

attributable to the work performed by the individual relative to the total amount of income, deductions, or losses required to be correctly reported on the tax return or claim for refund of tax; and the amount of tax or credit attributable to the work performed by the individual relative to the total tax liability required to be correctly reported on the tax return or claim for refund of tax. A tax return preparer does not include an individual who is not otherwise a tax return preparer as that term is defined in § 301.7701-15(b)(2), or who is an individual described in § 301.7701-15(f). The provisions of this paragraph (g) are illustrated by the following examples:

*Example 1.* Employee A, an individual employed by Tax Return Preparer B, assists Tax Return Preparer B in answering telephone calls, making copies, inputting client tax information gathered by B into the data fields of tax preparation software on a computer, and using the computer to file electronic returns of tax prepared by B. Although Employee A must exercise judgment regarding which data fields in the tax preparation software to use, A does not exercise any discretion or independent judgment as to the clients' underlying tax positions. Employee A, therefore, merely provides clerical assistance or incidental services and is not a tax return preparer required to apply for a PTIN or other identifying number as the Internal Revenue Service may prescribe in forms, instructions, or other appropriate guidance.

*Example 2.* The facts are the same as in *Example 1*, except that Employee A also interviews B's clients and obtains from them information needed for the preparation of tax returns. Employee A determines the amount and character of entries on the returns and whether the information provided is sufficient for purposes of preparing the returns. For at least some of B's clients, A obtains information and makes determinations that constitute all or substantially all of the tax return. Employee A is a tax return preparer required to apply for a PTIN or other identifying number as the Internal Revenue Service may prescribe in forms, instructions, or other appropriate guidance. Employee A is a tax return preparer even if Employee A relies on tax preparation software to prepare the return.

*Example 3.* C is an employee of a firm that prepares tax returns and claims for refund of tax for compensation. C is responsible for preparing a Form 1040, "U.S. Individual Income Tax Return," for a client. C obtains the information necessary for completing the return during a meeting with the client, and makes determinations with respect to the proper application of the tax laws to the information in order to determine the client's tax liability. C completes the tax return and sends the completed return to employee D, who reviews the return for accuracy before signing it. Both C and D are tax return preparers required to apply for a PTIN or other identifying number as the Internal

Revenue Service may prescribe in forms, instructions, or other appropriate guidance.

*Example 4.* E is an employee at a firm which prepares tax returns and claims for refund of tax for compensation. The firm is engaged by a corporation to prepare its Federal income tax return on Form 1120, "U.S. Corporation Income Tax Return." Among the documentation that the corporation provides to E in connection with the preparation of the tax return is documentation relating to the corporation's potential eligibility to claim a recently enacted tax credit for the taxable year. In preparing the return, and specifically for purposes of the new tax credit, E (with the corporation's consent) obtains advice from F, a subject matter expert on this and similar credits. F advises E as to the corporation's entitlement to the credit and provides his calculation of the amount of the credit. Based on this advice from F, E prepares the corporation's Form 1120 claiming the tax credit in the amount recommended by F. The additional credit is one of many tax credits and deductions claimed on the tax return, and determining the credit amount does not constitute preparation of all or substantially all of the corporation's tax return under this paragraph (g). F will not be considered to have prepared all or substantially all of the corporation's tax return, and F is not a tax return preparer required to apply for a PTIN or other identifying number as the Internal Revenue Service may prescribe in forms, instructions, or other appropriate guidance. The analysis is the same whether or not the tax credit is a substantial portion of the return under § 301.7701-15 of this chapter, and whether or not F is in the same firm with E. E is a tax return preparer required to apply for a PTIN or other identifying number as the Internal Revenue Service may prescribe in forms, instructions, or other appropriate guidance.

(h) The Internal Revenue Service, through forms, instructions, or other appropriate guidance, may prescribe exceptions to the requirements of this section, including the requirement that an individual be authorized to practice before the Internal Revenue Service before receiving a preparer tax identification number or other prescribed identifying number, as necessary in the interest of effective tax administration.

(i) *Effective/applicability date.* Paragraph (a)(2) of this section is effective for returns and claims for refund filed after the date that final regulations are published in the **Federal Register**. Paragraphs (d) through (h) of this section are effective after the date that final regulations are published in the **Federal Register**.

**Steven T. Miller,**  
*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2010-6867 Filed 3-24-10; 11:15 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0958; FRL-9131-3]

### Revisions to the California State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from refinery vacuum producing systems and process unit turnaround. We are approving local rules that regulate 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 April 26, 2010.

**ADDRESSES:** Submit comments, identified by docket number [EPA-R09-OAR-2009-0958], by one of the following methods:

1. *Federal eRulemaking Portal:* <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 <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 <http://www.regulations.gov> or e-mail. [Http://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.

*Docket:* The index to the docket for this action is available electronically at <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:**  
Joanne Wells, EPA Region IX, (415) 947-4118, [wells.joanne@epa.gov](mailto:wells.joanne@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 addressed by this proposal with the dates that they were amended by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

District	Rule No.	Rule title	Amended	Submitted
SJVUAPCD .....	4453	Refinery Vacuum Producing Devices or Systems .....	12/17/92	08/24/07
SJVUAPCD .....	4454	Refinery Process Unit Turnaround .....	12/17/92	08/24/07

On September 17, 2007, EPA determined that the submittal for San Joaquin Valley Unified Air Pollution Control District Rules 4453 and 4454 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?*

SIP versions of submitted SJVUAPCD rules are old rules from three of the eight counties that now comprise SJVUAPCD: These SIP-approved rules are described below:

- Precursor SIP rules for submitted SJVUAPCD Rule 4453:
  - Kern County Rule 414.2, Refinery Process Vacuum Producing Devices or Systems (approved on August 21, 1981, 46 FR 42459).
  - Kings County Rule 414.2, Refinery Vacuum Producing Devices or Systems (approved on May 7, 1982, 47 FR 19696).
  - San Joaquin County Rule 413.2, Refinery Vacuum Producing Devices (approved on May 7, 1982, 47 FR 19696).

Precursor SIP rules for submitted SJVUAPCD Rule 4454:

- Kern County Rule 414.3, Refinery Process Unit Turnaround (approved on August 21, 1981, 46 FR 42459).
- Kings County Rule 414.3, Refinery Process Unit Turnaround (approved on May 7, 1982, 47 FR 19696).
- San Joaquin County Rule 413.3, Refinery Process Unit Turnaround (approved on May 7, 1982, 47 FR 19696).

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

VOCs help produce ground-level ozone and smog, which harm human

health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. These rules were developed as part of the local agency’s program to control VOCs.

The purposes of amendments to Rules 4453 and 4454 are as follows:

- 4453: The rule requires reducing VOC emissions from refinery vacuum producing devices by covering hot wells and collecting vapors for recycle to refinery gas or incineration. The format is improved, the rule is renumbered, the rule purpose and applicability are added, and a 90% VOC control efficiency requirement is added.
- 4454: The rule requires reducing VOC emissions from a refinery process unit turnaround by collecting vapors for recycle to refinery gas, incineration, or flaring. The format is improved, the rule is renumbered, and the rule purpose and applicability are added.

EPA’s technical support document (TSD) has 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), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see sections 182(a)(2) and (b)(2)), and must not relax existing requirements (see sections 110(l) and 193). The SJVUAPCD regulates an ozone nonattainment area (see 40 CFR part 81), so these rules must fulfill RACT.

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

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987).
2. *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
3. 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).
4. *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations*, EPA (May 25, 1988). [The Bluebook]
5. *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region 9 (August 21, 2001). [The Little Bluebook]
6. *Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds*, EPA-450/2-77-025 (October 1977).
7. *2007 Ozone Plan*, San Joaquin Valley Unified Air Pollution Control District (April 30, 2007). <http://www.arb.ca.gov/planning/sip/2007sip/sjv8hr/sjvozone.htm>.
8. *RACT Demonstration for Ozone SIP*, San Joaquin Valley Unified Air Pollution Control District (April 16, 2009).

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

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The TSD has more information on our evaluation.

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

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rules.

### D. Public Comment and Final Action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 8, 2010.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2010-6804 Filed 3-25-10; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 48 CFR Chapter 14

**RIN 1076-AE95**

#### Tribal Consultation on Draft Buy Indian Act Regulations

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of tribal consultation meetings.

**SUMMARY:** Indian Affairs will conduct consultation meetings with Indian tribes to obtain oral and written comments concerning draft regulations to implement the Buy Indian Act. See the **SUPPLEMENTARY INFORMATION** section of this notice for details.

**DATES:** The tribal consultation meetings will take place on Monday, April 26, 2010; Wednesday, April 28, 2010; and Friday, April 30, 2010.

**FOR FURTHER INFORMATION CONTACT:** Kathy Daum, Director, Indian Affairs, Office of Acquisition and Property Management (OAPM), 2051 Mercator Drive, Reston, VA 20191; Telephone: (703) 390-6460; Fax: (703) 390-6582; E-mail: [kathy.daum@bia.gov](mailto:kathy.daum@bia.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Indian Affairs is developing a rule to guide implementation of the Buy Indian Act, 25 U.S.C. 47, which provides authority to set aside procurement contracts for qualified Indian-owned businesses. The rule will supplement the Federal Acquisition Regulation (FAR) and the Department of the Interior Acquisition Regulations (DIAR). Indian Affairs is developing the rule to describe uniform administrative procedures that Indian Affairs will use in all of its locations to encourage procurement relationships with eligible Indian economic enterprises in the execution of the Buy Indian Act. The draft rule being developed includes revisions to address the input received as a result of earlier publications in the **Federal Register** soliciting comment and consultation hearings in Indian Country. Indian Affairs reviewed all comments received to date, addressed them in succeeding draft versions, and incorporated them into the current draft version of the rule, where applicable. A consultation booklet containing the current draft version of the rule will be distributed to federally recognized Indian tribes and BIA regional and agency offices and will be available at the meetings.

##### II. Meeting Details

Tribal consultation meetings will be held at the following dates and locations:

Date	Time	Location
Monday, April 26, 2010 .....	9 a.m.-5 p.m .....	Holiday Inn Portland Airport, 8439 NE Columbia Blvd., Portland, OR 97220, (503) 914-5251.
Wednesday, April 28, 2010 .....	9 a.m.-5 p.m .....	Holiday Inn Rushmore Plaza 505, North Fifth Street, Rapid City, SD 57701, (605) 348-8000.
Friday, April 30, 2010 .....	9 a.m.-5 p.m .....	Tulsa Marriott Southern Hills, 1902 East 71st, Tulsa, OK 74136, (918) 493-7000.