



JESSE KREMER

STATE REPRESENTATIVE • 59TH ASSEMBLY DISTRICT

*Testimony before the Assembly Committee on Federalism & Interstate Relations
State Representative Jesse Kremer
November 21, 2017*

Good morning Chairman Vorpagel and Federalism Committee members. I would like to thank you for holding a hearing on a couple of 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 AB587 nor AB588 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. AB588 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

STATE REPRESENTATIVE • 26th ASSEMBLY DISTRICT

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P.O. Box 8952
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Date: November 21, 2017
To: Assembly Committee on Federalism and Interstate Relations
From: Representative Terry Katzma
Re: Assembly Bill 588: Eliminating the Kohler-Andrae Air Quality Monitor

Dear Chairman Vorpapel and fellow committee members,

Thank you for convening a public hearing on Assembly Bill 588. 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 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

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.

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=tSwqgrFk_oU&feature=youtu.be



DEVIN LEMAHIEU

STATE SENATOR

Assembly Committee on Federalism and Interstate Relations Testimony on Assembly Bill 588 November 21, 2017

Chairman Vorpapel and Members,

Thank you for hearing my testimony on Assembly Bill 588, which will allow the Department of Natural Resources to utilize an accurate air quality monitor in Sheboygan County.

As a result of EPA's decision to reclassify Sheboygan County to moderate nonattainment status, Representative Kremer, our fellow Sheboygan County legislators, and I introduced AB 588 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 manmade 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.

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 AB 588, 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.



John Muir Chapter

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**Statement of the Sierra Club's John Muir Chapter in opposition to
Assembly Bill 588
November 21, 2017**

Chairman Vorpapel and members of the committee, my name is Bill Davis. I am the Chapter Director for the John Muir Chapter of the Sierra Club. I would like to thank you for the opportunity to provide comments in opposition to Assembly Bill 588. The John Muir Chapter represents over 18,000 members and an additional 30,000+ supporters living throughout the state. We work to provide opportunities for Wisconsinites to enjoy nature and advocate for the fair and rational management of our common resources so that all Wisconsin residents have access to the clean air, water and land they need for their health, safety and well-being as well as to move our economy forward.

The John Muir Chapter of the Sierra Club opposes AB 588 because by removing the air quality monitoring station in Kohler-Andrae State Park this bill would remove information that is important for Wisconsin families to have to protect themselves. This monitor collects data on ozone pollution. Ozone can cause troubling breathing and coughing even among the relatively healthy but is extremely bad for those with asthma or other breathing disorders. Regardless of where the pollution is coming from the monitor show it is there. **To remove the monitor is the equivalent of telling people to go home and take the batteries out of their smoke alarms. It means that families will not have vital information they need to protect themselves when they need it.**

In addition, this monitor is part of a larger multistate network that is used to help identify and reduce air pollution in the region. Removing this station would retard those efforts.

It is for these reasons we urge the committee to oppose AB 588.

Thank you again for the opportunity to testify.

Remember to Support the Sierra Club through your workplace giving campaign!
The John Muir Chapter is proud to be a member of



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WMC

WISCONSIN MANUFACTURERS & COMMERCE

TESTIMONY BEFORE THE ASSEMBLY COMMITTEE ON FEDERALISM AND INTERSTATE RELATIONS IN SUPPORT OF ASSEMBLY BILL 588

Chairman Vorpapel 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 Assembly Bill 588.

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.

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

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

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.

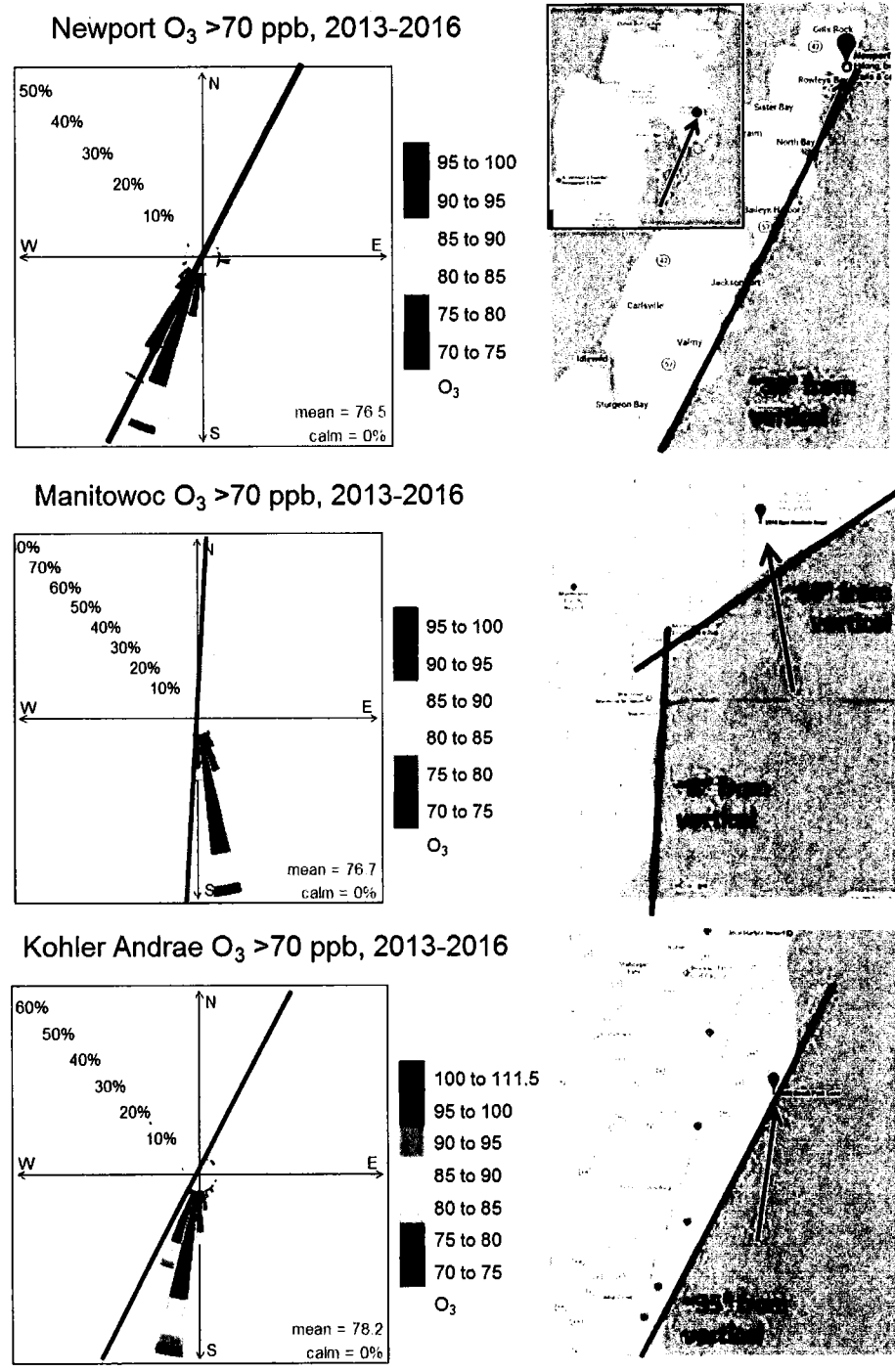
The Kohler-Andrae monitor is located about 100 yards from the shore of the lake. It consistently reads high levels of Ozone. To obtain more accurate data of what the air quality within Sheboygan County is like, the people of Wisconsin funded and placed a second air quality monitor in Sheboygan County — 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.

Figure 5.1. Ozone pollution roses for hours with ozone above 70 ppb (left) and maps of monitor locations for lakeshore monitors (right). In the pollution roses, the length of the paddle shows the percentage of hours with winds from that direction, and the color corresponds to the average ozone concentration during those hours. The blue line in both figures shows an estimate of the shoreline angle, and the red arrow shows the angle of the dominant wind direction at that monitor. Map scales vary somewhat between maps.



As shown in the table, under both scenarios most monitors show little to no change in their modeled 2017 design value (0.1 ppb or less) using either grid cell approach. The results of these two emission reduction scenarios are discussed in more detail below.

5.2.2. Scenario 1 Results

Projected design values showed almost no change in response to the 10 percent emissions cut across the 10-county area. Large, additional emissions reductions from the lakeshore area, which includes Wisconsin's most populous areas (including greater Milwaukee), would therefore have no meaningful impact on ozone design values at any of Wisconsin's lakeshore monitors. Design values are even projected to increase under this scenario at some monitors in the southern part of the lakeshore under the 1x1 grid cell approach, likely due to decreased titration effects in the urban center.

5.2.3. Scenario 2 Results

The results from the model run that eliminated all anthropogenic emissions from Sheboygan County were even more striking. Specifically, under the 3x3 grid cell approach, the design value at the Kohler Andrae monitor showed no decrease at all. Under the 1x1 approach, the design value at this monitor was actually predicted to *increase* by 0.6 ppb. Sheboygan County, therefore, has no ability to reduce ozone concentrations at the Kohler Andrae monitor. Some reductions in design values at monitors located north of the county were predicted under this scenario, but even these impacts were extremely small (generally, around 0.1 ppb).

5.2.4. Summary

LADCO modeling results clearly show that further reductions in nearby source emissions would have little, if any, impact on the monitored ozone concentrations in Wisconsin's lakeshore counties. Local emissions are essentially decoupled from the ozone concentrations registered in these counties. These results are also entirely consistent with what is understood about ozone transport and formation in this region as described earlier in this document.

This new information has significant impacts on the designations process. Specifically, these results show that designating nonattainment areas in the vicinity of any violating monitors would not offer any meaningful improvement on air quality; in fact, this may actually result in increasing ozone levels. These results also show that designating large nonattainment areas around lakeshore monitors, with the ostensible purpose of capturing the NOx and VOC emissions contributing to a violating monitor, simply is not supported when it comes to Wisconsin's lakeshore. Accordingly, given the limited influence of local emissions on lakeshore ozone concentrations, control of these nearby emissions should not be a factor considered by EPA when considering potential area designations in the state.

Congress of the United States

WASHINGTON, DC 20510

July 18, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Dear Administrator Pruitt:

Thank you for your recent actions to further delay the enforcement of the EPA's ozone rules until at least October 2018. The one-year delay in the implementation of the 2015 ozone standards will give the agency additional time to more closely examine the issue of attainment designations.

Because the entire eastern border of Wisconsin abuts Lake Michigan, it is our hope that in the intervening year, the EPA will make crucial changes to how it makes compliance decisions under both 2015 and 2008 standards. In February, we wrote to Acting Administrator McCabe outlining our concerns regarding Sheboygan County, Wisconsin, which is facing severe regulatory-related economic development and private investment losses, solely due to the location of one air monitor sensor. The county's resulting ozone non-attainment status is a travesty we are determined to see fixed.

After ozone forms and travels a distance over a body of water, wind currents easily and often blow it back over a random coastline, where it can be captured by an air monitor and unfairly registered in that region. Current EPA regulations make it practically impossible ever to move an air monitor, even a short distance, or to discontinue it.

While all Great Lakes lakeshore counties will significantly benefit from the implementation delay, the EPA can take steps internally to fix this illogical inequity facing Sheboygan County. Conversations with local stakeholders indicate there are at least four possible actions the EPA could take that would result in Sheboygan County receiving a fair opportunity to meet future ozone attainment standards. In no particular order, they are:

1. Provide states with the ability to determine the proper locations for ozone monitoring sensors, including where to place specific coastline monitors.
2. Create a new "not our fault" distinction inside the current non-attainment status designation, in order to allow for the avoidance of penalties when it can be scientifically proved that high readings are not caused by resident industries.
3. Determine that no air monitor placed within two miles from a lake coastline can be designated as that county's sole air quality measurement device.
4. Utilize the average reading of two air monitors, when one is placed directly on a shoreline and another is placed a few miles inland.

Wisconsin businesses have made leaps forward through their efforts to lower pollution levels and improve the region's air quality. The state's ozone levels have decreased drastically in recent decades, and will continue to fall as counties and the businesses in them work to meet future EPA ozone requirements. Again, as you work through the attainment designation issues we have raised, we ask you give serious consideration the actions suggested above.

Thank you for your attention to this matter, and we look forward to your agency's response to our request.

Sincerely,



Ron Johnson
U.S. Senator



Glenn Grothman
Member of Congress

Sheboygan County Ozone Nonattainment Task Force

Who Are We: The Sheboygan County Ozone Nonattainment Task Force is a voluntary coalition of federal, state and local representatives, local businesses and other members organized by the Sheboygan County Chamber of Commerce. The Task Force was recently formed to address the ongoing ozone nonattainment situation in Sheboygan County, Wisconsin.

History: The economy of Sheboygan County has very likely been hampered by ozone nonattainment designations since 1990. Today, Sheboygan County contributes very little to the problem, but continues to be stuck with the resulting nonattainment requirements.

The Kohler Andrae monitor has been operational as an ozone monitor since June 1997.¹ This monitor was originally intended to measure transport of ozone along Lake Michigan; however, it was then redesignated for use in assessing compliance with federal air quality standards (i.e. the National Ambient Air Quality Standards (NAAQS)). The Kohler Andrae monitor is located upwind from the City of Sheboygan and its location is not consistent with the Environmental Protection Agency's (EPA's) guidelines for proper monitor placement. Regardless, given current federal monitoring regulations, EPA will not approve moving or not using this monitor for NAAQS compliance purposes.

In April 2014, the Sheboygan County Chamber of Commerce worked with state legislators and the Wisconsin Department of Natural Resources (WDNR) for a second, more appropriately located, ozone-monitoring site in Haven, Wisconsin.² The Haven site is located exactly as specified by the EPA, downwind from a metro area, the City of Sheboygan. Notably, this monitor meets all federal ozone standards, even the 2015 ozone NAAQS of 70 parts per billion (ppb). Regardless, EPA will not change the current nonattainment designation for Sheboygan County until the Kohler Andrae monitor measures compliance.

Lake Michigan is known to be very conducive for ozone formation where transported pollutants collect and interact with sunlight to form ozone. Ozone typically measures highest at the Kohler Andrae when there is a lake breeze and the ozone moves on-shore, generally from 2 p.m. to 6 p.m. The Midwest Regional Planning Organization – the Lake Michigan Air Directors Consortium (LADCO) recently issued a report that concluded interstate transport of pollutants significantly limits Wisconsin's options to reduce ozone concentrations at this monitoring site.³

Another recent LADCO report stated that their "source apportionment modeling studies suggest that Wisconsin contributes to less than 10 percent of the ozone at Sheboygan (Figure 5), significant limiting the state's options to reduce ozone concentrations at this site.⁴ Furthermore, of that 10 percent Wisconsin contribution, approximately only 2 percent comes from Wisconsin point source emissions.

Sheboygan County emissions of nitrogen oxides (NOx) have declined 47 percent from 2008 to 2014, while emissions of volatile organic compounds (VOC) have declined 39 percent over the same time period based on data from the EPA's National Emissions Inventory (NEI).

¹ Kohler Andrae Site ID: 55-117-0006

² Haven Site ID: 55-117-0009

³ [http://www.ladco.org/reports/ozone/post08/LADCO%20Ozone%20TSD%20FINAL%20\(Feb%203%202017\).pdf](http://www.ladco.org/reports/ozone/post08/LADCO%20Ozone%20TSD%20FINAL%20(Feb%203%202017).pdf)

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

Economic Impact: The economy of Sheboygan County has likely been hampered by ozone nonattainment designations. These designations have made it difficult to attract new business, business expansions moving out of state, employers leaving the area and capital investments being diverted elsewhere. It has also tarnished our county as being "unhealthy", and we know people who have chosen not to move here due to our nonattainment designation. A few examples of the impact to manufacturing are described below.

Plymouth Foam Inc. (PFI) operates as a Clean Air Act Title V permit holder, using an RTO system to collect and destroy the components considered volatile organic compounds (VOC's) in the material used. This system burns natural gas and needs to maintain a minimum temperature of 1400 F, which adds over \$300,000 per year to overhead costs. The nearest competition is in Fond du Lac County, only 25 miles west and they do not have to comply by the same requirements, giving them competitive advantage in quoting jobs. PFI's permit has not sat idle for more than eight months and is constantly in need of change. The VOC emissions offsets involved put restrictions on these needed changes and with the recent EPA bump-up from a marginal to moderate nonattainment area in Sheboygan, the increase in future offsets could restrict the future growth that customers are requesting from PFI.

Sheboygan Paint Company (SPC) started in Sheboygan in 1921, employs 75 people with payroll exceeding \$5,000,000. In 1984, SPC built another manufacturing facility in Cedartown, Georgia which now employs 45 people with a payroll in excess of \$2,500,000. SPC manufactures industrial coatings and are subject to stringent manufacturing limitations at the Sheboygan facility. The continued bump up of Sheboygan's nonattainment status could result in Sheboygan Paint shifting production to Georgia which does not face comparable restrictions.

Our Desired Outcome: We have had meetings with EPA Region 5 at the suggestion of Senator Baldwin's office. We know that this problem can only be resolved at the national level in Washington D.C. We are asking for the Kohler Andrae monitor to be repurposed as a monitor designated specifically to measure transport, as it was originally intended and not to be used to assess ozone attainment status. As the Kohler Andrae monitor is measuring ozone concentrations above the federal standards, the EPA refuses to remove it or reclassify it. Scientific studies have shown that the emissions being measured are not from Sheboygan County, yet we are being held in nonattainment, and faced with enhanced requirements. We would like the Haven monitor to be the sole ozone attainment monitoring site in Sheboygan County **for all applicable ozone standards**, as it is properly sited and representative of air quality in the county.

Using the Kohler Andrae monitor to measure transport will assure that all communities bordering Lake Michigan are continuing to make improvements and are responsible for their emissions. We would like to ask you for any support you can provide to us on the national level. If possible assistance with coordinating meetings with the EPA in Washington D.C. would be helpful.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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Scott Walker, Governor
Cathy Stepp, Secretary
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April 20, 2017

Robert Kaplan
Acting Regional Administrator
U.S. Environmental Protection Agency - Region 5
77 West Jackson Blvd.
Chicago, IL 60604-3507

Subject: Supplemental Information for 2015 Ozone National Ambient Air Quality Standard (NAAQS) Area Designations

Dear Mr. Kaplan:

On October 1, 2015, the U.S. Environmental Protection Agency (EPA) revised both the primary and secondary ozone NAAQS. On September 21, 2016, in accordance with section 107(d)(1)(A) of the Clean Air Act (CAA), Governor Walker recommended that all counties in Wisconsin be designated as attainment for this standard. In support of the governor's recommendation, the Wisconsin Department of Natural Resources (WDNR) is submitting the enclosed technical support document (TSD). EPA should consider this supporting information and ensure it is reflected in any modifications to the governor's recommendation EPA elects to make in the "120 day" notifications that would occur prior to final designations.

While the general concept of ozone formation and transport in the Lake Michigan basin has long been recognized, this TSD incorporates data from a variety of sources, some of which were unavailable until recently. This includes:

- Analysis of ozone data from the lakeshore and inland monitors operated by WDNR in both Sheboygan and Kenosha counties to help understand the lakeshore ozone gradient;
- Analysis of wind data when values above the 2015 ozone standard have been measured at shoreline monitors;
- Recent HYSPLIT and source apportionment modeling results;
- Photochemical modeling conducted by the Lake Michigan Air Directors Consortium (LADCO).

The result is a comprehensive, multifaceted analysis of the origins, transport, and impacts of ozone along Wisconsin's Lake Michigan shoreline. This technical document supports several important conclusions:

- Elevated ozone levels are confined to an extremely narrow band that follows Wisconsin's shoreline, with air quality improving dramatically just a few miles inland;
- Ozone concentrations measuring above the level of the 2015 ozone NAAQS at the state's lakeshore monitors occur almost exclusively when the wind is coming from over the lake, not from over Wisconsin;
- Ozone concentrations at Wisconsin's lakeshore monitors are primarily due to emissions originating from outside the state;

- Additional emissions reductions from the areas around Wisconsin's shoreline monitors, including the state's most populous areas, would not meaningfully change the design values at those monitors. In fact, in some cases such reductions would actually increase ozone concentrations.

This last point is of particular significance to the designation process. Historically, EPA has designated areas around violating monitors (typically, entire counties or metropolitan areas) based on the premise that nearby sources of VOC and NO_x emissions contribute to locally monitored ozone concentrations. The TSD, however, provides incontrovertible evidence to the contrary. Specifically, photochemical modeling shows that hypothetical (and unrealistically large) additional cuts in VOC and NO_x emissions in ten eastern counties – including the entire Milwaukee metro area – would only reduce ozone design values by an average of 0.1 ppb. This impact is insignificant, equating to about one tenth of one percent of the 2015 ozone NAAQS of 70 ppb.

This effect is even more pronounced in Sheboygan County. It is widely recognized that Sheboygan County's Kohler Andrae monitor, which regularly registers the highest ozone concentrations in the state, is greatly affected by ozone transport due to its location.¹ This TSD quantifies, for the first time, the county's own contributions to ozone levels at that monitor. New modeling shows that, even if it were possible to eliminate *all* manmade sources of VOC and NO_x emissions in Sheboygan County – a clearly impossible scenario – ozone design values at the Kohler Andrae monitor *would not decrease at all*. In fact, the data indicates that ozone values might actually *increase*. The irrefutable conclusion – that Sheboygan County has no ability to reduce ozone values at the Kohler Andrae monitor – has obvious and significant implications on the designations process.

The governor noted in his September 21, 2016 letter that, if EPA elects to designate areas of the state as nonattainment, EPA should ensure that the geographic scope of these areas is minimized. Chapter 6 of the TSD describes the maximum geographic extent that could be considered by EPA, based on the latest available monitoring data and extensive analysis of the "lake breeze" effect that transports high ozone air to the Wisconsin lakeshore. Any nonattainment areas EPA elects to impose must adhere to this science-based, "distance from the shoreline" approach, rather than on arbitrary boundaries based on historical practice or outdated theories of how local emissions impact ozone levels in the state.

This submittal provides compelling, data-driven evidence for what has long been understood: Wisconsin's ozone problems are due to transported pollutants, exacerbated by the unique effects of Lake Michigan, and are not meaningfully affected by in-state emissions. EPA's repeated unwillingness to fully address the impacts of ozone transport on Wisconsin has left the state to address its nonattainment issues on its own. Wisconsin has met this challenge by implementing many measures to reduce pollutants and operating one of the best-controlled utility fleets in the nation. However, the science is clear: there are no demonstrable benefits to be gained by further controlling emissions in the state for the purpose of this standard. EPA must acknowledge this information, and use the discretion it has under the CAA to avoid imposing nonattainment areas on the state that would not improve air quality.

¹ EPA acknowledged this as recently as its January 2017 preliminary transport modeling for the 2015 ozone standard, in which ten upwind states were shown to contribute significantly to this monitor (this modeling also predicted a 2023 design value at this monitor of 71 ppb, which would exceed the standard).

I am available to discuss the information contained in this letter and TSD further if needed. Please contact me at Gail.Good@wisconsin.gov or 608-264-8537 if there are any questions regarding this submittal.

Sincerely,



Gail Good
Director
Air Management Program

cc: Kurt Thiede, AD/8
Ed Eberle, AD/8
Pat Stevens, EM/8
Bart Sponseller, EM/7
David Bizot, AM/7
Jennifer Rashel, LS/8
Ed Nam – EPA Region 5 (via email)
John Mooney – EPA Region 5 (via email)
Doug Aburano – EPA Region 5 (via email)

Enclosure

Congress of the United States

Washington, DC 20510

February 10, 2017

Acting Administrator Catherine McCabe
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OAR-2016-0202

Dear U.S. EPA Acting Administrator McCabe:

We are writing regarding the proposed rule for the implementation of the 2015 U.S. Environmental Protection Agency's National Ambient Air Quality Standards (NAAQS) ozone nonattainment classification and the State Implementation Plan (SIP) requirements. The 2015 rule lowered the parts-per-billion (ppb) threshold to an unrealistic level and will result in harsh, lasting economic impacts in those communities where faulty air quality concerns are raised.

Our offices are closely working with affected stakeholders to try to change the nonattainment designation of Sheboygan County, Wisconsin, under the 2008 and the final 2015 ozone NAAQS rulemaking. The State of Wisconsin and Sheboygan County have installed a second monitor in Sheboygan County that clearly shows that the data from the current EPA monitor (Kohler Andrae ozone monitor, Site ID: 55-117-0006) is measuring emissions from outside of Wisconsin. Unfortunately, we understand that, to date, EPA personnel have been unwilling or unable to revisit the original boundary decisions that largely led to Sheboygan County's faulty nonattainment designation. After meeting with state and regional officials and learning how the county's designation came to be, along with the additional data collected by the second monitor, we feel compelled to share our deep concerns.

We request you direct agency officials to take immediate steps to ensure that Sheboygan County is no longer unfairly classified with an ozone nonattainment designation. Specifically, we find fault with the EPA monitor that is being used for air quality monitoring results and therefore, at the very least, request EPA alter the boundary lines of the Sheboygan nonattainment area in question.

Thank you for your prompt consideration of our request.

Sincerely,



Ron Johnson
U.S. Senator



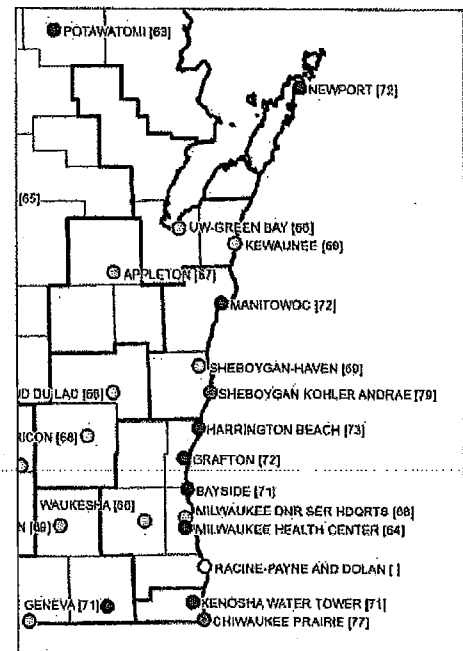
Glenn Grothman
Member of Congress

Creating a More Equitable and Accurate Ozone Attainment Designation Process

The economy of Southeastern Wisconsin has been hampered by ozone nonattainment designations since 1978.¹ These designations make it difficult to attract new businesses, contribute to employers leaving the area and result in investment capital being diverted elsewhere. Counties that receive a nonattainment designation are also tarnished with a reputation of being an unhealthy community² making it more difficult to attract residents, especially millennials and retirees.

Yet 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.

This map tells the story. The Bayside monitor has a design value³ of 71 ppb which is slightly above the 2015 ozone standard of 70 ppb. A short distance inland, the Milwaukee Health Center has a design value of 64 ppb, rivaling the air quality in Wisconsin’s Northwoods (Forest County - 63 ppb. Yet EPA policy considers the entire five county metropolitan Milwaukee area as having the same air quality as Bayside and thus in nonattainment. The public is then presented with assertions that the Milwaukee area warrants an “F” for air quality and that its residents are being exposed to “dangerous levels” of ozone that can be “lethal.”⁴ Waukesha County receives the same designation due to the shoreline monitors, even though the Waukesha monitor has an ozone design value of 66 ppb (comfortably below federal ozone standards).



Sheboygan presents a similar story. EPA has relied on the riparian Kohler Andrae monitor to designate Sheboygan County as nonattainment. Three years ago Wisconsin installed the Haven monitor slightly north and inland. Haven has monitored ozone values 12 percent lower than the Kohler Andrae monitor and below the federal ozone standards. Yet, EPA still considers Sheboygan as being in nonattainment with the 2008 ozone standard (75 ppb) and is poised to designate Sheboygan as being in nonattainment with the 2015 ozone standard (70 ppb).

¹ Some counties were reclassified as attainment in 2012, yet EPA is expected to return them to nonattainment this October 2017.

² <http://www.tmj4.com/news/air-quality-receives-failing-grades-in-wisconsin>.

³ A design value is the three year average of the 4th highest annual ozone reading recorded at a monitor.

⁴ <http://www.cbs58.com/story/31770765/report-wisconsin-residents-exposed-to-dangerous-levels-of-ozone>.

EPA's policy on nonattainment designations also fails to adequately account for the role of pollution transport. Look no further than Door County, a rural vacation destination whose monitor has an ozone design value of 72 ppb (exceeding the 2015 federal standard). Door County lacks emission sources of any meaningful size and has no real culpability for ozone monitored within its borders. If designated nonattainment, Door will have the attendant stigma and regulatory burdens, but no ability to control the ozone drifting into its riparian monitor.

To the south, Sheboygan faces a similar situation. Although the Kohler Andrae monitor exceeds the ozone standard, modeling demonstrates that the entire State of Wisconsin contributes less than 10 percent to the ozone monitored at that location and Sheboygan County sources contribute even less.⁵ Clearly the source of this ozone problem is upwind, out-of-state sources, yet EPA policy saddles Sheboygan County with a nonattainment designation.

Building a Coalition to Address an Unfair Nonattainment Designation Process

We are seeking to educate owners/operators of emission sources and other stakeholders in Eastern Wisconsin about the unfairness of the nonattainment designation process in the Lake Michigan region. We are also gauging interest in forming a coalition of industrial, municipal and economic development interests to pursue changes to this process and mitigate the adverse impacts of nonattainment designations. This effort may include any of the following activities:

- Change the unfair and unreasonable reliance on riparian monitors for making ozone nonattainment designations in Wisconsin and other states.⁶
- Encourage EPA to provide Wisconsin with more flexibility and autonomy to define its air monitoring network.
- Minimize the boundaries of nonattainment areas to just those areas with air quality truly representative of concentrations measured by riparian monitors. This could include splitting counties and/or changing the EPA policy for grouping multiple counties in urban areas. This has been done in the past for other areas.
- Direct that riparian monitors be used for regulating pollution transport and not for purposes of making nonattainment designations.⁷
- Encourage Wisconsin to prepare and submit to EPA ozone State Implementation Plans and attainment recommendations using inland ozone monitor data.
- Challenge EPA's decision dated December 19, 2016 to "bump up" Sheboygan County's nonattainment classification with the 2008 zone standard.

⁵ http://www.ladco.org/reports/ozone/post08/Great_Lakes_Ozone_Study_White_Paper_Draft_v6.pdf

⁶ Wisconsin is included in Cross State Air Pollution Rule Supplement solely because of its asserted impacts on a riparian monitor in Allegan County Michigan.

⁷ EPA has shown a willingness to pursue this policy acknowledging 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 downwind impacts of several urban areas along Lake Michigan." Reclassification of the Sheboygan, Wisconsin Area To Moderate Nonattainment for the 2008 Ozone National Ambient Air Quality Standards, 81 Fed. Reg. at 91842 (Dec. 19, 2016)

If a coalition is formed, its members will provide support, input and guidance to this advocacy campaign. The coalition will meet periodically to share ideas and strategies for advancing their common goals. The coalition will also share the burden of expenses on a basis that the members determine to be equitable.

Timing

Wisconsin is currently working with EPA on nonattainment designations for the 2015 ozone standards which are anticipated to be finalized in October 2017. EPA is also finalizing its rules for implementing the 2015 ozone standards.⁸ The Trump Administration is simultaneously pulling together its management team at EPA and Congress is setting legislative priorities for 2017. These activities present opportunities to engage with regulators and policy makers on the state and federal levels to address these concerns. There is also a very limited window to challenge EPA's decision dated December 19, 2016 to "bump up" Sheboygan County to a higher nonattainment classification under the 2008 ozone standard (ends on or about February 17, 2017).

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⁸ Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements, 81 Fed. Reg. 81276 (Nov. 17, 2016).

July 26, 2017

Ms. Angie Dickens
Department of Natural Resources
Bureau of Air Management (AM/7)
101 S. Webster Street
P.O. Box 7921
Madison WI 53703-7921

Via Electronic Mail Only To:
Angela.Dickens@wisconsin.gov

RE: Comments on the Department's Attainment Plan for the Sheboygan County, Wisconsin
2008 8-Hour Ozone Nonattainment Area

Dear Ms. Dickens:

The Sheboygan County Nonattainment Task Force and Sheboygan County Chamber of Commerce submit these comments on the above-referenced draft State Implementation Plan (SIP) for Sheboygan County. Thank you for your consideration.

The Sheboygan County Nonattainment Task Force is an advocacy group comprised of federal, state and local government leaders, Title Five permit company representatives and other community partners. The Sheboygan County Chamber's Business Advocacy committee was instrumental in working with state legislators, the EPA and Wisconsin DNR in siting the Haven monitor. Both of these groups were started through the Sheboygan County Chamber of Commerce which was established in 1914 and has over 900 members.

We generally support the draft SIP for the Sheboygan County 2008 ozone National Ambient Air Quality Standard (NAAQS) nonattainment area. That said, there are a number of issues discussed herein that could improve the draft. In addition, our state needs to strongly emphasize to the U.S. Environmental Protection Agency (EPA) that there are no local regulatory or policy solutions to reach attainment in Sheboygan County. Regardless, the county continues to maintain a nonattainment designation and face the threat of increasing ozone nonattainment classification levels and requirements. In short, the county continues to be penalized for a problem it does not cause and has little to no ability to correct or influence.

1. The draft SIP understates the extent of the regulatory issue facing Sheboygan County.

The primary conclusion in the draft SIP is largely based on modeling data, rather than actual monitored ozone concentrations at the Kohler Andrae ozone monitor. This is the monitor currently relied on by the U.S. EPA to maintain Sheboygan County in nonattainment status. The draft SIP concludes, based on modeling, that Sheboygan County is "*projected to be within 0.2 parts per billion (ppb) of attaining the 2008 ozone NAAQS in 2017, prior to the July 20, 2018 attainment data.*" That said, based on actual monitoring data, the current, preliminary 2015 – 2017 ozone design value from the Kohler Andrae ozone monitor is already 80 ppb, which is 5 ppb over the 2008 ozone NAAQS. As a result, Sheboygan County will not achieve attainment levels by July 20, 2018 and faces the real possibility of being bumped up from a "moderate"

ozone nonattainment area to a "serious" ozone nonattainment area, resulting in more stringent locally imposed requirements.

We request that the Department more thoroughly describe the seriousness of the regulatory issue facing Sheboygan County based on monitoring data from the Kohler Andrae monitor. In addition, the Department should supplement the modeling in its attainment plan demonstration with data from the Haven ozone monitor as the primary foundation for the attainment projections in the draft SIP. The Haven ozone monitor is discussed in more detail in the following comment.

2. There already is an ozone monitor in Sheboygan County showing attainment with the 2008 Ozone NAAQS.

For decades, the people and businesses of Sheboygan County have been held accountable for air pollution produced in other states and other countries. An air monitor located along the coast of Lake Michigan at Kohler Andrae State Park has continuously detected elevated levels of ozone primarily caused by emission sources located outside of Wisconsin. This monitor is located upwind from the majority of emission sources in Sheboygan County. While the monitor provides valuable air quality information to the public, it should not continue to be used for imposing local NAAQS regulatory requirements in Sheboygan County.

In an effort to gather better data regarding the actual air quality in Sheboygan County, in 2014 the State of Wisconsin began operating a second monitor in the county. The monitor is located downwind from the majority of Sheboygan County businesses, and closer to the population center of the county. This monitor, the Haven monitor, has a design value of 69 ppb¹ and shows attainment with the 2008 ozone NAAQS, and even the more stringent 2015 ozone NAAQS.

The draft SIP does not adequately describe the value and purpose of the Haven ozone monitor. The draft SIP should specifically note that under Wisconsin's approved air monitor network plan, the Kohler Andrae monitor is a "regional transport" monitor.² Whereas the county's second air monitor, the Haven monitor has the objective of "population exposure" and, if used, would put the county into attainment.³ To continue to hold the entire county in nonattainment because of an air monitor that was poorly placed for regulatory purposes is absurd. The data from the more properly placed Haven monitor should be used to make a compelling case for attainment. More emphasis should be placed on comparing the data from the two monitors in the county.

We request that the Department expand the discussion in Section 5 of the draft SIP showing the sometimes large and significant differences between the Haven and Kohler Andrae ozone monitors. These differences should be supplemented with wind direction data to further support the transport claim. In addition, we request that the Department base its projected attainment for Sheboygan County in the draft SIP primarily on the data from the Haven ozone monitor.

3. The Department should submit a clean data finding and redesignation request

¹ Page 46 of the draft plan PDF, also available on WDNR's website at <http://dnr.wi.gov/topic/AirQuality/documents/OzoneDV20142016.pdf>

² <http://dnr.wi.gov/topic/AirQuality/documents/2016NetworkPlanFinal.pdf>, Page 143 of PDF document.

³ <http://dnr.wi.gov/topic/AirQuality/documents/2016NetworkPlanFinal.pdf>, Page 141 of PDF document.

We strongly believe the Department should pursue both a clean data finding and redesignation request from the U.S. EPA for the 2008 ozone NAAQS for Sheboygan County based on data from the Haven ozone monitor as soon as practicable. How can an attainment plan be submitted, which makes the case the county will achieve attainment in 2017, but there not be further action by the Department to reclassify the area? The time has come to stop using the Kohler Andrae ozone monitor to impose local requirements and restrictions. The Kohler Andrae monitor should solely be used to provide air quality information to the public and to hold other states accountable for the elevated levels of ozone measured along the lakeshore in Sheboygan County.

The U.S. EPA has openly acknowledged that the ozone concentrations are not a result of Sheboygan County emissions. As recently as December 2016, the U.S. EPA stated 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 downwind impacts from several urban areas along Lake Michigan, including Milwaukee, Wisconsin; Chicago, Illinois; and Gary, Indiana.”*⁴

4. Sheboygan County has no ability reduce ozone concentrations at the Kohler Andrae monitor.

This statement is taken directly from the draft SIP and should be emphasized more in the document.

Figure 5.10 shows that all Wisconsin emission sources only contribute approximately 12% to the ozone concentrations at the Kohler Andrae monitor. Of that 12%, only approximately 3% comes from Wisconsin businesses (i.e., point & area source emissions). As shown by figure 5.10 of the draft SIP⁵, the State of Illinois contributes nearly double the amount of ozone monitored by the Kohler Andrae monitor than the entire State of Wisconsin.

We request that the Department update the draft SIP to more clearly explain how little impact, if any impact at all, additional local regulations can have to change the ozone concentrations being monitored at the Kohler Andrae monitor. In the likely event that Sheboygan County continues to face future reclassifications into more stringent ozone nonattainment classifications, it is important to very clearly and emphatically state that there is nothing Sheboygan County can do to improve the situation. The need for emphasizing this is further bolstered by the data contained in Section 5.6.3 of the draft SIP which discusses modeling of the air quality that has “eliminated all anthropogenic emissions.”⁶ This data clearly shows that under various scenarios there will be either no change at all to the concentrations read by the Kohler Andrae monitor, or there would actually be increased levels of ozone concentrations.

5. Smaller scale contribution data would be helpful and insightful.

⁴ 81 FR 91841 - <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-30330.pdf>

⁵ Page 61 of the draft plan PDF.

⁶ Page 71 of the draft plan PDF.

Ozone source apportionment modeling is presented in Section 5.4.1 of the draft SIP. Currently, the only contribution data shown is from the entire State of Wisconsin. We request for the Department work with the Lake Michigan Air Directors Consortium (LADCO) to re-produce Figure 5.10 to estimate the contribution solely from Sheboygan County emission sources to the Kohler Andrae monitor. Such analysis would further support the claim that Sheboygan County is being penalized for a problem for which it has little to no control.

Conclusion

The Sheboygan County Nonattainment Task Force and Sheboygan County Chamber of Commerce's Business Advocacy Committee appreciates the significant amount of Department staff time and resources that went into producing this draft SIP. We generally support the document, but as discussed in these comments, we think more information can and should be included.

Thank you for your time and consideration of these comments. Please feel free to contact me at (920) 395-8707 or at jane@sheboygan.org if you have any questions regarding these comments or would like to discuss these comments in more detail.

Sincerely,

Sheboygan County Chamber of Commerce
Sheboygan County Nonattainment Task Force
Wisconsin Manufacturers and Commerce
Kohler Co.
Alliant Energy Corporation
Plymouth Foam
Sheboygan County Economic Development Corporation
Lakeshore Technical College
Commerce State Bank
Rohde, Dales, LLP
McClone
Zimmermann Printing Co.
HUB International
Aldag/Honold Mechanical, Inc.
Engaged Social Networking
Trattoria Stefano
Mark Smith, Alliant Energy & Business Advocacy Chair
Steve Schouten, Midwest Communications & Business Advocacy Co-Chair
The GameBoard, LLC
Greg Burgett, Principal Financial Group

cc: Governor Scott Walker
Attorney General Brad Schimel
Secretary Cathy Stepp

U.S. Senator Tammy Baldwin
U.S. Senator Ron Johnson
Congressman Glenn Grothman
State Senator Devin LeMahieu
State Senator Duey Stroebel
State Representative Terry Katsma
State Representative Jesse Kremer
State Representative Tyler Vorpapel
Sheboygan County Board Chair Thomas Wegner

Sheboygan County Chamber of Commerce
621 S. 8th St.
Sheboygan, WI 53081

February 13, 2017

VIA ELECTRONIC SUBMISSION

U.S. Environmental Protection Agency
WJC West Building, Room 334
1301 Constitution Avenue NW
Washington, DC 20004
Attention: Docket ID No. EPA-HQ-OAR-2016-0202

Subject: Comments on the Proposed Implementation Rule for the 2015 National Ambient Air Quality Standards for Ozone

Dear U.S. EPA Administrator,

On November 17, 2016, the U.S. Environmental Protection Agency (EPA) published in the Federal Register its proposal for implementation of the 2015 ozone National Ambient Air Quality Standards (NAAQS) [81 FR 81276].¹ The Proposed Rule primarily pertains to nonattainment area classification thresholds and corresponding attainment dates, State Implementation Plan (SIP) requirements and deadlines, and options for the revocation of the 2008 ozone NAAQS.

The Sheboygan County Ozone Nonattainment Task Force ("Task Force") respectfully submits these comments on the Proposed Rule.² The Task Force is a voluntary coalition of federal, state and local representatives, local businesses, and other members organized by the Sheboygan County Chamber of Commerce. The Task Force was recently formed to address the ongoing ozone nonattainment situation in Sheboygan County, Wisconsin.

Sheboygan County continues to bear the burden of ozone nonattainment despite significant reductions of ozone precursor emissions. For example, emissions of nitrogen oxides (NO_x) have declined 47 percent from 2008 to 2014, while emissions of volatile organic compounds (VOC) have declined 39 percent over the same time period based on data from the EPA's National Emissions Inventory (NEI).³ Regardless of these significant emission reductions in the county, ozone nonattainment persists, primarily because the ozone monitor used to determine compliance, the Kohler Andrae ozone monitor (*Site ID: 55-117-0006*), does not typically measure impacts from Sheboygan County emissions. In fact, the EPA has explicitly acknowledged this by stating "*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 downwind impacts of several urban areas along Lake Michigan.*"⁴ Furthermore,

¹ Official Proposed Rule Title: "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements."

² Attached is a list of Task Force members who support these comments.

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

⁴ 81 FR 91841

modeling conducted by the Lake Michigan Air Directors Consortium (LADCO) has shown that the **entire State of Wisconsin** contributes less than 10 percent to the ozone monitored at the Kohler Andrae monitor and while contribution modeling solely for Sheboygan County emission sources is not available; their contribution is likely very small.⁵ This is because the Kohler Andrae monitor is located south (*i.e., upwind*) of the majority of emission sources in Sheboygan County. In an effort to better assess the impact of Sheboygan County emission sources, the State of Wisconsin established an additional ozone monitor north of the city, the Haven monitor (*Site ID: 55-117-0009*). Data from this ozone monitor has been very encouraging and notably, the calculated ozone design value from 2014 through 2016 was over 12 percent lower than the design value from the Kohler Andrae monitor. In fact, the ozone design value at the Haven monitor is below all federal ozone standards, including the 2015 ozone NAAQS. In short, the county is being penalized with increased regulatory requirements for a problem it has little to no control over and for which any further emission reductions are unlikely to have any impact at the Kohler Andrae ozone monitor.

The Task Force specifically provides comment on the EPA's two options for revoking the 2008 ozone NAAQS. The first option is to revoke the 2008 ozone NAAQS at the same time for all areas of the U.S. The second option would only revoke the 2008 ozone NAAQS for areas currently designated as attainment areas. The EPA would retain the 2008 ozone NAAQS for areas designated nonattainment under this standard until the area was formally redesignated. The Task Force urges the EPA to finalize the first option – revoke the 2008 ozone NAAQS at the same time for all areas of the U.S. The Task Force supports this option for the following reasons:

- First, it is protective of public health because all areas will still be subject to the more stringent 2015 ozone NAAQS. In addition, it is much easier to communicate to the general public about the ozone standard if there is only one in place.
- Second, it is consistent with the approach used when the EPA transitioned from other prior ozone standards, including the 1-hour and 1997 ozone NAAQS.
- Third, it would not subject areas, such as Sheboygan County, to multiple ozone standards, each with its own set of requirements and deadlines.
- Fourth, should the EPA determine that a nonattainment designation is warranted for the 2015 ozone NAAQS in Sheboygan County, this approach would allow the state and county to discuss a proper ozone nonattainment boundary with the EPA. Currently, the nonattainment area encompasses all of Sheboygan County even though the Haven monitor, which is located approximately 3 miles from Lake Michigan, is monitoring well below the 2008 ozone NAAQS. The State of Wisconsin has unsuccessfully asked the EPA multiple times to revise this nonattainment boundary. The EPA has stated that it would only consider information from this monitor for *"making nonattainment area boundary decisions for any future ozone designations."*⁶

Thank you for your serious consideration of these comments. The Task Force looks forward to future dialogue with the EPA regarding ozone concentrations and designations in Sheboygan County. Please feel free to contact me at (920) 395 – 8707 if you have any questions on these comments or would like any additional information.

⁵ http://www.ladco.org/reports/ozone/post08/Great_Lakes_Ozone_Study_White_Paper_Draft_v6.pdf

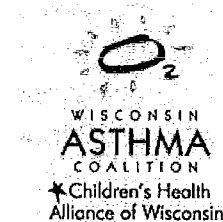
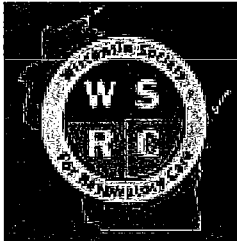
⁶ 81 FR 91841

Respectfully,

Jane Brill
Sheboygan County Chamber of Commerce

Sheboygan County Ozone Nonattainment Task Force Members In Support

The Honorable Devin LeMahieu, State Senator of Wisconsin's 9th Senate District
The Honorable Tyler Vorpapel, State Representative of Wisconsin's 27th Assembly District
The Honorable Terry Katsma, State Representative of Wisconsin's 26th Assembly District
The Honorable Mike Vandersteen, Mayor of Sheboygan
The Honorable Randy Meyer, Mayor of Sheboygan Falls
Aldag Honold Mechanical Inc.
Alliant Energy Corporation
Bay Lake Regional Planning Commission
Jeff Plass, Director Global EHS- Kohler Company
Mark McCabe, Vice President –McClone
Mark Mauer, Vice President Business Banking-Investors Community Bank
Nemak USA Inc.
Plymouth Foam
Rohde Dales, LLC
Sargento Foods Inc
Sheboygan County Chamber of Commerce
Sheboygan County Economic Development Corporation
Sheboygan Paint Company
Short Elliott Hendrickson, Inc.
Steve Schouten, General Manager – Midwest Communications Company
The GameBoard, LLC
Wisconsin Manufacturers and Commerce (WMC)
Zimmermann Printing Company



November 21, 2017

To: Honorable members of the Assembly Committee on Federalism and Interstate Relations

Dear Committee members,

This letter is to express our concern about bills that were recently introduced that will significantly reduce air quality in Wisconsin. As public health organizations, we work to support healthy communities with clean air, clean drinking water, and limited exposure to unhealthy toxic substances. Senate Bills 457, 459, 463 and 466 and Assembly Bills 555, 558, 587, and 588 will collectively reduce air quality and increase the potential for negative health impacts in Wisconsin. We are writing to ask you to oppose these proposals.

Senate Bill 459 and Assembly Bill 587 would require the Department of Natural Resources to identify and repeal all state-level protections for air pollutants. Not only does it require these protections to be repealed, any standards put in place to replace them would be sunset after ten years. Every year, over a million pounds of air pollutants are released in Wisconsin that fall under our state-level Hazardous Air Pollutant protections. This proposal will likely impact public health in the neighborhoods of facilities using these chemicals, with children, the elderly and those with existing respiratory problems at the greatest risk.

Senate Bills 457 and 463 and Assembly Bills 555 and 558 would loosen vehicle emissions limits in Southeast Wisconsin, an area with a long history of non-attainment and related public health impacts. The final proposal in the package, Senate Bill 466 and Assembly Bill 588, would prohibit the DNR from collecting and reporting on air monitoring data at the Kohler-Andrea State Park. There are currently two air monitoring sites in Sheboygan County. Getting rid of a monitor will not change the fact that there are elevated levels of air pollutants people nearby breathe in. The area in Sheboygan County along the Lake Michigan coast has had increasing

levels of air pollution in recent years, which makes this proposal especially concerning for those with compromised respiratory systems. Discarding the monitor totally removes the one and only tool those residents have to receive warnings on high pollution days.

Air quality alert days happen every summer in communities in Wisconsin. Under these proposals we could see an increase in the number of days children will be at risk for asthma attacks and emergency department visits. Air quality trends in Wisconsin have been improving in recent years. We should not reverse the progress we have made by increasing human exposure to toxic air pollutants. Please support safe and healthy communities in Wisconsin by opposing Senate Bills 457, 459, 463 and 466 and Assembly Bills 555, 558, 587, and 588.

Respectfully,

American Lung Association in Wisconsin
Wisconsin Asthma Coalition
Children's Health Alliance of Wisconsin
Wisconsin Society for Respiratory Care
Gundersen Medical System
Wisconsin Allergy Society



To: Members of the Senate Committee on Elections and Utilities
Date: November 21, 2017
From: Sarah Barry, Director of Government Relations
Re: Opposition to AB 587 & AB 588, 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.

Assembly Bill 587, 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 may 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 we should not defy common sense and go back to the drawing board by repealing these protections.

We urge you to oppose Assembly Bill 587.

AB 588, 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 Assembly Bill 588.



**Oppose AB 587 & AB 588
Testimony of Jennifer Giegerich
Wisconsin League of Conservation Voters
November 21, 2017**

Good morning. I am Jennifer Giegerich, Legislative Director for Wisconsin League of Conservation Voters. Thank you for this opportunity to testify on AB 587 & AB 588.

Wisconsinites deserve to breathe clean air. Unsafe levels of pollution can cause premature death for those with existing respiratory and pulmonary health conditions. Long-term exposure to unsafe levels of pollution can permanently damage the lungs and hearts of children. It is the responsibility of the DNR to set state standards for pollutants when general federal standards are not sufficient to protect Wisconsin citizens. When unsafe levels of pollution are recorded, Wisconsin is required to develop plans to reduce all sources of air pollution in the area.

We are here today because the two bills before you, AB 587 & AB 588 would undermine the state's ability to protect public health and ensure that our communities are meeting basic health standards.

AB 587 would prevent the DNR from protecting the public from air pollution by striking all state standards for air pollutants. The DNR would then be subjected to a very long and complicated process to reinstate state air pollution standards and then sunset those standards every 10 years. This needlessly undercuts protections for public health.

AB 588 would prohibit the DNR from including the air monitoring site located at Kohler-Andrae State Park in the air quality data submitted to EPA because it shows unhealthy level of pollution in Sheboygan County. By hiding the evidence of unhealthy air pollution, this bill would attempt to artificially show compliance with federal Clean Air Act standards and thus allow for more pollution in the area

The natural question is, "Why would these bills be necessary?" and "Who benefits when the state decides to not enforce public health standards or abandon them altogether?"

In recent years, it has become routine for the legislature to introduce legislation to rollback so-called "unnecessary" or "redundant" regulations in the name of making it easier for businesses to operate in Wisconsin. But, that is only acceptable if the original intent, to limit harmful pollution exposure into the environment, is maintained. In some cases, there is a newer technology or practice that can accomplish the same standard. In some cases, necessary data can be collected in new ways that simplify the regulatory process for companies.

In the case of these two bills, it is obvious that there is no intent to maintain public health protections, but they merely are to remove requirements of the state to protect air quality. And that is completely unacceptable. If the state of Wisconsin fails to protect us, there is no way for the public to protect ourselves. One does not get to erect 'clean air zones' on our own property. The government regulates air pollution because we all share the air. It the responsibility of the state to do that for everyone. And, it is especially necessary for the state to protect the most vulnerable.

As an organizational representative of WLCV, I am here testifying for the organization. But, I also must admit that this issue has taken on a personal meaning for me. In March, I was diagnosed with triple negative breast cancer. I needed to start an aggressive chemotherapy treatment, followed by surgery and radiation. Overnight, I went from a very healthy, active adult, to someone who had to endure a lot of painful and repeated medical care to survive.

I have completed all my cancer treatment and I am thankful to have all my tests come back showing that the cancer is gone. One thing I was not prepared for is living with the newfound fear that my cancer can come back and not knowing what caused it. I don't have any family history and I don't carry any of the genes that are associated with my cancer. Researchers don't yet know what is causing the aggressive triple negative breast cancer in so many women, but they suspect things in the environment. You have constituents in your district who have to live with this same reality and they deserve your support.

The pollutants on the state air list are scientifically vetted and proven to have impacts on our community. There are known carcinogens on that list, as well as pollutants that can cause respiratory distress for people with already compromised immune systems.

The truth is Wisconsin needs to be doing so much more to ensure the safety of our environment. Why the legislature would consider such a drastic measure as delisting known air pollutants just to make things "easier" for business or literally hiding the evidence of a community not meeting a public health standard is appalling. You need to stand up for your constituents and reject AB 587 & AB 588.

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Wisconsin League of Conservation Voters is a nonprofit, nonpartisan organization dedicated to encouraging lawmakers to champion conservation policies that effectively protect Wisconsin's public health and natural resources. For more information, contact Legislative Director Jennifer Giegerich at jennifer@conservationvoters.org or 608-208-1130.