



WISCONSIN MANUFACTURERS & COMMERCE

**TESTIMONY BEFORE THE SENATE COMMITTEE ON GOVERNMENT
OPERATIONS, TECHNOLOGY, AND CONSUMER PROTECTION IN
SUPPORT OF SENATE BILL 466**

Chairman Stroebel and Committee Members:

Thank you for the opportunity to testify today. My name is Lucas Vebber and I am the General Counsel and Director of Environmental and Energy Policy at Wisconsin Manufacturers & Commerce (WMC). WMC is Wisconsin's Chamber of Commerce and Manufacturers' Association. With members of all sizes and throughout all sectors of Wisconsin's economy, we are the largest business trade association in the state. Since our founding in 1911 we have been committed to making Wisconsin the most competitive state in the nation in which to do business. I am here today to testify in support of Senate Bill 466.

This legislation corrects a problem that has been plaguing one area of Wisconsin for decades. To comply with the federal Clean Air Act, Wisconsin must monitor our air for six federally mandated air pollutants. One of these pollutants is ground level Ozone — commonly known as “smog.” Ozone is not emitted directly, it is formed in the atmosphere when precursor pollutants — oxides of nitrogen (NOx) and volatile organic compounds (VOCs) — combine in sunlight. It is important to note that Wisconsin has dramatically reduced emissions of these precursor pollutants over the past several decades.

In Wisconsin we have a beautiful lake directly to our east. It provides us many benefits both recreationally and economically. It also provides us with a lot of Ozone. As has been extensively researched and documented by our state's Department of Natural Resources (DNR) going back a decade, Wisconsin counties along the Lake Michigan shore have been significant recipients of Ozone pollutants out of state. The good news is that Wisconsin's significant air monitor network has shown that this Ozone dissipates significantly just a few miles inland. The bad news is that Wisconsin counties are still being held accountable for those pollutants.

Under the Clean Air Act when an area is not meeting federally mandated air quality standards it must be designated as “non-attainment,” and a host of new regulations must be implemented. States are required to submit to the federal Environmental Protection Agency an implementation plan to get the area back into “attainment” with the standards.

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Founded in 1911, WMC is Wisconsin's chamber of commerce and largest business trade association.

Sheboygan County has historically just about always been in non-attainment with federal Ozone standards (originally set at a one-hour standard of 120 parts per billion, in 1997 an eight-hour standard of 80 ppb was established, which was lowered to 75 ppb in 2008 and finally lowered again to the current standard of 70 ppb in 2015). Businesses and individuals in Sheboygan County, several who are here today, have been paying a significantly increased regulatory burden for decades. The problem, however, was not created by the people and businesses of Sheboygan County. It was created by a poorly placed air monitor at Kohler-Andrae State Park south of the City of Sheboygan. Pollution rose graphs (attached) created by the DNR show that this monitor does not pick up pollution generated from Sheboygan County, but rather, pollution that blows into the county from over Lake Michigan. That pollution is generated in other states and even other countries.

The Kohler-Andrae monitor is located about 100 yards from the shore of the lake. It consistently reads high levels of Ozone. To obtain more accurate data of what the air quality within Sheboygan County is like, the people of Wisconsin funded and placed a second air quality monitor in Sheboygan County — the Haven monitor. This monitor is located downwind of Sheboygan County sources, and nearby more human receptors. The Haven monitor provides a much more accurate picture of Sheboygan's true air quality. Using the most recently available data from DNR, the Kohler-Andrae monitor shows 80 ppb of Ozone which is well above the attainment standard, while the Haven monitor shows 70 ppb — which meets the attainment standard.

There is nothing that businesses and individuals in Sheboygan can do to further reduce Ozone in their county. In fact, modeling by DNR has shown that removing all anthropogenic source emissions in Sheboygan County would actually lead to an *increase* in Ozone for the county (source page from DNR's report is attached).

Despite this, the entire county remains in non-attainment under the 2008 standard, with designations for the 2015 standard still pending. While this problem is largely due to an inflexible and confusing federal law, this legislation steps us in the right direction. It directs DNR to stop including the Kohler-Andrae monitor in our air monitoring network plan, and to seek a waiver from the federal government to shut that monitor down completely. Ideally this would provide significant regulatory relief to the people of Sheboygan and alleviate them from the crushing burden of non-attainment.

Thank you for your time today, I would be happy to answer any questions you may have today.



WISCONSIN'S NO GROWTH ZONE

The Impact of the Clean Air Act
On Sheboygan County

WILL
WISCONSIN INSTITUTE
FOR LAW & LIBERTY

Jake Curtis
Associate Counsel and Federalism Litigator
Wisconsin Institute for Law & Liberty's Center for Competitive Federalism

Table of Contents

Introduction

I. The EPA's Nonattainment Proposed Rule

EPA's Sheboygan Area Proposed Rule

Wisconsin's State Implementation Plan

II. Foreign Pollutants and Poorly Placed Monitors

Foreign Pollutants

Poorly Placed Monitors

III. Wisconsin's "No Growth" Zone

Opposition from Business Community

Nonattainment Consequences

Nonattainment Real World Implications

IV. Other Counties May be in EPA's Crosshairs

V. Congressional Solutions

Out of State Pollutants

Position of Monitors

Adjusting Nonattainment Borders

Role of Congress in NAAQS Standards

Extending Deadline for SIP Plans

Conclusion

Takeaways

- **Faulty data**

The EPA is relying on data that measures pollutants generated elsewhere and that does not accurately reflect air quality in Sheboygan County. This results in a “nonattainment” designation and, consequently, onerous regulatory requirements that Sheboygan does not deserve.

- **Nonattainment designations can create “no grow” zones**

The additional costs and required offsets associated with nonattainment designations can result in entire counties like Sheboygan turning into “no grow” zones—manufacturers refrain from expanding their physical footprint as well as their labor force.

- **Other Wisconsin Counties are at risk**

While Sheboygan County has borne the brunt of the EPA’s nonattainment designation, other counties, such as Manitowoc, Ozaukee, Kewaunee, and Door, are likely to be impacted by such increases in designations in the coming years.

- **Congress should act NOW**

This misuse of federal law is best—and can be most quickly—addressed at the federal level. Congress can, and should, act now to address the inflexible nature of the EPA regulations hitting Sheboygan County and others.

Introduction

Wisconsin is home to a diverse economy. Travel to northern Wisconsin, particularly in the middle of summer, and one can find a tourist destination like none other. Southeastern Wisconsin is home to some of the most recognizable Fortune 500 companies, including Johnson Controls, Northwestern Mutual, ManpowerGroup, Kohl’s, and Harley-Davidson. Madison is the seat of state government and home to a world-class research institution, the University of Wisconsin.

Lesser known, but just as significant, are the industries north of Milwaukee along the shores of Lake Michigan up into the Fox Valley and into Green Bay. There, one will find some of the highest concentration of manufacturing companies in the country. From internationally known manufacturers like Oshkosh Truck to small businesses such as Plymouth Foam, Eastern Wisconsin still makes “stuff” and they do so as well as anybody in the world.

Unfortunately, far too often, the main impediment to continued growth and expansion, both in terms of manpower and physical footprint, is not lack of resources, skilled labor or technological advancement. Instead, manufacturers in Eastern Wisconsin face the daunting task of complying with onerous federal regulations, many of which key competitors, even within Wisconsin, are not required to comply with. Such a scenario puts those who choose to grow a business along the shores of Lake Michigan at a distinct competitive disadvantage.

This policy brief specifically sheds light on the ozone nonattainment designation involving Sheboygan County, the impact of such a designation on businesses in the County, the potential re-designation of other counties along the shores of Lake Michigan, and concludes by offering several immediate steps Congress can take to alleviate the onerous requirements by providing flexibility to Wisconsin to meet ozone standards.

Any flexibility provided by Congress would free counties like Sheboygan, and others, to constructively work with the state Department of Natural Resources to protect the environment while providing job opportunities for local residents, a proposition that is not, and should not, be mutually exclusive.

I. The EPA's Nonattainment Proposed Rule

EPA's Sheboygan Area Proposed Rule. The drama involving Sheboygan County, the Clean Air Act ("CAA"),² and the U.S. Environmental Protection Agency ("EPA") dates back to April 30, 2012, when the area was initially designated as a "nonattainment" area, i.e., as one failing to meet the 2008 ozone National Ambient Air Quality Standards ("NAAQS").³ However, Sheboygan's initial nonattainment classification was only "marginal".⁴ The EPA set a deadline for certain attainment standards for July 20, 2015 and then granted a one year extension. However, on September 28, 2016, EPA proposed a rule finding that the Sheboygan area failed to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.⁵ This proposed rule would place the County in the "moderate" nonattainment category.

Moderate nonattainment areas are required to attain the standards "as expeditiously as practicable" but no later than six years after the initial designation as nonattainment, which in the case of Sheboygan County is July 20, 2018. In other words, the measured air quality must change very quickly.

Table 1. 2013–2015 Quality Assured Ozone Monitoring Data

Area	County	Monitor	2013 4th high	2014 4th high	2015 4th high	2013-2015 Average
Sheboygan, WI	Sheboygan	Kohler Andre Park (551170006)	0.078	0.072	0.081	0.077

Wisconsin's State Implementation Plan. The requirements associated with this new rule and the designation are arduous. Wisconsin is required to submit a revised State Implementation Plan ("SIP"). The requirements include (1) an attainment demonstration, (2) the development of provisions for reasonably available control technology ("RACT") and reasonably available control measures ("RACM") involving volatile organic compounds and nitrogen oxides, (3) reasonable further progress in reducing VOC and/or NOx emissions in the area, (4) contingency measures to be implemented in the event of failure to meet a milestone or to attain the standard, (5) a vehicle inspection and maintenance program, if applicable, and (6) NOx and VOC emission offset at a ratio of 1.15 to 1 for major source permits. In June the Wisconsin DNR developed and released a draft attainment plan for the Sheboygan County nonattainment area.⁶ It is holding a public hearing on July 24 to receive feedback regarding the draft attainment plan. Once finalized, the request will be submitted by the DNR to the EPA for approval.⁷

With respect to the short timeline for the state's SIP submission, Congressman Grothman observed "[t]ime and time again states are subjected to short timelines in order to comply with significant requirements from the federal bureaucracy. This change to moderate nonattainment will greatly increase the regulatory burden on Sheboygan County and its industry and therefore should not be rushed into a haphazard manner." Grothman October 27, 2016 Letter at 2-3. It's also important to note that in addition to submitting a SIP plan, the expectation is that the region establish actual attainment by July 2018, a nearly impossible task.

II. Foreign Pollutants and Poorly Placed Monitors

Not surprisingly, the proposed rule has received significant resistance from local and federal legislators, the local and state chambers of commerce, businesses that will be directly affected by the proposed rule and enhanced designation, and even the Wisconsin Department of Natural Resources.

It would be one thing if Sheboygan businesses were actually emitting pollutants that caused air quality in the County to fail to meet the legal standards. But they are not doing that and air quality in Sheboygan does not fail to meet those standards. There are two key errors associated with the proposed rule. First, the rule fails to account for the impact of pollutants generated from outside the County, and in many cases completely outside the state of Wisconsin. It commands the people and businesses of Sheboygan to eliminate pollution that they did not create. Second, the proposed rule is based upon data generated from a monitor that is located in a way that neither measures pollutants that are actually emitted in the County and does not accurately measure the quality of air in Sheboygan.

Foreign Pollutants

The Wisconsin DNR has noted emphatically the "EPA should not finalize this action." *DNR October 28, 2016 Letter* at 1.⁸ This is so because it observed that "Wisconsin's lakeshore air quality is heavily impacted by ozone precursors originating from out of state. Sheboygan County, in particular, has long suffered the consequences of diminished air quality and resulting nonattainment due to emissions originating beyond Wisconsin's borders." *Id.* The problem is so significant that despite the wide range of actions the state has already taken to reduce emissions under its Clean Air Act obligations, "[a]ny further actions taken by the state to address moderate area planning requirements for this NAAQS are unlikely to significantly improve Sheboygan County's air quality." *Id.* It urged EPA to "expeditiously and more completely address the contributions of upwind state emissions to this region of Wisconsin." *Id.*

State Senator Devin LeMahieu and Assemblymen Tyler Vorpapel and Terry Katsma have also opined that "the ozone being detected by the Kohler Andrae monitor does not come from Sheboygan County, but [from] southern communities along the Lake Michigan shoreline such as Chicago, Illinois and Gary, Indiana." *Wisconsin Legislature October 27, 2016 Letter* at 1. "Subjecting Sheboygan area businesses to increased regulations due to emissions being produced in other counties [or states] is unfair and simply wrong." *Id.* at 2.

The objections of the Wisconsin DNR and the Sheboygan legislative delegation are supported by modeling showing pollutants are blown up from Illinois and Indiana, "cooked" (i.e., turned into ozone) over Lake Michigan, and then blown westerly into Wisconsin. Specifically, with respect to ozone emitted from places like Illinois and Indiana, Lake Michigan has been described as an "ozone cooker." In particular:

These ozone problems are unfortunate artifacts of an arcane and outdated set of federal directives which rely on ozone monitors that lie along the Lake Michigan shoreline. Lake Michigan is known to be an "ozone cooker", where transported pollutants collect and interact in sunlight to form ozone. Wisconsin's riparian monitors pick up this transported ozone as it blows off the Lake and before it dissipates moving inland. As a result, the ozone levels measured at these monitors are relatively high and do not represent air quality within these counties. This problem is exacerbated by EPA treating multiple counties in urban areas as a single air quality planning region whose attainment designation is tied to these shoreline monitors miles away.

See *Michael Best & Friedrich LLP white paper, Creating a More Equitable and Accurate Ozone Attainment Designation Process*. Wisconsin Manufacturers and Commerce's ("WMC") Lucas Vebber has described the phenomenon in similar terms:

Heavy ozone is something we see quite a bit on the eastern coast of Wisconsin, something along the Lake Michigan shoreline. We don't really see it inland, we don't see it in other areas of Wisconsin. One of the primary reasons that we see it along the eastern coast of Wisconsin is because it's transport pollution from other states. So we see a large number of those precursor pollutants emitted from the Chicago-land area and Gary, Indiana and they combine in the sunlight over there. It's essentially an oven for ozone. It produces a significant amount of ozone which is then blown by the wind right along the Lake Michigan coast.

WILL Video Report, July 12, 2017.

Drilling down even further, source apportionment modeling from the Lake Michigan Air Directors Consortium (LADCO) suggests that "all of the sources in the entire State of Wisconsin contribute less than 10% of the ozone being detected."⁹ This means that imposing restrictions on Sheboygan businesses can do very little to affect the measured pollutants that have led the EPA to impose them.

Poorly Placed Monitors

But the problem is even worse than that. It would be one thing if the EPA was accurately measuring air quality in Sheboygan—even if that air quality was largely the product of pollutants generated elsewhere. But it's not. The second, and equally problematic, factor is the physical placement of the monitors in Sheboygan County and the EPA's reliance on the monitor detecting foreign pollutants. This is especially true when one considers the concentration of manufacturers in the County vis-à-vis placement of the two monitors.

WMC has emphasized that the EPA is exclusively relying on data from one air quality monitor (located at Kohler-Andrae State Park), instead of looking to the data collected by both air quality monitors operated by the State of Wisconsin in the County. If the data collected by the monitors detailed the same ozone levels, this would be of no issue.

But that's not the case. The Kohler-Andrae monitor is upwind from the key sources of ozone in the County. The air it measures is generally blowing into Sheboygan from major sources to the south, such as Chicago, and even Indiana and Michigan. The other monitor (located in the town of Haven) is downwind from the key ozone sources in Sheboygan. It is the monitor that picks up whatever pollutants are actually generated in Sheboygan and accurately measures the actual ozone levels in the County. The ozone levels at Haven are often significantly lower than those at Kohler-Andrae. Thus, the decision of the EPA to rely exclusively on the latter, instead of the former (or not even average the two), results in the County failing to maintain the acceptable attainment standards and triggers devastating regulations.

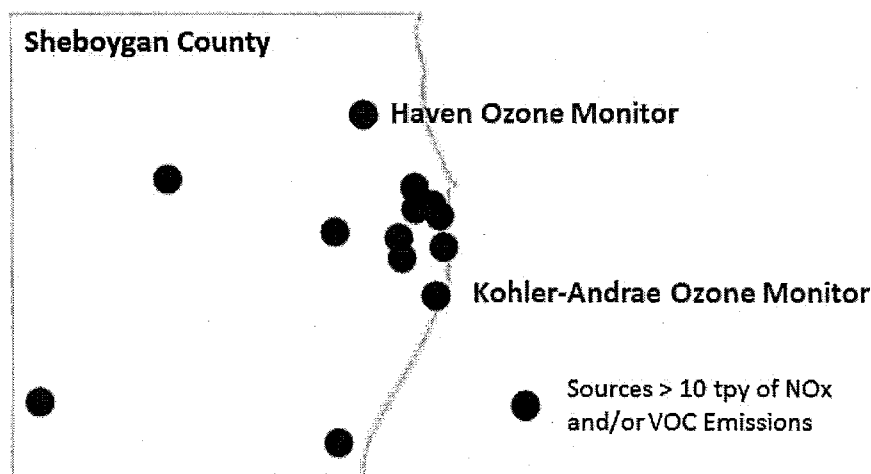
WMC describes in detail the geographic relationship between the Haven Ozone Monitor and the Kohler-Andrae Ozone Monitor:

Sheboygan County has been forced to deal with an excessive regulatory burden due to factors largely beyond its control. The State of Wisconsin has located two air quality monitors in the county. The first, located at Kohler-Andrae State Park (Site ID 551170006) along Lake Michigan, approximately 6 miles south of the City of Sheboygan, has been operational since June of 1997. This monitor is **upwind** from the City of Sheboygan. The second air quality monitor, known as the Haven monitor (Site ID 551170009), is located approximately 6 miles northwest of the City of Sheboygan and has been operational since April of 2014. This monitor is **downwind** from the City of Sheboygan. EPA's proposed nonattainment re-classification is based exclusively on data provided by the Kohler-Andrae monitor.

Facilities in Sheboygan County that emit the majority of ozone precursor emissions, namely nitrogen oxides (NOx) and volatile organic compounds (VOC), are located downwind from the Kohler-Andrae ozone monitor. The following figure shows the location of facilities with greater than 10 tons per year (tpy) of NOx and/or VOC emissions based on EPA's 2014 National Emissions Inventory (NEI). These same facilities are the ones that may be subject to increased regulations due to EPA's proposal to re-classify this area to a moderate nonattainment area, even though they are not likely contributing on days with higher ozone concentrations. This is because days with higher ozone concentrations typically occur when the winds are from the south, followed by an afternoon lake breeze.

WMC October 28, 2016 Letter at 2 (emphasis in original).

Figure 1. Locations of Sheboygan County Monitors Relative to Facilities Producing Emissions



WMC further emphasized that relying exclusively on the data collected at the Kohler-Andrae monitor, again, upwind from the few ozone sources in the County, is contrary to EPA's own policies. EPA's guidance on monitoring site selection advises that "[f]or regulatory compliance, the principle objective is to measure the ozone concentration in the high population density areas and the maximum downwind concentration from the urban region."

The problem may be exacerbated by placement of the Kohler-Andrae monitor on the shoreline.

WMC's Vebber notes:

What we see in Wisconsin is a poorly constructed air monitor network that has a lot of riparian air monitors that are very close to the shoreline picking up this ozone, not measuring actual air quality within the counties but measuring the air quality that's cooking over Lake Michigan and blowing right along the shoreline.

As we go further inland with more air monitors we see the ozone dissipates quickly and we see it's not an air quality concern for many of the counties just along the shoreline and that's largely due to the pollution formed elsewhere that enters those counties—it's not pollution that's formed within those counties.¹¹

WILL Video Report, July 12, 2017. WMC concludes that "[g]iven the location of the primary ozone precursor emission sources in Sheboygan County [i.e. the main sources of Ozone in downtown Sheboygan] relative to the Kohler-Andrae monitor...it is very likely that Sheboygan County facilities contribute a minimal amount to the state's overall contribution." *WMC October 28, 2016 Letter* at 2-3. Those heightened ozone levels are therefore clearly the result of out-state pollution.

A closer look at the data collected from both of the air monitors located within Sheboygan County supports the argument that reliance on the Haven monitor—the monitor downwind from Sheboygan and therefore actually collecting emissions data for Sheboygan businesses—would place the County in the attainment category, even under the lower 2015 NAAQS standard of .070 parts per million.

The WMC letter, relying on 2014-16 data from the Wisconsin Department of Natural Resources,¹² notes "the design value for the Haven monitor would be .069 parts per million (ppm), well within attainment for the 2008 ozone standard of 0.075 ppm." *Id.* at 3. A comparison of the two sets of data included in Table 2 below establishes that the actual air quality in Sheboygan, i.e. the air affected by facilities within the County, as opposed to those outside the County or even the state, is well within 2008 and 2015 ozone standards.

Table 2. Comparison of Air Quality Data from Kohler-Andrae and Haven Monitors

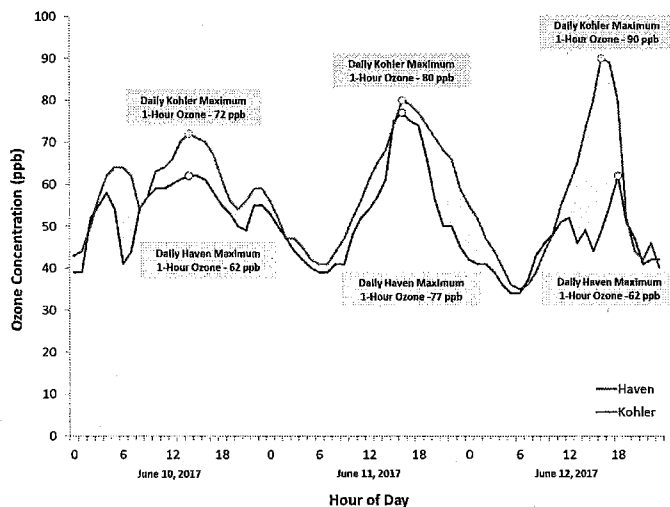
Area	County	Monitor	2013 4th Highest	2014 4th Highest	2015 4th Highest	2016 4th Highest	2013-15 Average	2014-16 Average
Sheboygan, WI	Sheboygan	Kohler-Andrae	.078	.072	.081	.085	.077	.079
Sheboygan, WI	Sheboygan	Haven	n/a	.068	.067	.074	n/a	.069

The 2017 Lake Michigan Ozone Study, directed by NASA, shows even more extremely elevated datasets along the eastern shores of Wisconsin. The main objectives of the Study is "to better understand the lakeshore ozone gradient and to evaluate and improve [chemical transport models] used for regulatory and research purposes in this region."¹³ The mission overview of the study noted that "[p]roduction of ozone over Lake Michigan combined with onshore daytime 'lake breeze' airflow is thought to increase ozone concentrations

preferentially at locations within a few kilometers of the shore.”

And the study bears that out. Recently, the data produced through the Study revealed extreme variations in ozone levels between the two Sheboygan monitors. As illustrated in Figure 2, on June 12th, the difference in ozone levels reached 28 ppb. The Haven monitor, located only 3.2 miles inland, registered a ppb reading that would place Sheboygan well within attainment. Importantly, this reading came in the late afternoon, often the peak time for reading heightened ozone concentration levels.

Figure 2. Differences in Daily Maximum 1-Hour Ozone Concentrations, June 10-12, 2017

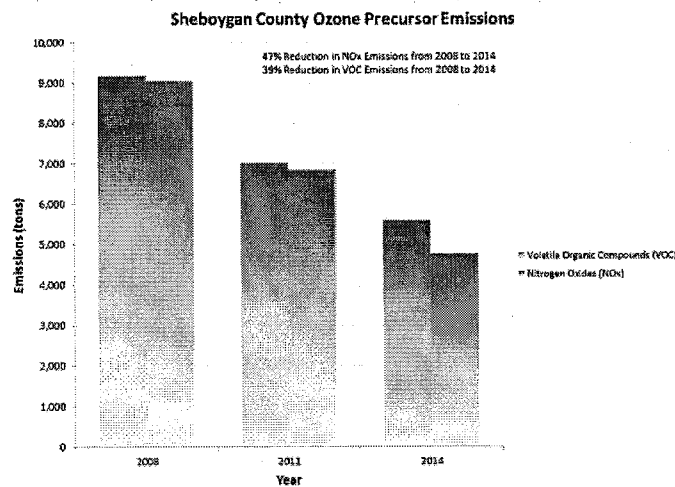


This is not a surprise. In 2014 the State of Wisconsin specifically located the Haven monitor downwind from the major ozone sources in the County in order to collect a more accurate reading. It is frustrating to those affected that EPA ignores it.

This reliance on one poorly placed monitor features an additional consequence—an accurate reflection of Sheboygan air quality shows that not only would the levels fall within attainment requirements, but the air quality in Sheboygan County is significantly improving. But this point is obscured by the nonattainment designation.

That improvement is the result of hard work. Sheboygan businesses have been working tirelessly to adopt measures that lower various emissions. But the EPA is not concerned with any progress, no matter how significant, unless and until the 2008 NAAQS standard of 75 ppb is met. WMC notes that “[s]ince 2008, ozone precursor emissions have declined dramatically in Sheboygan County based on data from EPA’s NEI.”¹⁴ *Id.* at 4. In fact, “NO_x emissions have declined 47% and VOC emissions have declined 39% from 2008 to 2015.” *Id.* These reductions are significant; however, because the EPA continues to rely on the data provided by the Kohler-Andrae monitor, the reductions are simply not enough to overcome the pollutants blown into Sheboygan that contribute to the nonattainment classification.

Figure 3. Ozone Precursor Emission Reductions in Sheboygan County



In response to the proposed rule, Congressman Glenn Grothman, who has represented the area in both the state legislature and now Congress for a combined 20 years, noted that “[m]anufacturing is the largest industry in the County, accounting for approximately 37 percent of all jobs.” *Grothman October 27, 2016 Letter* at 1.¹⁵ Such reliance makes the impact of the nonattainment designation all the more devastating. With respect to the availability of the data generated by the Haven monitor, Congressman Grothman declared “I am dismayed that the EPA would ignore this data and implore you to take it into consideration.” *Id.* at 2.

State legislators have similarly registered their opposition on similar grounds. State Senator Devin LeMahieu and Assemblymen Tyler Vorpapel and Terry Katsma stated “[a]s elected officials, it’s our duty to consider all information presented to us before voting or making decisions that affect our constituents. Likewise, the EPA should be held to the same standard...the EPA should hold off on any regulatory action until it can appropriately consider the Haven monitor’s data.” *Wisconsin Legislature October 27, 2016 Letter* at 2.¹⁶

III. Wisconsin’s “No Growth” Zone

In its proposed rule, the EPA found that the determination of nonattainment does not in and of itself create any new requirements, but rather applied the requirements contained in the CAA. In a breathtaking act of bureaucratic gymnastics, the EPA found, among other things, the action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget
- Is certified as not having a significant economic impact on a substantial number of small entities
- Does not contain any unfunded mandate or significantly or uniquely affect small governments
- Does not have Federalism implications
- Is not an economically significant regulatory action based on health or safety risks

To argue the rule is “not a significant regulatory action,” does not have “significant economic impact,” is “not an economically significant regulatory action”, or does not have “Federalism implications” is nearly impossible to square with reality. The impact of the EPA’s proposed rule on the Sheboygan County economy is substantial. Among other things, the nonattainment designation adds significant regulatory compliance costs on local businesses, unfairly attaches a dangerous stigma to the County that in some cases prevents professionals from relocating, and essentially creates a “no growth” zone in which local businesses are prevented from increasing output, in the process suffocating potential job growth.

Opposition from Business Community

Three local businesses were willing to go on the record in opposition to the proposed rule by submitting comments to the EPA during the notice and comment period, as allowed under the Administrative Procedure Act (“APA”). It’s important to note that many of these firms that spoke out publicly on the issue have exemplary environmental records. These companies are not “anti-environment”. In fact, quite the opposite is true. Many of the most vocal firms are the ones that will be most directly impacted by the increase in the nonattainment designation but they also are the ones that have often remained in the County the longest, have significantly invested in the local communities, and often are run by individuals that live and raise families themselves in the County.

Kohler Company, the largest employer in the County, submitted a letter in opposition to the proposed rule. It emphasized that “[c]ompliance with these [Reasonably Available Control Technology] and [Reasonably Available Control Measures] rules to county businesses has been costly with no detectable impact on ozone concentrations as measured by the Kohler Andrae monitor.” *Kohler Co. October 26, 2016 Letter* at 2.¹⁷ Similar to the legislators’ responses, Kohler offered its opinion that the “Ozone being detected by the Kohler Andrae monitor does not come from the City of Sheboygan nor from Sheboygan County, but is transported into the county from southern communities along the Lake Michigan shoreline: Milwaukee, Chicago, IL, and Gary, IN.” *Id.*

Large companies such as Kohler are not the only ones affected. In fact, burdensome regulations far too often have the most detrimental impact on small to medium sized businesses that don’t have the capacity to absorb the costs or loss of labor associated with something like the nonattainment designation. Sheboygan Paint Company is one such example. Started in 1921 and currently employing 75 employees, the company expanded its operation to Cedartown, Georgia in 1984. *Sheboygan Paint Company October 27, 2016 Letter* at 1.¹⁸

The Company noted in its letter in opposition to the proposed rule it “manufacture[s] industrial coatings and are subject to stringent manufacturing limitations for our Wisconsin facility.” *Id.* It observed that it has “already reformulated our product offerings to reduce [Hazardous Air Pollutant’s] content which increases our cost per gallon and is not required of all paint manufacturers.” *Id.* Ominously, it predicted that “[f]orcing Wisconsin to establish a new SIP could result in our plant in Wisconsin having to transfer production to our Georgia facility which does not have comparable restrictions.” *Id.* (emphasis added).

Plymouth Foam (“PFI”) is another example of a small company that for far too long has been negatively impacted by the County’s nonattainment designation. It stands to lose even more in the event the proposed rule takes effect. It began its letter in opposition to the proposed rule noting its 150 employees provide the area with not only taxes and local spending, but also are community involved through churches, volunteering, and community leadership. *Plymouth Foam October 27, 2016 Letter* at 1.¹⁹

Plymouth Foam offered the following powerful example of the very real and direct impact of the nonattainment designation:

PFI operates as a Title V permit holder, using an RTO system to collect and destroy the components considered VOC's in the material used. This system burns natural gas and needs to maintain a minimum temperature of 1400F, which adds over \$300,000 per year to the overhead costs. Our nearest competition is in Fond du Lac County, only 25 miles west and they do not have to comply by the same requirements due to the attainment status of the county. This puts the competition at a nice advantage when quoting similar jobs.

PFI has shown over the past 5 years to be a very advanced company in their industry and constantly is adding equipment and operations to their portfolio. Their permit has not sat idle for more than 8 months and is constantly in need of change. The offsets involved put restrictions on these needed changes and with the proposed change, the increase of these offsets could restrict the future growth that customers are requesting from PFI. Id.

Nonattainment Consequences

The specific consequences which result from a nonattainment designation under the Clean Air Act can be devastating. Generally, the consequences come in the form of increased costs to industry, permitting delays, restrictions on industry expansion within a geographic area, and delay in transportation planning. There are also increased costs to businesses and consumers due to special requirements for vehicles, fuels sold in the area, and regulations attached to commercial and consumer products. Below are several key consequences:

Table 3. Nonattainment Designation Consequences ²⁰

POLICY IMPACT	EXPLANATION
Economic Development	The loss of industry and economic development can be particularly acute in nonattainment areas. Companies interested in building, or expanding, manufacturing footprints may choose to avoid nonattainment designated counties due to increased costs, delays, and uncertainties associated with the restrictive permit requirements.
Federal Highway and Other Transit Funding	Federally supported highway and transit projects may be altered or delayed in nonattainment areas if the state cannot demonstrate that a project will not increase applicable emissions levels.

Emission Offsets	Companies located in nonattainment areas must offset projected emissions of proposed infrastructure (i.e. a new plant) or a major modification to existing infrastructure by purchasing unused emissions credits from others, or by reducing one's own emissions. In ozone nonattainment zones, offsets typically must be greater than 1:1.5 (e.g. a ton of offsets per ton of emissions). ²¹ The ability to purchase emissions credits becomes increasingly difficult as the available emissions credits are used up over time. Similarly, the ability to reduce existing emissions at a plant that is proposing a major modification may be difficult or impossible for sources that already meet stringent standards and have installed emissions control equipment. Simply put, where no offset can be found, the project may not go forward.
Foreign Sources of Emissions	Certain states may have to provide compensation for contributions to ambient concentrations in an area coming from foreign sources (such as Canada) in order to reach attainment with the NAAQS.
Additional Permitting Requirements	Companies that plan to build a new facility or construct a major modification to an existing facility in, or near, a nonattainment area can be required to install the most effective emission reduction technology without consideration of cost. Less stringent controls may be installed in attainment areas. The permitting process can be expected to last a year or longer as companies work to demonstrate proposals meet application nonattainment requirements. These differences tend to discourage new business investment in nonattainment areas compared with moving to an attainment area.
EPA Involvement in Permitting Decisions	The EPA in certain cases can intervene and require permit revisions, even after a state and company seeking the permit have negotiated terms of a final permit. This can cause tremendous uncertainty, delay, and increased costs in the permitting process.
Continuing EPA Oversight	EPA oversight continues even after standards are eventually met in nonattainment areas. Before a nonattainment area can be redesignated as an attainment area, EPA must make a finding that 1) the area has met the standard (with respect to ozone standards, this requires compliance for at least three consecutive years), 2) the improvement in the area's air quality is due to permanent and enforceable emissions reductions, and 3) the area has an approved maintenance plan and an approved contingency plan that contain enforceable requirements to keep the area from lapsing into nonattainment again.

<p>Technical and Formula Changes for Commercial and Consumer Products</p>	<p>In order to meet the NAAQS standard, some state implementation plans may include regulations that would reduce the pollutant or its chemical precursors (e.g. for ozone, certain types of Volatile Organic Compounds ("VOC")), by requiring changes to operating processes, to a products technical design, or to actual chemical formulation of commercial or consumer products, such as paint, which may result in increased costs to users or differences in performance.</p>
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Nonattainment Real World Implications

As with any policy analysis, the real world implications of a regulatory decision are best described by those who will have to (or are currently) managing the impact of decisions on day-to-day operations.

Steve Steinpreis of Plymouth Foam noted several additional concerns in a recent interview with WILL. Steve began by noting the nonattainment standards affect "people who want to move here. They look at the air quality standards that are published out there and they put their hands up... do I really want to move to Sheboygan County?" This despite receiving ratings as "one of the most economical, people friendly, school friendly, children friendly, business friendly counties in the Midwest." *WILL Video Report, July 12, 2017.*

With respect to the business impact, Steve emphasized the requirement to purchase new equipment. "For us to get a new piece of equipment, it takes three to four months to get through regulations to get that equipment installed. It might only take you three weeks to get the piece of equipment, but it takes three to four months to go through permitting to get that piece of equipment installed. From a business standpoint, what it's costing us is time and money. We have a competitor that's really in the next county—same volume in a year...their permit is two pages long, my permit is fourteen pages long. I have a lot of restrictions in my permit that I have to follow. My competitor doesn't have those for making the same product." *Id.*

As an environmental engineer with the consulting firm Short Elliott Hendrickson, Tom Henning is familiar with the burdens placed on businesses in nonattainment zones. Among other things, he noted that "many manufacturers need to obtain air permits from the state of Wisconsin prior to building a new facility or prior to expanding an existing facility. The air permit regulates the allowable air emissions from the plant and the types of air emission control systems the plant must use. Air permit requirements can be more restrictive for some facilities located in counties that do not meet ambient air quality standards, such as Sheboygan County. This situation can persuade owners looking to site a new facility to choose a location other than Sheboygan County. Existing facilities may choose to expand elsewhere where the requirements are less restrictive." *Id.*

Tom explained how two requirements in particular are challenging for some facilities to comply with. First, "some new or expanding manufacturing facilities must install air emission control technology that is more stringent than required in surrounding counties. These technologies can be very expensive and result in prospective manufacturers looking to other locations to site new manufacturing plants." *Id.*

Second, "the most challenging requirement is the need to obtain emission offsets. An offset is a reduction in emissions at another facility located in the same county that will 'offset' the emissions from the new or expanding facility. An owner that wants to site a new large manufacturing plant in Sheboygan County must find an existing facility in Sheboygan County with emission reductions that will 'offset' the emissions from the new plant." *Id.*

The two significant problems associated with the requirement are that "offsets can be hard to find and therefore expensive or, worse yet, they might not be available. If there are no offsets available, the new or expanding facility cannot obtain the permit needed to move forward with a given project." *Id.*

Lucas Vebber, WMC's Director of Environmental & Energy Policy, has emphasized the concept of Sheboygan being a "no growth" zone. The designation is more than simply symbolic. It is true that the higher regulations affect the bottom lines of business and may indirectly prevent employees from relocating to the County. However, as Vebber points out, the "offsets" alluded to by Sheboygan Foam literally create nonattainment zones where no future growth or expansion is permitted unless and until an "offset" is identified elsewhere in the County. According to Vebber:

Anybody who looks to grow an operation or site a new facility in a nonattainment zone has to find emission offsets before they can grow or put new emissions into the atmosphere. If you are a business that finds yourself in a nonattainment zone the biggest thing that hits you is what's called a no offset requirement. For every unit of criteria pollutant that you may put into the atmosphere... you have to find offsets that are greater than what you may emit depending on the level of nonattainment. There is a ratio that comes into play.

We call these areas "no grow" zones—**when you are a nonattainment zone you literally cannot grow.** If you add any pollution—any growth, any emissions into the atmosphere—you have to first offset that with a greater reduction than you are already putting in. So the net is a loss, it's a no grow zone, it's actually in fact a shrinking zone for economic development which creates trouble and problems for any area that finds itself in that situation which many Wisconsin communities are looking at now under the new ozone standards. *Id.* (Emphasis added).

Vebber added that the consequences are not simply limited to the business community. Counties that are found to be nonattainment may also face regulations which directly affect the personal lifestyle choices made by residents.

When you find yourself in a nonattainment zone residents of those areas can also be impacted depending on how severe the nonattainment is. You could find yourself having to go annually to get your dreaded emissions test. It's a burden on the people of those counties. There's almost any number of regulatory solutions that the state could impose on the residents of those counties, whether it's restrictions on when you can mow your lawn, drive your car, run other engines—it's a limitless burden that could hit the people of those communities. *Id.*

Finally, Jane Brill, Marketing and Program Director for the Sheboygan Chamber of Commerce, is all too familiar with the impact of the nonattainment designation on employee retention and attraction.²² She works closely with Sheboygan's business community—from large employers like Kohler Co. to smaller local shops like Sheboygan Paint and Sheboygan Foam. She noted "Sheboygan County has over 2,500 jobs available. We have been experiencing incredibly strong economic growth due to our world-class companies and our tourism industry. We have miles of sandy beach along one of the greatest natural resources in the world—Lake Michigan. Our border to the west is the Kettle Moraine with its amazing natural features that are remnants of the glaciers." *Id.* Her description certainly makes one want to consider relocating to Sheboygan. However, the reality has been quite the opposite.

She lamented that "even though our landscape, world class companies, quality of life, vibrant arts and culture scene are among the best in the state, we, like other Wisconsin communities, experience difficulty attracting and retaining workforce. But Sheboygan County has an additional obstacle to overcome—our perceived poor air quality." *Id.* Jane is all too familiar with the complaints made by prospective employees. She noted the obvious. "When one is considering relocating to an area, what steps are taken? One researches the area, the businesses, communities, schools, available activities and the overall environment, including air quality. The Sheboygan County Chamber of Commerce annually receives hundreds of phone calls from tourists and those looking to relocate." *Id.*

Anecdotally, she commented that "as with any community, business leaders and friends discuss what is happening. A business owner in Sheboygan recently shared a story with me of a family member looking to relocate to Sheboygan from Oregon. In researching our County, they saw our air quality rating by the American Lung Association was an F, even though our air quality is significantly improving. The family member chose not to move here. **How many others have we lost?**" *Id.* (emphasis added).

IV. Other Counties May be in EPA's Crosshairs

While the issue of the placement of air quality monitors and certain aspects of the nonattainment designations by the EPA are unique to Sheboygan County, other Wisconsin counties along the shores of Lake Michigan should take note, if they haven't done so already. Already underway are the requirements under the 2015 Ozone NAAQS, which lowers the acceptable ozone standard to 70 ppb, as opposed to the 75 ppb under the 2008 Ozone NAAQS.

On October 1, 2016, states were required to submit area recommendations to the EPA. Governor Walker submitted Wisconsin's recommendation to the EPA on September 21, 2016, that all Wisconsin counties be designated as within attainment. EPA was scheduled to notify states concerning any intended modifications to state recommendations by June 2, 2017. A week later, EPA was then to publish its notice of designation recommendations and initiate the 30-day public comment period. States would then have roughly two months to submit additional information, if any, to respond to the EPA's modification of a recommended designation. No later than October 1, the EPA was to promulgate final nonattainment area designations.

In an interesting twist, the EPA issued a one-year delay for states to submit SIPs.²³ While the reprieve has certainly been appreciated by states, it is important to note that the EPA decision simply represents a delay in submitting SIPs and more importantly, does not affect any of the nonattainment standards or in any way address the lack of flexibility. In other words, without further action the various requirements detailed above remain.

So even with the additional year, what this means for counties along the western shores of Lake Michigan is that by the end of 2018, they are likely to be facing a nonattainment designation from the EPA. In Milwaukee County, the Bayside monitor site's current 2014-16 design values register an average concentration of 71 ppb. In Ozaukee County, the Grafton monitor site's current 2014-16 design values register an average concentration of 72 ppb while the Harrington Beach's monitor site registers a value of 73 ppb. In Manitowoc County, its monitor site's current 2014-16 design values register an average concentration of 72 ppm. Finally, in Door County, the Newport monitor site's current 2014-16 design values register an average concentration of 72 ppb. All of these levels obviously register at amounts greater than the limit of 70 ppb, therefore triggering an EPA nonattainment designation.

V. Congressional Solutions

There are several actions Congress could take up to prevent these sorts of problems from taking place in the future. Many are common sense solutions that need to be considered NOW. Below are suggested revisions to the CAA that Congress can directly consider as well as administrative actions which Congress could encourage the EPA take specifically with respect to Sheboygan County.

Out of State Pollutants. As established by the LADCO modeling and explained above, Sheboygan County contributes a minimal amount of pollutants to the state. The data from Figure 2 above further shows the ozone precursor emissions have significantly fallen in the County since 2008. Therefore, as WMC and others have concluded, Sheboygan County has been unfairly affected by out of state pollutants. Congress should amend the CAA to prohibit implementation of a nonattainment new source review and other nonattainment penalties in nonattainment areas where more than 50% of the nonattainment is caused by out of state emission sources.²⁴

Position of Monitors. If a state, in concert with a local unit of government, has established a second air monitor, Congress should demand the EPA provide flexibility so that the most accurate data reflective of the actual air quality is captured and relied on for purposes of establishing attainment or nonattainment areas, as the case may be.

Specifically, Congress should allow states to move the location of NAAQS monitors, even if it is currently demonstrating nonattainment, if the move would put a monitor in a location where it measures impacts on a greater number of human receptors. In addition, Congress should allow states to eliminate a NAAQS monitor in a given county if a second monitor has been operational for at least three years. Finally, Congress should direct under the CAA that riparian monitors be used for regulating pollution transport and not for purposes of making nonattainment designations.²⁵ In other words, Wisconsin can eliminate this crushing burden on Sheboygan County if the federal government would simply get out of the way and provide the state with the flexibility to determine the best course for collecting the most accurate data.

Adjusting Nonattainment Borders. Congress should encourage the EPA to change the geographic boundaries of the Sheboygan nonattainment area to exclude those portions of the County which are clearly in attainment according to data from the Haven monitor. As illustrated by the figures above, while the Kohler Andrae monitor site's current 2014-16 design values register an average concentration of 79 ppb, above the permissible 70 ppm, the Haven monitor site's current 2014-16 design values register an average concentration of 69 ppb, below the permissible 70 ppb.

The EPA should consider minimizing the boundaries of nonattainment areas to just those areas with air quality truly representative of concentrations measured by riparian monitors, which could include splitting counties and/or changing the EPA policy for grouping multiple counties in urban areas.²⁶

In his response to the proposed rule, Congressman Grothman similarly suggested the following:

I also believe that it would be prudent for the EPA to explore the option of changing the borders of the Sheboygan County nonattainment area. The data clearly shows that there are statistically significant differences between the shoreline and areas slightly more inland. These differences should be taken into consideration when drawing the geographic borders of the nonattainment area. It does not make sense to subject areas of the county that are already within attainment to the same blanket regulations as the areas of the county that are out of attainment. *Id.*

Role of Congress in NAAQS Standards. To avoid similar situations in the future and in order to provide more effective oversight of EPA actions, Congress should consider requiring Congressional approval for any revision to a NAAQS. This would allow Congress to prevent additional regulatory burdens. In addition, Congress should require an economic impact analysis for any revision to a NAAQS, which would quantify the economic impact of additional regulations on communities such as Sheboygan County.

Extending Deadline for SIP Plans. At a minimum, Congress should encourage the EPA to use its discretion afforded in Clean Air Act Section 182(j) to allow the state more time to develop the required moderate area SIP elements. As WMC emphasized in its letter in opposition to the proposed rule, the discretion afforded the EPA is explicit:

Each State containing an ozone nonattainment area reclassified under section 7511(b)(2) of this title shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

WMC Letter at 5. WMC emphasized that utilizing such discretion is especially timely seeing that the air quality data now available from the Haven monitor shows air quality measurements that are in compliance. Extending the timeline for the state of Wisconsin to submit its SIP would provide the County with additional opportunities to develop strategies that will help with the enhanced regulatory burden associated with a moderate nonattainment designation.

This accommodation would also recognize the near impossibility of the EPA expectation of the state. Remember, as explained by WMC, EPA's federal register notice states "Moderate nonattainment areas are required to attain the standard 'as expeditiously as practicable' but not later than six years after the initial designation as nonattainment," which is July 20, 2018 for Sheboygan County.

This means the state of Wisconsin is expected to develop a SIP that will get the County in attainment with only one year of ozone emissions measured after it begins to implement that SIP. This would require the fourth highest ozone value for 2017 to be at or below 0.059 ppm—a number that is below background levels. Nothing the state or County does (especially when the vast majority of contributing parts emanate from outside the County and even the state) could achieve such a result.

Conclusion

While the above recommendations would represent aggressive revisions to the Clean Air Act, there is room for optimism in light of President Trump's March 31, 2017 Executive Order—Promoting Energy Independence and Economic Growth.

The stated policy of the order declares that “[i]t is in the national interest to promote clean and safe development of our Nation’s vast energy resources, while at the same time avoiding regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation.” The order directs “all agencies should take appropriate actions to promote clean air and clean water for the American people, while also respecting the proper roles of the Congress and the States concerning these matters in our constitutional republic.” (emphasis added)

Sheboygan County is home to dynamic companies, many of which contribute significantly to the local communities. As a County that lies along the beautiful shores of Lake Michigan, the County’s residents and employers share a love for their environment. However, for nearly twenty years the EPA has allowed a poorly placed compliance monitor to hold Sheboygan County accountable for pollution that is almost entirely generated elsewhere. The regulations that accompany the accountability required by EPA cost local businesses and create a narrative of a pollution-filled county that deflects those considering relocating to Sheboygan County.

As detailed above, the use of one poorly placed monitor may cripple the local economy, creating what many consider a “no growth” zone, where economic growth is essentially neutralized. As WMC’s Vebber summarized, “in Sheboygan County in particular, and other Wisconsin lakeshore counties, it’s something that’s not the fault of the people in those counties. They are paying for other states’ pollution and there’s nothing they can do to get out of that burden—because of an inflexible federal law.” WILL Video Report, July 12, 2017. The prescriptions included in this policy brief would in many ways alleviate the struggle Sheboygan is fighting. Congress should act NOW to provide flexibility to the state of Wisconsin and its local units of government so they can work in concert to preserve a shared environment without undermining local business.

- ¹ Special thanks to Lucas Vebber, General Counsel and Director of Environmental and Energy Policy at the Wisconsin Manufacturers & Commerce, for his significant contributions to this Policy Brief.
- ² According to the EPA, the CAA (last amended in 1990) “requires EPA to set National Ambient Air Quality Standards (40 CFR part 50) for pollutants considered harmful to public health and the environment.” The CAA focuses on two types of national ambient air quality standards—primary and secondary. Primary standards “provide health protection, including protecting the health of ‘sensitive’ populations such as asthmatics, children, and the elderly” while secondary standards “provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation and buildings.” See <https://www.epa.gov/criteria-air-pollutants/naaqs-table>.
- ³ Standards have been set by the EPA for six principal pollutants under the NAAQS. These six pollutants are called “criteria” air pollutants. They include carbon monoxide (CO), lead (Pb), Nitrogen Dioxide (NO₂), Ozone (O₃), particle pollution (PM), and Sulfur Dioxide (SO₂). At issue in Sheboygan County is the appropriate levels of Ozone, which is considered by the EPA both of primary and secondary concern and is limited to .070 ppm, as calculated by the annual fourth-highest daily maximum 8-hour concentration, averaged over 3 years (the previous limit under the 2008 ozone NAAQS was .075 ppm) (the “design value”).
- ⁴ CAA section 181(b)(2) requires EPA to determine, based on an area’s ozone design value as of the area’s attainment deadline, whether the area has attained the ozone standard by that date. Areas that have not attained the standard by their attainment deadlines must then, under the terms of the CAA, be reclassified to the next “highest” classification, i.e. from “marginal” to “moderate” or from “moderate” to “serious.”
- ⁵ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0001>
- ⁶ <http://dnr.wi.gov/topic/AirQuality/documents/input/DraftSheboyganAttainPlan.pdf>
- ⁷ <http://dnr.wi.gov/topic/airquality/input.html>
- ⁸ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0005>
- ⁹ See Lake Michigan Air Directors Consortium, “White Paper: Lake Michigan Ozone Study 2017.” Available at http://ladco.org/reports/ozone/post08/Great_Lakes_Ozone_Study_White_Paper_Draft_v6.pdf, stating: “LADCO source apportionment modeling studies suggest that Wisconsin contributes to less than 10% of the ozone at Sheboygan..., significantly limiting the state’s options to reduce ozone concentrations at this site.”
- ¹⁰ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0008>
- ¹¹ In addition to the inland Haven monitor, other counties are experiencing a similar dynamic with both a riparian monitor and an inland monitor located within a single jurisdiction. For example, in Milwaukee County, the riparian monitor located in Bayside shows much higher ozone levels than the two monitors located further inland in downtown Milwaukee. In Kenosha County, the riparian monitor located at the Chiwaukee Prairie State Natural Area registers much higher ozone levels than the inland Kenosha Water Tower monitor.
- ¹² Wisconsin Department of Natural Resources, “Air Quality Reports.” Available at: <https://dnrx.wisconsin.gov/wisards/webreports/generateAdvancedReports.do>
- ¹³ <https://www-air.larc.nasa.gov/missions/lmos/>
- ¹⁴ U.S. Environmental Protection Agency, “2014 NEI Data.” Available at: <https://www.epa.gov/air-emissions-inventories/2014-nei-data>
- ¹⁵ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0002>
- ¹⁶ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0006>
- ¹⁷ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0007>
- ¹⁸ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0004>
- ¹⁹ <https://www.regulations.gov/document?D=EPA-R05-OAR-2016-0277-0003>
- ²⁰ Special thanks to Steve Steinpreis, Director at Plymouth Foam, for his expertise in preparing the listing of nonattainment designation consequences.
- ²¹ The EPA maintains a full listing of ratios for all nonattainment classifications. See <https://www.epa.gov/ozone-pollution/required-sip-elements-nonattainment-classification>.
- ²² For further evidence of the negative impact the designation can have on recruitment efforts, see organizations like the American Lung Foundation, which “grades” counties on air quality and has recently designated Sheboygan County as a “failing” county for air quality standards, a grade which almost certainly startles and potentially scares away families looking to relocate to Sheboygan for employment purposes. Importantly, the methodology used by the Association to determine the “grades” relies almost exclusively on the EPA nonattainment designations. See <http://www.lung.org/assets/documents/healthy-air/state-of-the-air/state-of-the-air-2017.pdf>.
- ²³ <https://www.epa.gov/newsreleases/epa-extend-deadline-2015-ozone-naaqs-area-designations>
- ²⁴ See supra note 3. Source apportionment modeling from the Lake Michigan Air Directors Consortium (LADCO) suggests that “all of the sources in the entire State of Wisconsin contribute less than 10% of the ozone being detected.”
- ²⁵ <https://www.epa.gov/newsreleases/epa-extend-deadline-2015-ozone-naaqs-area-designations>
- ²⁶ See Michael Best & Friedrich LLP white paper, Creating a More Equitable and Accurate Ozone Attainment Designation Process.



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Public Hearing

Written Testimony

Stephen McCordell

Name

12/14/17

Date

2122 Meadowland drive

Street Address or Route Number

Bill 460

Subject

Shelbysan, WI 53081

City/Zip Code

Wisconsin Bank + Trust

Organization (if applicable)

Registering: In Favor Against

I do not believe we should continue to fund a monitor that does NOT comply with government standards for testing. The results are not accurate and are unfairly penalizing Shelbysan County by classifying as "non-attachment".

Public Hearing

Written Testimony

Lynn Potygen

Name

Dec 14, 17

Date

1919 N 6th

Senate Bill 466

Subject

Street Address or Route Number

Shuboygan WI 53081

City/Zip Code

Registering: In Favor Against

The Campaign

Organization (if applicable)

Having no control of the air quality coming out of the factory neighbors, is harsh on our local businesses. Please continue to use common sense to support the growth of our businesses & families.

They say we would delight to jump through hoops to add the new monitoring station off Hwy 12. Best thing this action we wanted to scientifically prove that our air quality wasn't being caused by local producers but by the manufacturers in Chicago & Indiana along the lake.

This false data is causing the foreign trade & ~~the~~ neighbors regarding the sub city ability to encourage factories to settle here.

The current monitor is showing that the air is from a regional problem. Though the level is high we need to change the source, ~~not~~ not continue to cripple financially the over regulation of our county. We are at 12% of the factories is not balanced.

Please return this slip to a messenger promptly.

WISCONSIN STATE SENATE

Public Hearing

Written Testimony

Diane Kitelinger
Name

12-14-17
Date

W1370 Cedar Ct
Street Address or Route Number

Air Quality Monitor
Subject

Oostburg WI 53070
City/Zip Code

N/A
Organization (if applicable)

Registering: In Favor Against

Not measuring our air quality is irresponsible given the responsibility of our state govt. to the wellbeing of the citizens of the state.

Saying we are not responsible to monitor air quality and remedy the situation is like saying we do not need to monitor the safety of our highways because the speeders come from outside of our state.

Public Hearing

Written Testimony

Linda Shimon

Name

12/14/2017

Date

1326 N. 27th St.

Street Address or Route Number

Senate Bill 466

Subject

Sheboygan / 53081

City/Zip Code

Sheboygan Kohler-Andrae air quality monitor

a Citizen for a healthy environment - my personal concern

Organization (if applicable)

Registering: In Favor Against

- I question the reliability of the comment that the monitor is inaccurate. It does show what is there, what is spreading around the environment. It is irrelevant that the ozone does not come from Sheboygan county. ^{to local businesses} Fairness has nothing to do with the use of the monitor. What does have an impact is the quality of air we breath. If pollution comes in from other locations, work with those locations to mitigate that problem. Allowing local businesses to add to the poor quality only makes it more dangerous to live here. Medical expenses are connected to bankruptcies (personal) and a lesser quality of life due to restrictions of activities due to breathing and heart issues. ~~Local~~ ^{Present} local companies are already complying. If the positioning of the monitor is in question, move it, don't remove it. Location may be good to provide evidence that distant location manufacturers are not in compliance - monitors near the offending manufacturers are ineffectual because the wind removes the offending pollutants. Seemed pointless to be there as those legislators who spoke out were all FOR the bill - why bother to speak against? EPA regulations have NOT met area O₃ health. - Need more monitors to attain more accurate data. ~~Businesses~~ may not have the health of

Please return this slip to a messenger promptly.

area citizens in mind shown by that they don't want
the monitors! Monitors take away profit.

- Taking away funding will take away the
monitor. Monitors are a tool to creating smart
legislation.

Public Hearing

Written Testimony

CLAUDIA BRICKS

12-14-17

Name

Date

314 PIONEER RD.

SB 466

Street Address or Route Number

Subject

SHEBOYGAN WI 53081

Removing Kohler Andrus air quality monitor

City/Zip Code

Friends of the Black River Forest

Registering: In Favor Against

Organization (if applicable)

I live right near the Kohler-Andrus monitor and this is important to me. What is the purpose and intent of these monitors? I would hope it would be to alert the public that there are problems with the air they are breathing. Removing a monitor just doesn't make sense to me, unless we're putting the health of businesses over the health of citizens - your constituents.

What exactly is the quality of air in Sheboygan County? What is the range of these monitors? Are 2 enough?

Fix the problem - don't just remove the monitor. Put a third monitor further west in the County - triangulate the records from all 3 to get a more accurate picture.

Or turn the Kohler monitor site from just recording lead levels to also monitor ozone. The Harrington Beach monitor measures fine particulates as well as ozone.

Do not remove this monitor without replacing it with a plan that will protect the health of our citizens. Removing the monitor does not solve the problem. Part of the solution is to continue encouraging ALL of us to improve the quality of the air we breathe. Balance the health of businesses with the health of citizens. It's not an either/or situation. Keep working with the EPA using the power

Public Hearing

Written Testimony

Mary C. Hayward

Name

12-14-17

Date

427 Clifton Ave

Street Address or Route Number

Senate Bill 466

Subject

Sheboygan, WI 53083

City/Zip Code

C-21 Rautmann/Schils

Organization (if applicable)

Registering: In Favor Against

Because I am only given 2 choices I have to
say in favor of the bill -

I would prefer to have the monitor
left and used properly - that is to
monitor - The non-attainment area is
what should be regulated - I agree
with Sen. Bull and Mr. Hass -
Why should all of Sheboygan City be
penalized if any at all. -

Public Hearing

Written Testimony

Charles Windsor

Name

12-14-17

Date

4 North Point Dr

Street Address or Route Number

SB 466

Subject

Sheboygan 53081

City/Zip Code

Organization (if applicable)

Registering: In Favor Against

No one today mentioned the cost of the false positive alerts. The Terry Andre monitor is not representative of the air quality of most of the county. Alerts are given and children and adults needlessly curtail their outdoor activity.

In a general sense being labeled non-attainment prevents some children from being allowed by their parents from participating in organized sports activities.

DNR should consider closing Terry Andre Park on days of ozone alerts, based on information provided by lung association

WISCONSIN STATE SENATE

Public Hearing

Written Testimony

GREG BURGETT

Name

12/14/17

Date

516 VoMrahn Blvd

Street Address or Route Number

Senate Bill 466

Subject

Shokoy Falls, WI 53091

City/Zip Code

Organization (if applicable)

Registering: In Favor Against

I fully support SB 466!

Public Hearing

Written Testimony

Joanne Friedman

Name

12.14.17

Date

W6654 County Road V

Street Address or Route Number

Clean Air

Subject

Cascade, WI 53011

City/Zip Code

Organization (if applicable)

Registering: In Favor Against

Sheboygan is 24th on the list of most contaminated air, is the goal to become number one? The pollution has been proven to come from the Chicago area, but adding to it will not fix the problem. Wisconsin was a leader of clean environmental practices. Buy keeping the air monitors in place and continuing to document the air quality there is an awareness of what the numbers are. In addition it sets an example to the neighbors to the south - we are keeping track & they should follow Wisconsin's lead.

As Pope Francis states in his book, "On care for our Common Home,"

Exposure to atmospheric pollutants produces

a broad spectrum of health hazards." Pg 10

"For human beings to contaminate the earth's waters, its land, its air and its life - these are sine."

As he requests in his universal prayer, each human know matter what religion or where they live, respects the earth and care for her as she is our gift from God.

I want to remind you that this gift needs to be protected. Our community can continue to be a leader in proving,

Yes we can provide clean air for the people of Sheboygan + the world.

Public Hearing

Written Testimony

Christine Burr

Name

W1339 Cedar Ct.

Street Address or Route Number

Wausau, WI 53070

City/Zip Code

Organization (if applicable)

12-14-17

Date

Air Quality bills #457 and #464

Subject

Registering: In Favor

Against

Protecting the citizens of Wisconsin from the dangers of polluted air is important and should be addressed even if it's difficult or unpopular to do so.

Prohibiting funding and use of air quality monitors because the air quality is poor but it's not Sheboygan County's fault is not going to protect us — it's giving legislators the ability to ignore the problem. We elected our state senators to solve problems, not to pass bills making it legal for them to ignore problems.