Division 264: Rules for Open Burning

The revisions to OAR Chapter 340, Division 264 enhance the open burning rule in Oregon and the Klamath Falls NAA. Specifically, the revised rule includes language aligning open burning with ideal dispersion conditions; provides a description and map of the Klamath Basin Open Burning Control Area; and provides rules specific to the Klamath Falls NAA prohibiting open burning from industrial, commercial, construction and demolition operations. The rule revisions will reduce emissions through the prohibition of open burning within the Klamath Falls NAA. The EPA proposes to approve and IBR these rule revisions because they are permanent and enforceable measures that support attainment and maintenance of the NAAQS by reducing the amount of particulate matter in the area.

Klamath County Clean Air Ordinances

In its December 12, 2012 submittal, the ODEQ included as control measures the 2007 and 2012 Klamath County Clean Air Ordinances. These two ordinances establish permanent and enforceable control measures on sources that account for the majority of $PM_{2.5}$ emissions in the Klamath Falls NAA. The 2007 Klamath County Clean Air Ordinance is more specifically identified as Chapter 406, Ordinance No. 63.05, enacted August 7, 2007 (2007 Ordinance). The 2012 Klamath County Clean Air Ordinance is more specifically identified as Chapter 406, Ordinance No. 63.06, enacted December 31, 2012 (2012 Ordinance).

The 2007 and 2012 Ordinances were enacted to control emissions from home heating devices for the purpose of meeting the 2006 $PM_{2.5}$ 24-hr NAAQS. The 2007 ordinance provides for lower thresholds for yellow and red air quality advisory days which require the curtailment of wood burning and therefore reduce emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors. With these lower thresholds, wood burning restrictions would be in place on days that most likely contribute to a 24-hour NAAQS violation. This provision, in conjunction with increased enforcement at the County level, is expected to be a core part of the area's attainment plan. The 2007 ordinance has provisions identical to the state wide Heat Smart Program that require removal of uncertified stoves upon sale of a home, and also provisions that reduce the number of available residential open burning days and prohibit the use of burn barrels. The 2012 ordinance required new and retrofit fireplaces to meet lower emissions standards.

The EPA proposes to approve and IBR the 2007 and 2012 Klamath Falls Clean Air Ordinances because they support attainment and maintenance of the NAAQS in the Klamath Falls NAA.

III. Proposed Action

The EPA proposes to approve the $PM_{2.5}$ and $PM_{2.5}$ precursor emissions inventory for the Klamath Falls NAA, submitted by ODEQ on December 12, 2012, as meeting the emissions inventory requirements of section 172(c)(3) of the CAA for 2006 $PM_{2.5}$ 24-hr NAAQS nonattainment area planning. The EPA also proposes to approve and incorporate into the SIP the specific control measures submitted by the ODEQ on December 12, 2012, to the extent set forth in this notice. These control measures are described in this action and are included in the docket for this proposed action. If approved, these specific control measures would become part of the Oregon SIP. The EPA is not taking action on certain aspects of the revisions submitted by the ODEQ. The EPA expects to take action on the remaining SIP revisions and any additional revisions that may be submitted by the ODEQ in the future.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed 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 CAA; and
- Does not provide the 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 SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 3, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2014–30498 Filed 12–29–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability

and Accountability Act of 1996 (HIPAA), this annual notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Federal anti-kickback statute (section 1128B(b) of the Social Security Act), as well as developing new OIG Special Fraud Alerts.

DATES: To ensure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on March 2, 2015.

ADDRESSES: In commenting, please refer to file code OIG–123–N. Because of staff and resource limitations, we cannot accept comments by facsimile (fax) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific recommendations and proposals through the Federal eRulemaking Portal at *http://www.regulations.gov.*

2. *By regular, express, or overnight mail.* You may send written comments to the following address: Patrice Drew, Office of Inspector General, Regulatory Affairs, Department of Health and Human Services, Attention: OIG–123–N, Room 5541C, Cohen Building, 330 Independence Avenue SW., Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver, by hand or courier, your written comments before the close of the comment period to Patrice Drew, Office of Inspector General, Department of Health and Human Services, Cohen Building, Room 5541C, 330 Independence Avenue SW., Washington, DC 20201. Because access to the interior of the Cohen Building is not readily available to persons without Federal Government identification, commenters are encouraged to schedule their delivery with one of our staff members at (202) 619–1368.

For information on viewing public comments, please see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Patrice Drew, Congressional and Regulatory Affairs Liaison, Office of Inspector General, (202) 619–1368.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on recommendations for developing new or revised safe harbors and Special Fraud Alerts. Please assist us by referencing the file code OIG–123–N.

Inspection of Public Comments: All comments received before the end of the comment period are available for viewing by the public. All comments will be posted on *http://www.regulations.gov* after the closing of the comment period. Comments received timely will also be available for public inspection as they are received at Office of Inspector General, Department of Health and Human Services, Cohen Building, 330 Independence Avenue SW., Washington, DC 20201, Monday through Friday from 9:30 a.m. to 5 p.m. To schedule an appointment to view public comments, phone (202) 619–1368.

I. Background

A. OIG Safe Harbor Provisions

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a–7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive remuneration to induce or reward business reimbursable under the Federal health care programs. The offense is classified as a felony and is punishable by fines of up to $25,000 and imprisonment for up to 5 years. OIG may also impose civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a–7a(a)(7)), or exclusion from the Federal health care programs, in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a–7(b)(7)).

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction. In response to the above concern, section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987, P.L. No. 100–93, section 14, the Act, section 1128B(b), 42 U.S.C. 1320a–7b(b), specifically required the development and promulgation of regulations, the so-called ''safe harbor'' provisions, specifying various payment and business practices that, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute and would not serve as a basis for administrative sanctions. OIG safe harbor provisions have been developed ''to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements'' (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices will not be subject to liability under the anti-kickback statute or related administrative authorities. The OIG safe harbor regulations are found at 42 CFR part 1001.

B. OIG Special Fraud Alerts

OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices OIG finds potentially fraudulent or abusive. The Special Fraud Alerts encourage industry compliance by giving providers guidance that can be applied to their own practices. OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as to those charged with administering the Federal health care programs.

In developing Special Fraud Alerts, OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry.

C. Section 205 of the Health Insurance Portability and Accountability Act of 1996

Section 205 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, section 205, the Act, section 1128D, 42 U.S.C. 1320a-7d, requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts.

In developing safe harbors for a criminal statute, OIG is required to thoroughly review the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover potential opportunities for fraud and abuse. Only then can OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

II. Solicitation of Additional New Recommendations and Proposals

In accordance with the requirements of section 205 of HIPAA, OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on

December 27, 2013 (78 FR 78807). As required under section 205, a status report of the public comments related to safe harbors received in response to that notice is set forth in Appendix F of OIG's Fall 2014 Semiannual Report.[1] OIG is not seeking additional public comment on the proposals listed in Appendix F at this time. Rather, this notice seeks additional recommendations regarding the development of new or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix F.

A detailed explanation of justifications for, or empirical data supporting, a suggestion for a safe harbor or Special Fraud Alert would be helpful and should, if possible, be included in any response to this solicitation.

A. Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with section 205 of HIPAA, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would affect an increase or decrease in:

- Access to health care services,
- the quality of health care services,
- patient freedom of choice among health care providers,
- competition among health care providers,
- the cost to Federal health care programs,
- the potential overutilization of health care services, and
- the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also consider other factors, including, for example, the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may take into account their decisions whether to (1) order a health care item or service or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

B. Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will consider whether, and to what extent, the practices that would be identified in a new Special Fraud Alert may result in any of the consequences set forth above, as well as the volume and frequency of the conduct that would be identified in the Special Fraud Alert.

Dated: December 18, 2014.

Daniel R. Levinson,

Inspector General.

[FR Doc. 2014–30156 Filed 12–29–14; 8:45 am]

BILLING CODE 4152–01–P

[1] The OIG *Semiannual Report to Congress* can be accessed through the OIG Web site at *http://oig.hhs.gov/publications/semiannual.asp.*

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 6

[FAR Case 2014–020; Docket No. 2014–0020; Sequence No. 1]

RIN 9000–AM86

Federal Acquisition Regulation; Clarification on Justification for Urgent Noncompetitive Awards Exceeding One Year

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify that a determination of exceptional circumstances is needed when a noncompetitive contract awarded on the basis of unusual and compelling urgency exceeds one year, either at time of award or due to post-award modifications.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before March 2, 2015 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2014–020 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''FAR Case 2014–020''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2014–020''. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2014–020'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2014–020, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2014–020.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are revising the FAR in response to a Government Accountability Office (GAO) report, GAO–14–304, Federal Contracting: *Noncompetitive Contracts Based on Urgency Need Additional Oversight,* dated March 2014. On October 14, 2009, the FAR was amended to implement section 862 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009 (Pub. L. 110–417) which restricted the length of contracts awarded noncompetitively under unusual and compelling urgency circumstances. Such contracts may not exceed one year unless the head of the executive agency determines that exceptional circumstances apply.

GAO found that agencies did not make the required determination for the ten contracts in GAO's sample that had a period of performance of more than one year. As a result, GAO recommended that DoD, U.S. Department of State and U.S. Agency for International Development provide guidance to improve data reliability and oversight for contracts awarded using the urgency exception.

Additionally, GAO recommended that the Director of the Office of Management and Budget, through the Office of Federal Procurement Policy, provide guidance to clarify when determinations of exceptional circumstances are needed when a noncompetitive contract awarded on the basis of unusual and compelling urgency exceeds one year, either at the time of award or because it was modified after contract award.

This rule clarifies that a determination of exceptional circumstances is needed whenever the period of performance of a noncompetitive contract awarded on the basis of unusual and compelling urgency is extended beyond a year.