

SO₂ Milestones and Backstop Trading Program Memorandum of Understanding

March 24, 2003 Draft

Whereas there are 16 Class I areas within the Colorado Plateau, specifically, Grand Canyon National Park, Sycamore Canyon Wilderness, Petrified Forest National Park, Mount Baldy Wilderness, San Pedro Parks Wilderness, Mesa Verde National Park, Weminuche Wilderness, Black Canyon of the Gunnison Wilderness, West Elk Wilderness, Maroon Bells Wilderness, Flat Tops Wilderness, Arches National Park, Canyonlands National Park, Capital Reef National park, Bryce Canyon National Park, and Zion National Park.

Whereas the Grand Canyon Visibility Transport Region comprised nine states and 211 tribes that influence or are influenced by emissions that contribute to regional haze in the Colorado Plateau;

Whereas, the U.S. Environmental Protection Agency promulgated a Regional Haze Regulation in July 1999 that established goals and emission reduction strategies for improving visibility in all 156 mandatory Class I national parks and wilderness areas;

Whereas, the Western Regional Air Partnership (WRAP) was formed by Western states and Tribes to establish a regional process to address, at a minimum, the sixteen Class I areas that were the focus of the Grand Canyon Visibility Transport Commission (GCVTC);

Whereas 40 CFR 51.309 of the Regional Haze Regulation provides for the continued work of the GCVTC, which may be accomplished through the WRAP, to establish a complete framework which can be adopted in the SIPs/TIPs for addressing all sources of visibility impairment in the 16 Class I areas ;

Whereas, 40 CFR 51.309(f)(1)(i) requires that applicable regional haze SIPs/TIPs in 2003 contain criteria and procedures for implementing a market trading program or other program documented in the SIP/TIP if triggered by emissions exceeding the milestones as described in the in 2003, 2008, 2013, and 2018;

Whereas, the signatories to this Memorandum of Understanding (MOU) wish to participate in such a regional market trading program;

Whereas, the signatories to this MOU recognize that although the MOU is not independently enforceable, the interests of them all are served by signing an agreement that clarifies and explains their intent;

Whereas, each signatory has included a contingency plan measure in its Regional Haze SIP/TIP to provide for a Western Emissions Budget (WEB) Trading Program for sulfur dioxide emissions from affected stationary sources under its jurisdiction;

Whereas, each signatory has proposed a SIP/TIP that satisfies the criteria of the market trading provisions contained in 40 CFR 51.309(f)(1)(i) of the Regional Haze Regulation, including regulations and, if necessary, legislation to create a WEB Trading Program in its jurisdiction; and

Whereas, each signatory has undertaken adoption of SIP/TIP requirements and rules that are substantively equivalent to the WEB Trading Program Model Rule and the SO₂ Milestones and Backstop Trading Program Model SIP/TIP that is attached to this MOU in its Regional Haze SIP/TIP as its primary means of satisfying the criteria of the market trading provisions of the Regional Haze Regulation.

Now, therefore, the Parties agree to the following:

I. Authority

Where a signatory to this Memorandum of Understanding (MOU) lacks sufficient state or tribal authority to implement these requirements, it agrees to undertake all changes to its rules, regulations, or statutes necessary to do so.

II. General Responsibilities

- A. Each signatory agrees to assist in the development and maintenance of an emissions tracking system to cover the entire length of the program and post-trigger WEB Allowance Tracking System, including the selection of a Tracking System Administrator. The signatories also agree to participate collectively in the oversight of the Tracking System Administrator and tracking systems to ensure the integrity of the WEB Trading Program.
- B. Each signatory agrees to participate in the WEB Trading Program, including program implementation, coordination and reporting of emissions within its jurisdiction, program audits and evaluations, and development and implementation of procedures to coordinate and exchange the interstate/tribal data and analysis necessary to implement the WEB Trading Program.
- C. Each signatory agrees to determine an emission budget and distribute allowances to sources within its jurisdiction in a manner consistent with requirements outlined in the WEB Trading Program Model SIP/TIP.
- D. Each signatory agrees to adhere to the timing requirements outlined the SO₂ Milestones and Backstop Trading Program Model SIP/TIP in implementing the WEB Trading Program.
- E. In addition to any other meetings described in this MOU, each signatory agree to meet at least annually to discuss issues of concern related to this MOU or other matters affecting compliance with the requirements of the Regional Haze Regulations.

- F. Each signatory agrees to collaborate with other participants in the WEB Trading Program at least every five years to review the Program, and to establish what changes, if any, must be made to the SIPs/TIPs, including such issues as adjusting compliance penalties, milestones, allocations, or emissions budgets.
- G. Each signatory agrees to use ad hoc working groups as needed to implement key aspects of this agreement.
- H. Each signatory agrees to meet in March 2014 to discuss any comments received on the 2018 emission projections in the draft report. The participating states and tribes will decide, through a consensus process, whether an early trigger of the WEB Trading Program is necessary to meet the SO₂ emission reduction goals in 2018.
- I. Each signatory agrees to share with each other all information necessary to evaluate and implement the WEB Trading Program.
- J. Each signatory agrees that should disagreements arise between them about any aspect of the WEB Trading Program that cannot be resolved through routine discussions, they will utilize alternative dispute resolution to reach a resolution before resorting to more formal methods.

III. Terms of Agreement

- A. This MOU is effective upon execution and will remain in effect until December 31, 2018, unless modified as indicated below.
- B. The MOU may be modified upon written consent of all signatories.

IV. Enforceability

This MOU is a statement of intents and purposes of the signatories to facilitate coordination of the development of the regional market-based program. The MOU is not independently enforceable against any signatory.