



**Figure 14.** Mounting Hole, PSIN 0910 Customer Lock

#### Appendix A—USPS-Approved Independent Test Laboratories

(1) ACTS Test Labs, Contact: Dennis Maclaughlin, Phone: 716-505-3547, Fax: 716-505-3301, 100 Northpointe Parkway, Buffalo, NY 14228-1884.

(2) The Coatings Lab, Contact: Tom Schwerdt, Phone: 713-981-9368, Fax: 713-776-9634, 10175 Harwin Drive, Suite 110, Houston, TX 77036.

(3) Ithaca Materials Research & Testing, Inc. (IMR), Contact: Jeff Zerilli, Vice President, Phone: 607-533-7000, Lansing Business and Technology Park, 31 Woodsedge Drive, Lansing, NY 14882.

(4) Independent Test Laboratories, Inc., Contact: Robet Bouvier, Phone: 800-962-Test, Fax: 714-641-3836, 1127B Baker Street, Costa Mesa, CA 92626.

(5) Midwest Testing Laboratories, Inc., Contact: Cherie Ulatowski, Phone: 248-689-9262, Fax: 248-689-7637, 1072 Wheaton, Troy, MI 48083.

**Note:** Additional test laboratories may be added provided they satisfy USPS certification criteria. Interested laboratories should contact: USPS Engineering, Test

Evaluation and Quality, 8403 Lee Highway, Merrifield, VA 22082-8101.

**Neva R. Watson,**  
*Attorney, Legislative.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 284-0443; FRL-7650-1]

#### Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of revisions to the Antelope Valley Air

Quality Management District (AVAQMD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from internal combustion engines. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by May 21, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support document (TSD), and public

comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Antelope Valley AQMD, 43301 Division St., Ste. 206, Lancaster, CA 93535-4649.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA

Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Thomas C. Canaday, EPA Region IX, (415) 947-4121, [canaday.tom@epa.gov](mailto:canaday.tom@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal**

*A. What Rule Did the State Submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

**TABLE 1.—SUBMITTED RULE**

Local agency	Rule #	Rule title	Adopted	Submitted
AVAQMD .....	1110.2	Emissions From Stationary, Non-road & Portable Internal Combustion Engines.	01/21/03	04/01/03

On May 13, 2003, this rule submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

*B. Are There Other Versions of this Rule?*

There is no previous version of Rule 1110.2 in the SIP, although the AVAQMD adopted an earlier version of this rule on November 15, 2000, and CARB submitted it to us on March 14, 2001. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

*C. What is the Purpose of the Submitted Rule?*

NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO<sub>x</sub> emissions. Rule 1110.2 regulates NO<sub>x</sub> emissions from stationary internal combustion engines over 50 brake horsepower (bhp) and portable internal combustion engines over 100 bhp. The TSD has more information about this rule.

**II. EPA's Evaluation and Action**

*A. How is EPA Evaluating the Rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources of NO<sub>x</sub> and volatile organic compounds in ozone nonattainment areas (see section 182(b)(2) and 182(f)), and must not relax existing

requirements (see sections 110(l) and 193). The AVAQMD regulates a "severe" ozone nonattainment area (see 40 CFR 81), so Rule 1110.2 must fulfill RACT.<sup>1</sup>

Guidance and policy documents that we used to help evaluate enforceability and RACT requirements consistently include the following:

1. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO<sub>x</sub> Supplement), 57 FR 55620, November 25, 1992.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001.
4. Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Stationary Spark-Ignited Internal Combustion Engines, State of California Air Resources Board, November, 2001.
5. "Nitrogen Oxides (NO<sub>x</sub>) Questions from Ohio EPA," EPA memorandum, Tom Helms, Chief, Ozone/Carbon Monoxide Programs Branch, to Air Enforcement Branch, EPA Region V, March 30, 1994.

*B. Does the Rule Meet the Evaluation Criteria?*

AVAQMD Rule 1110.2 improves the SIP by establishing emission limits for stationary and portable internal combustion engines and by specifying monitoring, reporting and recordkeeping provisions. This rule is largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

*C. What are the Rule Deficiencies?*

Rule 1110.2 exempts internal combustion engines used in agriculture. These engines are typically used for irrigation purposes. The AVAQMD regulates an ozone nonattainment area so Rule 1110.2 must fulfill RACT for all engines located at major sources. Therefore this agricultural exemption conflicts with section 110 and part D of the Act and prevents full approval of the SIP revision. Rule 1110.2 also exempts from most regulation those internal combustion engines used for snow manufacture and ski lifts during seasonal operations from November 1 through April 15 each year. It is unclear whether this exemption, as stated, is consistent with section 110 and part D of the Act. Justification for this exemption must be provided when a revised rule is submitted or the exemption should be removed.

<sup>1</sup> AVAQMD has jurisdiction over stationary sources in Antelope Valley, which is the Los Angeles County portion of the "Southeast Desert Modified Air Quality Maintenance Area," which also includes portions of Riverside and San Bernardino Counties.

#### *D. EPA Recommendations to Further Improve the Rule*

AVAQMD should correct the reference in subsection (C)(2)(b) to subsection (C)(1)(c). The correct reference is to (C)(1)(a)(iii). Subsections (E)(3) and (G)(2) should be revised to require record retention for five years, rather than two.

#### *E. Proposed Action and Public Comment*

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rule to improve the SIP. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiency within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rule has been adopted by the AVAQMD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

### **III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable

duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 30, 2004.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

#### **Endangered and Threatened Wildlife and Plants; 90-day Finding for Petitions To List the Greater Sage-grouse as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for three petitions to list the greater sage-grouse (*Centrocercus urophasianus*) as threatened or endangered, under the Endangered Species Act of 1973, as amended. We find that these petitions and additional information available in our files present substantial information indicating that listing the greater sage-grouse may be warranted. As a result of this finding, we are initiating a status review. We ask the public to submit to us any pertinent information concerning the status of or threats to this species.

**DATES:** The finding announced in this document was made on April 5, 2004. You may submit new information concerning this species for our consideration by June 21, 2004.

**ADDRESSES:** Data, information, comments, or questions concerning this finding should be submitted to the U.S. Fish and Wildlife Service, 4000 Airport Parkway, Cheyenne, Wyoming 82001. The petitions, finding, and supporting information are available for public inspection, by appointment, during normal business hours, at the above address. Submit new information, materials, comments, or questions concerning this species to the Service at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Pat Deibert, at the address given in the **ADDRESSES** section (telephone 307-772-2374; facsimile 307-772-2358).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a