

Pahrump Valley Clean Air Action Plan

Memorandum of Understanding

The purpose of this memorandum of understanding (MOU) is to formalize an understanding among the Nevada Division of Environmental Protection (NDEP), the Nye County Board of Commissioners (NCBOC), the Pahrump Town Board (PTB) and the U.S. Environmental Protection Agency (EPA). This MOU describes the duties and responsibilities of these agencies in a cooperative effort to bring about an expeditious resolution to the PM-10 air pollution problem in the Nye County portion of State hydrographic area #162 ("Pahrump Valley"). If this effort is successful, Pahrump Valley may avoid being redesignated as a nonattainment area for PM-10. This MOU is the first step in accelerating the development and implementation of a locally-initiated PM-10 control plan ("Pahrump Valley Clean Air Action Plan", or CAAP) designed to attain and maintain the national ambient air quality standard (NAAQS) for PM-10 in that area.

General Provisions

1. EPA has authority under section 107(d) of the Clean Air Act ("Act") to redesignate Pahrump Valley to "nonattainment" based on monitored violations of the PM-10 NAAQS in that area over the past several years. After notice to the State of Nevada, EPA intends to propose such redesignation through publication of a notice in the *Federal Register*. However, EPA will defer final action on redesignation to allow NDEP and NCBOC the opportunity to prepare, adopt, and implement a Pahrump Valley CAAP that provides for earlier implementation of control measures and attainment of the NAAQS than would

otherwise be expected through the redesignation and nonattainment planning process under Title I of the Act. EPA's deferral on taking final action on the redesignation proposal and EPA's participation as a signatory to this MOU are not a guarantee that EPA will not ultimately exercise its statutory discretion to redesignate Pahrump Valley to nonattainment for PM-10, but they do reflect EPA's current intention to work together with the signatories to resolve the PM-10 air pollution problem in Pahrump Valley through the process set forth in this MOU rather than through the formal nonattainment planning process in Part D of Title I of the Act. The circumstances under which EPA will take final action on its proposal to redesignate Pahrump Valley to nonattainment for PM-10 include, but are not limited to, the following:

- NDEP and NCBOC fail to meet any of the requirements, milestones, or due dates set forth in this MOU, without prior written approval from EPA;
 - EPA determines that the control measures submitted by NDEP are inadequate to achieve a net environmental benefit in addition to attainment and maintenance of the PM-10 NAAQS; or
 - EPA's discretion to defer taking final action on the proposal to redesignate is constrained by judicial or Congressional action.
2. NDEP and NCBOC agree to meet the requirements, milestones and due dates listed below. NDEP and NCBOC understand that failure to meet the requirements, milestones and due dates without prior written approval from EPA is sufficient evidence that a net environmental benefit and improvement in air quality is not occurring and will cause

EPA to take final action on its proposal to redesignate the Pahrump Valley as "nonattainment," which will begin the planning process under Title I of the Act.

3. EPA will provide technical assistance to NDEP and NCBOC in the development of the CAAP and will take action on related State Implementation Plan (SIP) submittals in accordance with statutory deadlines for such submittals. This MOU anticipates one comprehensive planning cycle, culminating in local and State adoption of a Final CAAP in 2005 and EPA approval of the Final CAAP into the Nevada SIP, as well as on-going review by NDEP to ensure continued progress toward attainment and maintenance of the PM-10 NAAQS. The on-going review process may lead to proposals to revise, delete, or substitute individual control measures included in the Final CAAP. NDEP and NCBOC acknowledge that any revisions to, deletions of, or substitutions for, individual control measures previously approved by EPA into the Nevada SIP must be submitted to EPA consistent with EPA requirements for SIP revisions.
4. NDEP agrees to maintain air quality monitors, reporting and analysis of monitoring data.
5. NDEP will coordinate communication between NCBOC and EPA to facilitate continuing EPA review of local work. NCBOC will coordinate communication among the PTB, the Pahrump Regional Planning Commission (PRPC), and NDEP.
6. This MOU shall be effective upon signature by all four parties, may be amended by mutual consent, and may be terminated by any party after giving thirty days written notice to each of the other parties. This MOU shall expire on December 31, 2014, or on the effective date of a final rule (or other final action) addressing EPA's proposed

redesignation of the Pahrump Valley to nonattainment, whichever is sooner, unless the MOU is amended by the agencies or superseded by a new MOU.

State and Local Government Responsibilities

NDEP will be the lead agency for all tasks under this MOU and will work with NCBOC to develop and implement a CAAP that includes the control measures necessary to demonstrate attainment and maintenance of the PM-10 standard. NDEP will develop the CAAP in coordination with NCBOC, EPA, stakeholders and the public. MOU tasks are described in detail in the following sections. Significant milestones are as follows:

CAAP Milestones		
1	February 28, 2003	NDEP completed initial base year (2001) emissions inventory.
2	May 31, 2003	NDEP completed refined base year (2001) emissions inventory.
3	October 31, 2003	NDEP and NCBOC select potential control measures for further study.
4	November 30, 2003	NDEP completes future year (2009) baseline and control case inventories and an initial draft attainment assessment. Draft assessment is sent to EPA for their review.
5	April 30, 2004	NDEP, NCBOC and PTB select emission reduction strategy, including specific State and local control measures.
6	June 30, 2004	NDEP submits list of proposed control measures to EPA that were agreed upon by NDEP, NCBOC, PTB, including description of the measure, emission reduction potential, cost effectiveness, and schedule for adoption and implementation.
7	August 31, 2004	NDEP completes Draft CAAP and distributes the draft plan to NCBOC, PTB, EPA and public.
8	October 31, 2004	NDEP presents Draft CAAP at meetings with NCBOC and PTB in the town of Pahrump. NCBOC and PTB complete public hearings and adopts control measures and ordinances.
9	December 31, 2004	NDEP completes Final CAAP.
10	January 31, 2005	The State Environmental Commission (SEC) holds public hearing on Final CAAP. SEC adopts regulations. NDEP submits Final CAAP to EPA as SIP revision.
11	December 31, 2006	NDEP and NCBOC implement all adopted control measures from Final CAAP.
12	December 31, 2009	PM-10 NAAQS attained.
13	December 31, 2014	Maintenance period ends.

In the event an issue arises that may impact performance or progress toward milestones, the

signatory party responsible will notify all other signatories as soon as possible.

Reporting

To facilitate self-evaluation and communication among EPA, NDEP, stakeholders, and the public, NDEP will assess and report progress towards the milestones, and implementation of control strategies during the NCBOC meetings every 6 months after signature of the MOU.

Emissions Inventories

NDEP will be the lead agency in preparing emissions inventories for the CAAP. Nye County Staff will provide technical assistance in the development of emissions inventories, trend analysis and quantification and comparison of emission reduction strategies.

1. By February 28, 2003, NDEP prepared an initial base year (2001) emissions inventory.

This inventory included:

- MOBILE6 data and transportation information for 2001;
- NONROAD model data adjusted for local equipment populations and usage rates;
- Stationary source data based on NDEP database information and local survey; and
- Area source data, based on local survey data, when possible.

2. By May 31, 2003, NDEP prepared a more refined base year (2001) emission inventory.

The refined base year inventory was based on additional surveys performed by NDEP staff and input from the local community.

3. As noted below under “Emission Reduction Strategy”, by October 31, 2003, NDEP and NCBOC will select potential control measures for further study.

4. By November 30, 2003, NDEP will prepare future year (2009) baseline and control case inventories. The future-year (2009) baseline inventory will account for growth and for currently adopted regulations that would affect future PM-10 emissions in Pahrump Valley. The control case (2009) inventories will show the relative effectiveness of potential control measures selected for study by NDEP and NCBOC.
5. By August 31, 2004, and based upon selection of the emission reduction strategy, including the specific State and local control measures, NDEP will prepare a future year (2009) baseline and control case inventory for the Draft CAAP that reflects implementation of selected emission reduction strategy, including the specific State and local control measures that are to be adopted and implemented.
6. By December 31, 2004, NDEP will revise the inventories, as appropriate, based on comments received on the Draft CAAP, and will include the revised inventories in the Final CAAP.
7. By January 31, 2005, NDEP will submit the emissions inventories to EPA as an element of the Final CAAP.

Emission Reduction Strategies

NDEP will be the lead agency in developing an emissions reduction strategy. Nye County Staff will provide technical and strategic assistance in the selection and implementation of this strategy.

1. By October 31, 2003, NDEP, in consultation with NCBOC, stakeholders, and other participants, will develop an initial list of potential control measures, including, but not

limited to, reasonably available control technology for existing stationary sources in the Pahrump Valley.

2. By April 30, 2004, NDEP, NCBOC and local stakeholders and participants will agree on an emission reduction strategy, including specific State and local control measures.
3. By June 30, 2004, NDEP will submit a list of control measures to EPA, including description of the measure, emission reduction potential, cost effectiveness, schedule for adoption and implementation, and reporting processes. All control measures will be specific, quantified, permanent, and enforceable.
4. As noted below under “Draft and Final CAAP”, by August 31, 2004, NDEP will complete the Draft CAAP, which includes control measures, and distributes the draft plan to NCBOC, PTB, EPA and public.
5. By October 31, 2004, NCBOC will adopt ordinances, as applicable, to support selected local control measures. NCBOC will design and implement local measures through the Master Plan process.
6. By December 31, 2004, NDEP will revise the control measures as appropriate based on comments received on the Draft CAAP, and will include the revised measures in the final CAAP.
7. By January 31, 2005, State Environmental Commission (SEC) will adopt regulations, as applicable, to support selected State control measures.
8. By January 31, 2005, NDEP will submit all adopted control measures, as an element of the Final CAAP, to EPA for approval into the Nevada SIP.

9. All CAAP control measures will be implemented as soon as practicable, but no later than December 31, 2006.

Attainment Assessment

NDEP will be the lead agency in preparing the attainment assessment for the CAAP.

1. By November 30, 2003, NDEP will prepare an initial attainment assessment based on base year (2001), future year (2009) baseline, and control case inventories and submit the assessment to EPA for its review.
2. By August 31, 2004, for the Draft CAAP, NDEP will prepare a refined attainment assessment based on the selected emission control strategy, including the specific State and local control measures.
3. By December 31, 2004, NDEP will revise the attainment assessment, as appropriate, based on comments received on the Draft CAAP, and will include the revised assessment in the Final CAAP.
4. By January 31, 2005, NDEP will submit the attainment assessment to EPA as an element of the Final CAAP.

Draft and Final CAAP

NDEP will be the lead agency in preparing a Draft CAAP that consolidates the above tasks (emissions inventories, control measures, attainment assessment, and maintenance element) into a single document setting forth the PM-10 control strategy for Pahrump Valley. NDEP will also be the lead agency in preparing a Final CAAP that reflects comments received on the Draft CAAP and that documents public involvement, including responses to comments made on the

Draft.

1. By August 31, 2004, NDEP will circulate the Draft CAAP for review by NCBOC, PRPC, PTB, EPA and the public.
2. October 31, 2004, NDEP will present the Draft CAAP at a meeting in the Town of Pahrump. NCBOC will complete public hearings, adopt the control measures, and enact the necessary ordinances to implement the local measures.
3. By December 31, 2004, NDEP will complete the Final CAAP and submit it to the State SEC.
4. By January 31, 2005, the SEC will hold a public hearing on the Final CAAP and will adopt the Final CAAP, as revised appropriately to reflect public comments, and will enact regulations to implement the State control measures. As soon as practicable thereafter, NDEP will submit the Final CAAP to EPA for approval into the Nevada SIP.

Maintenance for Growth

NDEP will be the lead agency in evaluating the need for additional, or more stringent, control measures to ensure maintenance of the PM-10 NAAQS at least five years beyond December 31, 2009. Nye County Staff will provide technical and planning assistance in developing and implementing processes to address the impact of emissions growth beyond the attainment date.

1. By August 31, 2004, NDEP will prepare the element of the Draft CAAP that addresses emissions growth at least five years beyond December 31, 2009. The related analysis will employ one or more of the following or any other appropriate techniques necessary to make such a demonstration:

- An annual review of growth to ensure emission reduction strategies and growth assumptions are adequate; or
 - Identification and quantification of Federal, State, and/or local measures indicating sufficient reductions to offset growth estimates.
2. A continuing planning process will be conducted concurrent with the tracking and reporting process for the CAAP. This update and verification will be an ongoing process between the signatories, stakeholders and the public. Planning processes must consider and evaluate:
- All relevant actual new point sources;
 - Impacts from potential new source growth; and
 - Future transportation patterns and their impact on air quality in a manner that is consistent with the most current adopted local transportation plan and most current trend and projections of local motor vehicle emissions.
3. If the review of emissions growth in conjunction with the continuing planning process demonstrates that adopted emission reductions strategies are inadequate to address growth in emissions, additional measures will be added to the CAAP.
4. In the event that the continuing planning process identifies the need to add, delete, or substitute control measures from the CAAP that have been incorporated into the SIP, NDEP will facilitate SIP revisions to accommodate changes.

Public Involvement

NCBOC will be the lead agency in implementing the tasks for public involvement. NCBOC will

coordinate communication between NDEP and local agencies and will provide support for public education efforts.

1. Public involvement will occur in all stages of planning by the signatory parties. Outreach may include one or more of the following techniques: public meetings and presentations, stakeholder meetings, websites, print advertising and radio.
2. Public education programs will be used to raise awareness regarding issues, opportunities for involvement in the planning process, implementation of emission reduction strategies, and any other issues important to the area.
3. The Town of Pahrump will be included throughout the process.
4. Interested stakeholders will be involved in the planning process as early as possible. Planning meetings will be open to the public, with posted meeting times and locations. The Draft CAAP will be distributed to the public, and the drafting process will have sufficient opportunities for comment from all interested stakeholders.
5. Public comment on the proposed Final CAAP will follow the normal SIP revision process as implemented by the State.
6. NDEP will prepare semi-annual reports detailing, at a minimum, progress toward milestones, will be publicly presented and publicly available.

Signatures:

BY: Henry E. Neth 09/16/03
Henry Neth, Chairman Date
Nye County Board of
County Commissioners

ATTEST: Sandra Merlino 09/16/03
Sandra "Sam" Merlino Date
Clerk and Ex-Officio
Clerk of the Nye County Board of County
Commissioners

BY: Albert
Joni Eastley, Vice-Chairman Date
Nye County Board of
County Commissioners

BY: Midge Carver 09/16/03
Midge Carver, Nye County Board Date
of County Commissioners

BY: Patricia Cox 09/16/03
Patricia Cox, Nye County Board Date
of County Commissioners

BY: Candice Trummell 09/16/03
Candice Trummell, Nye County Board Date
of County Commissioners

BY: Richard Ewing 9/23/03
Richard Ewing, Chairman Date
Town of Pahrump Board

BY: Charlotte LeVar 9/29/03
Charlotte LeVar, Clerk Date
Town of Pahrump Board

BY: Allen Biaggi 9/15/03
Allen Biaggi, Administrator Date
Nevada Division of Environmental Protection

BY: Wayne Nasti 9/29/03
Wayne Nasti, Regional Administrator Date
U. S. Environmental Protection Agency, Region IX