



Arthur Harrington
414.287.9414
aharrington@gklaw.com

EPA has proposed certain portions of the state of Wisconsin to be nonattainment for the 2015 ozone standards

In a letter dated Dec. 20, 2017, the Environmental Protection Agency (EPA) notified the state of Wisconsin of its intended nonattainment area designations for the 2015 Ozone Standards and established Feb. 5, 2018, for a deadline for filing commitment. The EPA is proposing four partial counties (Door, Sheboygan, Manitowoc and Kenosha) and five full counties (Milwaukee, Ozaukee, Washington, Waukesha and Racine) as nonattainment for the 2015 ozone standard in Wisconsin. In its letter, The EPA is proposing to designate the remainder of the state as “attainment/unclassifiable.” The EPA’s letter and technical support materials can be found [here](#).

The proposed partial nonattainment designations provided by the EPA in its letter is more particularly described in the following graph:

County	EPA’s Proposed Nonattainment Area
Door	The area north of the Sturgeon Bay canal.
Sheboygan	An area extending approximately 3-5 miles inland from the lakeshore. Specifically, the portion of Sheboygan County inclusive and east of the following roadways with the boundary starting from north to south: Union Road/County Road Y/ Highland Drive, to Lower Road/Monroe Street, to Broadway/Main Street to Highway 32/Giddings Avenue to County Road W to County Road KW.
Manitowoc	An area extending approximately 4-8 miles inland from the lakeshore. Specifically, the portion of Manitowoc County inclusive and east of the following roadways with the boundary starting from north to south: County Road B/South State Street to County Road V/Forest Home Drive to South Packer Drive to West Hillcrest Road to Highway 43 to West Custer Street to Dufek Drive/Highway 42.
Milwaukee Washington Ozaukee Waukesha Racine	Entire counties
Kenosha	The area east of I-94. This is identical to current 2008 ozone nonattainment area. Kenosha is part of the IL-IN-WI metro Chicago nonattainment area.

The information in this article is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.

It is important to note that the EPA has failed to follow a number of recommendations made by the state of Wisconsin for smaller nonattainment designations for these partial counties listed by the EPA. See [here](#). There is a 30 day period for filing public comments with a deadline of Feb. 5, 2018. The EPA's federal register notice can be found [here](#). In addition, the EPA has asked for additional information from the State by Feb. 28, 2018.

This proposed nonattainment designation by the EPA under the 2015 ozone standard is a significant issue for Wisconsin businesses. In particular, business located in nonattainment areas which constitute major sources of volatile organic compounds (VOCs) and nitrogen oxide (NOx), will require more stringent controls and offsets to be acquired for new or increased emissions. It is important that impacted business consider filing public comments supporting the earlier recommendations made by the Department of Natural Resources (DNR) for more narrowly defined partial nonattainment areas in the aforementioned counties before the Feb. 5 deadline.

Members of the Environmental Strategies and Energy Strategies Practice Groups are carefully monitoring these ozone regulatory actions. In particular, Arthur Harrington serves on the Air Management Study Group as well as the Ozone Workgroup for the DNR. Please feel free to reach out to any member of the Environmental Strategies and Energy Strategies Practice Groups for more information on this important topic.

Environmental Strategies Practice Group Members

MADISON OFFICE:

John L. Clancy
jclancy@gklaw.com

David J. Gilles
dgilles@gklaw

MILWAUKEE OFFICE:

Arthur J. Harrington
aharrington@gklaw.com

Edward (Ned) B. Witte
nwitte@gklaw

Diane M. Marchik
dmarchik@gklaw

Sarah R. Schenck
sschenck@gklaw.com

Stevin S. George
sgeorge@gklaw.com

Lynelle R. John
ljohn@gklaw

GODFREY KAHN

OFFICES IN MILWAUKEE, MADISON, WAUKESHA, GREEN BAY AND APPLETON, WISCONSIN AND WASHINGTON, D.C.

WWW • GKLAW.COM TEL • 877.455.2900