

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

■ 2. Section 1.36 paragraph (g)(1)(viii) is amended by adding the following text to the table in numerical order.

**§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.**

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(viii) \* \* \*

Number	Name of system
IRS 42.005 .....	Whistleblower Office Records.

Dated: December 21, 2007.

**Peter B. McCarthy,**  
*Assistant Secretary for Management and Chief Financial Officer.*  
 [FR Doc. E8-130 Filed 1-9-08; 8:45 am]  
**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2007-1104; FRL-8512-7]

**Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District and Sacramento Metropolitan Air Quality Management District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the San Joaquin Valley Air Pollution Control

District (SJVAPCD) and Sacramento Metropolitan Air Quality Management District (SMAQMD) portions of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from internal combustion engines and stationary gas turbines. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on March 10, 2008 without further notice, unless EPA receives adverse comments by February 11, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2007-1104, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment.

If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Francisco Dóñez, EPA Region IX, (415) 972-3956, [Donez.Francisco@epa.gov](mailto:Donez.Francisco@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 rules did the State submit?*

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVAPCD .....	4702	Internal Combustion Engines—Phase 2 .....	01/18/07	05/08/07
SMAQMD .....	413	Stationary Gas Turbines .....	03/24/05	09/05/07

On July 23, 2007 and October 16, 2007, respectively, EPA determined that these rule submittals met the completeness criteria in 40 CFR part 51, Appendix V, which must be met before formal EPA review.

*B. Are there other versions of these rules?*

The SJVAPCD first adopted Rule 4702 on August 21, 2003. That version was submitted to EPA on October 9, 2003, and approved on May 18, 2004 (69 FR 28061). The SJVAPCD adopted revisions

to the SIP-approved version on June 16, 2005 and April 20, 2006, and CARB submitted them to us on October 20, 2005 and October 5, 2006. The SMAQMD first adopted Rule 413 on May 6, 1995, and EPA approved the rule into the SIP on March 1, 1996 (61 FR

7992). The SMAQMD adopted revisions to Rule 413 on May 1, 1997 and CARB submitted them to us on May 18, 1998. We approved those revisions into the SIP on February 11, 1999 (64 FR 6803). While we can act on only the most recently submitted version of each rule, we have reviewed materials provided with previous submittals.

*C. What is the purpose of the submitted rule revisions?*

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. SJVAPCD Rule 4702 limits emissions of NO<sub>x</sub>, carbon monoxide (CO), and volatile organic compounds (VOC) from internal combustion engines. Changes from the SIP-approved version include the following:

- Rule 4702 now applies to compression-ignited engines, transportable engines, and engines in agricultural operations. The compliance date for agricultural engines is January 1, 2009.
- The amended rule contains new exemptions for engines used to propel instruments of husbandry, engines used exclusively to power mobile agricultural equipment, engines used to power wind machines for crop protection, and certain de-rated engines.
- The amended rule establishes requirements for District certification of exhaust control systems. These changes are meant to reduce the overall number of source tests required for Rule 4702 compliance, without affecting emission reductions.
- The amended rule allows the use of a portable NO<sub>x</sub> analyzer for agricultural spark-ignited engines, to show initial compliance with Rule 4702 emissions standards until a source test can be arranged.
- The amended rule allows representative testing for spark-ignited engines, and specifies requirements for that testing.

SMAQMD Rule 413 limits emissions of NO<sub>x</sub> from stationary gas turbines. Amended Rule 413 extends the startup exemption for turbines with a rated output greater than or equal to 160 MW, and which are part of a combined cycle process, to up to 4 hours following a shutdown of the associated steam turbine of 72 hours or more; and up to 3 hours following a shutdown of the associated steam turbine of between 8 and 72 hours. It also allows a 6-hour averaging period for compliance with NO<sub>x</sub> limits for gas turbines with a rated output greater than 100 MW, and which

are part of a combined cycle process, during a transient increase in emissions. EPA's technical support documents (TSDs) have more information about these rules.

## II. EPA's Evaluation and Action

### A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). The SJVAPCD and the SMAQMD both regulate serious ozone nonattainment areas (see 40 CFR part 81.305), so Rule 4702 and Rule 413 must implement Reasonably Available Control Technology (RACT) for control of NO<sub>x</sub> emissions (see CAA 182(b)(2), (c) and 182(f)). Both areas also regulate PM-10 nonattainment areas (see 40 CFR 81.305). The SJVAPCD is a serious PM-10 nonattainment area, so Rule 4702 must implement Best Available Control Measures (BACM), including Best Available Control Technology (BACT), for control of NO<sub>x</sub> emissions (see CAA 189(b)(1)(B) and 189(e)). The SMAQMD is a moderate PM-10 nonattainment area, so Rule 413 must implement Reasonably Available Control Measures (RACM), including RACT, for control of NO<sub>x</sub> emissions (see CAA 189(a)(1)(C) and 189(e)).

Guidance and policy documents that we use to help evaluate enforceability, BACM/BACT and RACM/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 (the Little Bluebook).
4. EPA Memorandum to Regional Administrators from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, Assistant Administrator for Air and Radiation: "State Implementation Plans: Policy Regarding Excess Emissions during Malfunctions, Startup, and Shutdown," September 20, 1999.
5. "Clean Air Act National Testing Guidance," EPA, September 30, 2005.
6. "Alternative Control Techniques Document—NO<sub>x</sub> Emissions from

Stationary Reciprocating Internal Combustion Engines," EPA, EPA-453/R-93-032, July 1993.

7. "Alternative Control Techniques Document—NO<sub>x</sub> Emissions from Stationary Gas Turbines," EPA, EPA-453/R-93-007, January 1993.

8. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (April 16, 1992).

9. State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 59 FR 41998 (August 16, 1994).

### B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the CAA, EPA regulations, and relevant policy and guidance regarding enforceability, BACM/BACT, RACM/RACT, and SIP relaxations. The inclusion of agricultural, transportable, and compression-ignited engines in SJVAPCD Rule 4702 clearly strengthens the rule, and the added exemptions are supported by District staff analysis. The representative testing provisions in Rule 4702 are based on EPA's "Clean Air Act National Testing Guidance," and contain appropriate requirements to assure the achievement of emissions limits. The use of portable NO<sub>x</sub> analyzers allowed in Rule 4702 is a reasonable manner of checking compliance before the required performance of a full source test. The Rule 4702 requirements for certification of exhaust control systems are adequate to ensure control of emissions while simplifying rule compliance and enforcement.

In our prior action to approve Rule 4702 into the SIP, we concluded that Rule 4702 implemented BACM/BACT as required for serious PM-10 nonattainment areas under CAA sections 189(b)(1)(B) and 189(e) for NO<sub>x</sub> emissions from non-agricultural stationary internal combustion engines. See 69 FR 7098, 7102 (February 12, 2004) (proposed rule); 69 FR 28061 (May 18, 2004) (final rule). Revised Rule 4702 continues to implement BACM/BACT for these engines. In addition, these revisions satisfy SJVAPCD's commitment to apply BACT-level controls to agricultural engines, consistent with its Amended 2003 PM-10 Plan. (The "Amended 2003 PM-10 Plan" is the San Joaquin Valley Plan to Attain Federal Standards for Particulate Matter 10 Microns and Smaller, as

revised and supplemented by the plan amendments SJVAPCD adopted and submitted to EPA in December 2003. See 69 FR 30006, May 26, 2004, for the final rule approving these plan amendments into the California SIP.)

As to SMAQMD Rule 413, while the extension of allowable startup periods and the provision for short-term excursions appear to relax the rule, these changes apply to only a small subset of the permitted plants in the District that cannot feasibly meet the current SIP rule's requirements during these limited periods. All of these sources have installed BACT-level NO<sub>x</sub> emission controls in accordance with SMAQMD's New Source Review (NSR) requirements. New turbines covered by the revised exemptions (i.e., combined-cycle turbines with capacities exceeding 100 MW) will also be subject to BACT for control of NO<sub>x</sub> emissions. These revisions to Rule 413 only provide limited flexibility to address operational necessities at large turbines during narrowly defined periods, and do not alter the control technology requirements that apply to these sources.

In our prior actions to approve Rule 413 into the SIP, we concluded that this rule implemented RACT for NO<sub>x</sub> control as required for serious ozone nonattainment areas under CAA sections 182(b)(2) and 182(f). See 61 FR 7992 (March 1, 1996); 64 FR 6803 (February 11, 1999). Revised Rule 413 continues to implement RACT for control of NO<sub>x</sub> emissions, as a precursor to both ozone and PM-10, from stationary gas turbines.

The TSDs have more information on our evaluation of these rules.

#### *C. EPA Recommendations To Further Improve the Rules*

EPA has no recommendations to further improve these rules.

#### *D. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by February 11, 2008, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not

receive timely adverse comments, the direct final approval will be effective without further notice on March 10, 2008. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 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 approves 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 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 approves a state rule implementing a Federal standard.

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 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.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 5, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraphs (c)(350)(i)(C) and (c)(352) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(350) \* \* \*  
(i) \* \* \*

(C) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4702, adopted on August 21, 2003 and amended on January 18, 2007.

\* \* \* \* \*

(352) New and amended regulations were submitted on September 5, 2007, by the governor's designee.

(i) Incorporation by reference.

(A) Sacramento Metropolitan Air Quality Management District.

(1) Rule 413, adopted on April 6, 1995 and amended on March 24, 2005.

[FR Doc. E8-171 Filed 1-9-08; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 204, 212, and 252**

**RIN 0750-AF55**

**Defense Federal Acquisition Regulation Supplement; DoD Representations and Certifications in the Online Representations and Certifications Application (DFARS Case 2006-D032)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement

(DFARS) to address the DFARS provisions included in the Online Representations and Certifications Application (ORCA). Use of ORCA eliminates the need for offerors to repetitively submit the same information in response to Government solicitations.

**DATES:** *Effective Date:* January 10, 2008.

**FOR FURTHER INFORMATION CONTACT:** Ms. Felisha Hitt, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-0310; facsimile 703-602-7887. Please cite DFARS Case 2006-D032.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Subpart 4.12 of the Federal Acquisition Regulation (FAR) requires prospective contractors to complete electronic annual representations and certifications in ORCA, in conjunction with required registration in the Central Contractor Registration database. FAR 4.1202 prescribes use of the solicitation provision at 52.204-8, Annual Representations and Certifications; provides a list of the FAR representations and certifications in ORCA; and provides direction to the contracting officer to exclude those representations and certifications from solicitations that contain the clause at FAR 52.204-7, Central Contractor Registration.

Similarly, this DFARS rule contains a list of the DFARS representations and certifications in ORCA, and provides direction to the contracting officer to exclude those representations and certifications when using the provision at FAR 52.204-8. In addition, the DFARS rule contains a substitute paragraph (c) for use with the provision at FAR 52.204-8 to permit inclusion of information relating to both the FAR and the DFARS. An offeror must include information in paragraph (c) only if changes to the offeror's annual representations and certifications apply to a particular solicitation.

DoD published a proposed rule at 72 FR 6515 on February 12, 2007. DoD received comments from one respondent. A discussion of the comments is provided below.

1. *Comment:* The respondent suggested administrative changes to the organization of the contents of ORCA to enhance the certification process.

*DoD Response:* The comment is outside the scope of this DFARS case. However, the comment has been forwarded to the Government officials

responsible for managing the ORCA system.

2. *Comment:* The respondent recommended revision of the introductory statement at 204.1202(2), from "Do not include the following representations and certifications" to "Do not include the following representations and certifications in solicitations and contracts."

*DoD Response:* DoD believes that the direction in the introductory statement is clear as written, and that the additional phrase is unnecessary.

3. *Comment:* The respondent recommended amendment of the second sentence in the introductory text at 212.301(f) pertaining to commercial item solicitations, to change "may" to "shall" with regard to direction to the contracting officer to consider the information in ORCA.

*DoD Response:* DoD has retained "may" in this sentence to provide flexibility to the contracting officer in the review of representations and certifications.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

**B. Regulatory Flexibility Act**

DoD has prepared a final regulatory flexibility analysis consistent with 5 U.S.C. 604. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of the rule is to maintain a centralized location for the representation and certification information required by the DFARS, thereby eliminating the need for offerors to submit the same information to various DoD offices in response to individual solicitations. The rule will apply to prospective DoD contractors registered in the Central Contractor Registration database. FAR 4.1102 requires that prospective contractors be registered in the database before the award of a contract or agreement, with certain exceptions. Administrative personnel that have general knowledge of the contractor's business should be able to enter the applicable representation and certification information into ORCA. The rule is expected to have a positive impact on small business concerns by reducing administrative burdens.

**C. Paperwork Reduction Act**

The information collection requirements of the representations and certifications addressed in this rule that require offerors to provide specific fill-in information have been approved by