



June 21, 2022

Administrator Michael Regan
c/o EPA Docket Center (EPA/DC)
Docket ID No. EPA-HQ-OAR-2021-0668
U.S Environmental Protection Agency

RE: WMC Comments on U.S. EPA's April 6, 2022 Proposed Rule, "Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard"

Dear Administrator Regan,

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to provide written comment on the above referenced U.S. Environmental Protection Agency (EPA) proposed rule regarding the Federal Implementation Plan (FIP) to address transport under the 2015 Ozone National Ambient Air Quality Standard (NAAQS).

WMC is Wisconsin's combined state chamber of commerce and manufacturers' association. We represent approximately 3,800 member companies of all sizes, and from every sector of the economy. Our mission is to make Wisconsin the best state in the country to do business. Our members rely on a predictable set of rules using sound methodology for environmental regulations. WMC represents members that would be directly impacted by this proposed rule.

WMC strongly opposes the proposed ozone transport rule and urges the EPA to exempt Wisconsin from the proposed FIP framework. The proposed FIP relies on modeling that is both outdated and deeply flawed. This FIP framework is wholly unnecessary for Wisconsin to meet any perceived "Good Neighbor" obligations to Illinois. Instead, the EPA has proposed extremely burdensome regulations that will unnecessarily hurt Wisconsin manufacturers.

In addition, WMC urges the EPA to revise the proposed FIP to require Illinois and other states to meaningfully address their "Good Neighbor" obligations to Wisconsin. In particular, the exclusion of the Sheboygan Kohler-Andrae monitor in the

FIP is inexcusable, as the data readily demonstrates that out-of-state emission reductions are necessary in order for Sheboygan County to achieve nonattainment.

At a minimum, WMC urges the EPA to allow Wisconsin to submit a revised state implementation plan (SIP), as allowed under the federal Clean Air Act (CAA). Finally, WMC urges the EPA to carefully consider key changes to the FIP that would reduce its unwarranted impacts on Wisconsin's regulated community. This includes changes such as delaying implementation, extending the proposed trading program to non-EGUs, and other changes described below that would grant additional flexibilities to sources impacted by this rule.

1. The modeling under the proposed FIP is outdated and does not reflect recent significant emission reductions.

EPA estimates that the proposal will necessitate NO_x emission reductions at eight Wisconsin sources, including six pulp/paper mills and two glass product manufacturing facilities. However, because the EPA is relying on 2019 data, its estimates are woefully out of date.

In particular, it should be emphasized that the most significant "Tier 2" contributor identified on the EPA's list is a paper mill in Wisconsin Rapids. Per EPA's modeling platform, the two boilers at this one mill are estimated to contribute more than 16% of the estimated NO_x emissions, or more than 1,000 tpy. However, the Wisconsin Rapids mill in question was idled in 2020, and has not operated regularly since that time. This obvious NO_x emissions reduction must be considered by the EPA, but was not accounted for in the modeling.

In fact, this is only one issue of many with the EPA's modeling. The operator of three other "Tier 2" paper mills identified by the EPA has indicated to WMC that the model fails to consider key programs being implemented at its facilities that will greatly reduce NO_x emissions compared to 2019 levels. Another impacted manufacturer operates two "Tier 1" flat glass plants in Wisconsin. The company reported to WMC that since 2019 it has equipped these facilities with Selective Catalytic Reduction (SCR) control systems, and thus these estimates do not reflect current NO_x emissions at these facilities.

If the goal of this FIP is to substantially reduce NO_x emissions that are transported across state lines, these actions show that Wisconsin has already made substantial reductions. WMC urges the EPA to update its data and consider these substantial reductions via facility closures, new control systems, and fuel switching as it evaluates if Wisconsin is meeting Good Neighbor obligations.

2. Other modeling clearly demonstrates that Wisconsin is already meeting “Good Neighbor” obligations to Illinois.

Wisconsin’s inclusion in the proposed FIP is based on the modeled contribution of Wisconsin ozone emissions toward ozone measured in Chicago. The Chicago area is currently in nonattainment of the 2015 ozone standard, and this FIP will supposedly help Chicago come into attainment. However, reliable monitoring demonstrates that Chicago will be able to achieve attainment of this standard absent any additional actions by Wisconsin.

The Wisconsin Department of Natural Resources (WDNR) is a member of the Lake Michigan Air Directors Consortium (LADCO). Wisconsin, like several other Midwest states, relies on LADCO for regional air quality model simulations and technical expertise. LADCO modeling previously submitted to the EPA demonstrates that the Chicago area monitors will be in attainment of the 2015 Ozone NAAQS with existing “on the books” emission controls by 2023. Thus, additional controls for Wisconsin manufacturers via this proposed FIP is unnecessary and unwarranted.

It should also be emphasized that this LADCO modeling data was previously submitted to the EPA several years ago. It was referenced in WDNR’s 2015 Ozone State Implementation Plan (SIP) that was submitted in a timely manner to the EPA in September 2018. Unfortunately, and contrary to the deadlines prescribed under the Clean Air Act, the EPA failed to respond to this submission for more than three years. Instead, it now intends to unnecessarily punish Wisconsin manufacturers via this proposed FIP.

3. The Proposed FIP wholly ignores Sheboygan County, WI despite out-of-state emissions overwhelmingly contributing to its nonattainment status.

Another glaring deficiency in the EPA’s FIP is the unexplained exclusion of the Kohler-Andrae monitor in Sheboygan, WI. The EPA’s own modeling predicts that Kohler-Andrae will be in nonattainment through 2032. This is overwhelmingly due to out-of-state emissions. Only 12-13% of emissions measured at Kohler-Andrae are from Wisconsin sources.

Moreover, Sheboygan clearly meets the “1% of the NAAQS” threshold established by the EPA. According to WDNR, EPA modeling demonstrates that seven states exceed the 1% threshold (or .70 ppb). This is summarized in the chart below:

Table 1: States Contributing at Least 1% of the NAAQS (0.70 ppb) to Sheboygan in 2023¹

State	2023 Contribution to Sheboygan	Exceed 1% Threshold?
Illinois	13.10	Yes – 18.71%
Indiana	7.32	Yes – 10.46%
Michigan	1.83	Yes – 2.61%
Missouri	2.00	Yes – 2.86%
Ohio	1.50	Yes – 2.14%
Texas	1.11	Yes – 1.59%
Arkansas	0.76	Yes – 1.09%

In short, the data shows this is not a minor omission by the EPA – a number of states contribute significantly to ozone levels measured at the Sheboygan Kohler-Andrae monitor. This raises the question if other monitors were inappropriately included or omitted by the EPA, and again undermines the reliability of the data EPA is utilizing to advance this proposed FIP.

4. The proposed impacts under this FIP for Wisconsin are arbitrary and not proportional to any perceived “Good Neighbor” obligations that Wisconsin has to Illinois.

It must also be emphasized that Wisconsin’s ozone contributions to Illinois are nearly an order of magnitude less than Illinois’ ozone contributions to Wisconsin. Unfortunately, the solution provided by the EPA under the proposed FIP fails to reflect this reality. Instead, the proposed FIP disproportionately requires more controls of Wisconsin sources than Illinois sources.

The disparity in out of state impacts between Illinois and Wisconsin is not simply based on a LADCO modeling analysis. If we utilize contribution modeling data provided by the EPA in this docket, we can readily see that Wisconsin nonattainment areas are at the mercy of other states. Moreover, this simply isn’t the case for monitors in Chicago:

¹ Source: DNR comments on Docket ID EPA-R05-OAR-2022-0006, posted April 25, 2022

Table 2: Select Ozone-Impacted Monitors in Illinois, Indiana, and Wisconsin

Impacted Monitor	Impact of Indiana	Impact of Illinois	Impact of Wisconsin
Kenosha	6.43	17.81	5.84
Kenosha	6.98	18.14	2.64
Milwaukee	6.26	10.97	5.59
Milwaukee	5.74	7.68	11.02
Racine	6.52	13.54	10.77
Chicago	5.61	18.70	2.98

Despite this disparity, the proposed FIP would regulate Illinois by imposing controls on ten non-EGU facilities with combined NOx emissions of 2,452 tpy. Conversely, in Wisconsin eight non-EGU facilities would be subject to controls to regulate NOx emissions of 3,937 tpy. In other words, while the data would seem to prescribe substantially higher NOx controls for Illinois instead of Wisconsin, the EPA has instead proposed the opposite. This discrepancy again demonstrates the EPA’s deeply flawed approach.

5. Specific Recommendations:

Given the aforementioned flaws in the proposed FIP and the EPA’s modeling within the docket, WMC strongly urges the EPA to exempt Wisconsin from the proposed FIP. However, failing that, WMC would encourage the EPA to consider the following recommendations:

5.A. Allow the Wisconsin DNR to submit a revised SIP.

As noted previously, the EPA waited three years to deny Wisconsin’s SIP for addressing ozone transport. Instead of providing Wisconsin an opportunity to amend its SIP to address any deficiencies, the EPA instead proposed this FIP.

Instead of imposing a one-size-fits-all FIP on Wisconsin, WMC urges the EPA to allow Wisconsin to submit a revised ozone transport SIP to the EPA. Such a revision is permitted under the Clean Air Act, and would also allow Wisconsin to craft a plan that works for its citizens and its regulated community.

5.B. Delay implementation of the rule until at least 2028.

Under the proposed FIP, the rule would be effective for the 2026 ozone season. Per conversations with impacted members, this is an insufficient amount of time for manufacturers to comply with this rule. Regulated sources need adequate time to determine a facility-specific compliance strategy, conduct necessary engineering, install and purchase necessary equipment, and obtain required permits.

If Wisconsin remains in the FIP, WMC urges the EPA to delay implementation of the rule until 2028. In addition, the EPA should incorporate provisions into the rule for an impacted source to seek extensions based on a demonstrated need.

5.C. Provide an exemption for any boiler with 5% or more biomass in its fuel composition.

The proposed FIP provides standards for boilers powered by coal, residual oil, distillate oil, or natural gas. However, no standards are provided for boilers fueled by biomass. Moreover, these boilers often utilize multiple fuels including fossil fuels. Based on conversations with members, WMC believes it would be very difficult to set a standard for these boilers due to variability in boiler design and variability inherent to biomass fuels and their associated nitrogen content.

Given this uncertainty, WMC urges the EPA to consider an exemption for any boiler with five percent or more biomass in its fuel consumption.

5.D. Provide an exclusion for shutdowns for annual maintenance.

Some facility control systems, such as selective catalytic reduction (SCR), may require an annual shutdown for preventive maintenance while the furnace continues to operate. The period for this shutdown is typically only a few days.

WMC urges the EPA to exclude annual maintenance shutdowns from required compliance with the proposed NOx emission limitation of 9.2 lbs/ton in the draft FIP.

5.E. Allow non-EGUs to opt-in to proposed EGU trading program.

The proposed FIP would establish an ozone trading program with NOx emissions budgets. However, as currently proposed, the FIP would only allow electric generating units (EGUs) to participate.

Non-EGUs should also be allowed to participate in the proposed ozone trading program. This is important given the uncertainty surrounding the feasibility and cost of

the controls that may be required to meet the requirements of this FIP. This change would grant some additional flexibility to sources negatively impacted by this rule.

5.F. Do not require transition to electric furnaces for glass manufacturers.

The EPA is soliciting comments as to whether it is feasible or appropriate to phase-out existing glass manufacturing furnaces in affected states and replace them with all-electric melter furnaces. However, currently available electric furnaces are much smaller than those used for flat glass, and simply cannot provide sufficient heat energy to produce flat glass at a quantity that is cost-effective or consistent with current industry standards.

Thus, WMC opposes any plans by the EPA to phase-in all-electric melter installations for the manufacture of flat glass, as such a plan is not feasible or appropriate.

6. Conclusion

WMC strongly opposes the proposed ozone transport rule and urges the EPA to exempt Wisconsin from the proposed FIP framework. The proposed FIP relies on modeling that is flawed, and is unnecessary for Wisconsin to meet any perceived “Good Neighbor” obligations to Illinois.

WMC further urges the EPA to adjust the proposed FIP so that Illinois and other states actually meet their Good Neighbor obligations to Wisconsin. Per a WDNR analysis, Wisconsin sources only contribute 8-16% of ozone to its own nonattainment areas, while other states contribute 42-48% of ozone in Wisconsin’s nonattainment areas. The plan put forward by the EPA unfairly impacts Wisconsin sources, while failing to hold Illinois and other states accountable for their ozone impacts in Wisconsin nonattainment areas.


In addition, it is wholly inexcusable that the EPA’s proposed FIP excludes the Kohler-Andrae monitor in Sheboygan, WI, as Wisconsin sources only contribute 12-13% of emissions measured there. Sheboygan is the textbook example of a monitor that requires action under the “Good Neighbor” provision, and it does not have a viable path to attainment without action by other states. **EPA must revise its proposed FIP to require other states – including Illinois, Indiana, and others – to meet its Good Neighbor obligations to Sheboygan.**

If the EPA insists on moving forward with this flawed rule, WMC urges the EPA to consider the aforementioned changes that will help reduce costs and compliance

burdens for the regulated community. This includes allowing Wisconsin to submit a revised SIP, and other changes to lessen the burden to the regulated community.

Thank you for the consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Craig Summerfield". The signature is written in black ink and is positioned above the typed name.

Craig Summerfield
Director of Environmental & Energy Policy
Wisconsin Manufacturers & Commerce

CC:

Gail Good, Director – Air Management, Wisconsin Department of Natural Resources