

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-R04-SFUND-2011-0574; FRL-9612-6]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Hipps Road Landfill Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; notice of intent.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the Hipps Road Landfill Superfund Site (Site) located in Jacksonville, Florida, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Florida, through the Florida Department of Environmental Protection, have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** Comments must be received by January 30, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-2011-0574, by one of the following methods:

- <http://www.regulations.gov>. Follow on-line instructions for submitting comments.
- *Email:* [miller.scott@epa.gov](mailto:miller.scott@epa.gov).
- *Fax:* (404) 562-8896.
- *Mail:* Scott Miller, Remedial Project Manager, Superfund Remedial Branch, Section C, Superfund Division, U.S. EPA Region 4, 61 Forsyth Street SW., Atlanta, GA 30303.

- *Hand delivery:* Same address as above. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID no. EPA-R04-SFUND-2011-0574. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at: U.S. EPA Record Center, 61 Forsyth Street SW., Atlanta, GA 30303, Hours: 8 a.m. to 4 p.m., Monday through Friday. Jacksonville Public Library, 6886 103rd Street Jacksonville, FL 32210, Monday-Thursday: 10 a.m.-9 p.m., Friday & Saturday: 10 a.m.-6 p.m. Sunday: 1 p.m.-6 p.m.

**FOR FURTHER INFORMATION CONTACT:** Scott Miller, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, GA 30303, (404) 562-9120, email: [miller.scott@epa.gov](mailto:miller.scott@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Hipps Road Landfill Superfund Site without prior Notice of

Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: November 21, 2011.

**A. Stanley Meiburg,**

*Acting Regional Administrator, EPA Region 4.*

[FR Doc. 2011-33470 Filed 12-28-11; 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 assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on February 27, 2012.

**ADDRESSES:** In commenting, please refer to file code OIG-120-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: Office of Inspector General, Congressional and Regulatory Affairs, Department of Health and Human Services, Attention: OIG-120-N, Room 5541, 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 Office of Inspector General, Department of Health and Human Services, Cohen Building, Room 5541, 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) 619-1343.

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

**FOR FURTHER INFORMATION CONTACT:** Traci Bone, Congressional and Regulatory Affairs Liaison, Office of Inspector General, (202) 708-9884.

**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-120-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> as soon as possible after they have been received. 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, Public Law 100-93 § 14, the Act, § 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 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 § 205, the Act, § 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 engage in a thorough review of 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 28, 2010 (75 FR 81556). As required under section 205, a status report of the public comments received in response to that notice is set forth in

Appendix F.<sup>1</sup> 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 take into consideration 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 22, 2011.

**Daniel R. Levinson,**

*Inspector General.*

[FR Doc. 2011-33345 Filed 12-28-11; 8:45 am]

**BILLING CODE 4152-01-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 2800

[WO-300-1430-PQ]

RIN 1004-AE24

#### Advance Notice of Proposed Rulemaking Regarding a Competitive Process for Leasing Public Lands for Solar and Wind Energy Development

**AGENCY:** Bureau of Land Management.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Bureau of Land Management (BLM) is issuing this Advance Notice of Proposed Rulemaking (ANPR) to solicit public comments and suggestions that will be used in preparing a proposed rule to establish a competitive process for leasing public lands for solar and wind energy development.

**DATES:** The BLM will accept comments and suggestions on the ANPR until February 27, 2012.

**ADDRESSES:** You may submit comments by any of the following methods:

*Mail:* Director (630) Bureau of Land Management, U.S. Department of the Interior, Room 2134LM, 1849 C St. NW., Washington, DC 20240, Attention: 1004-AE24.

*Personal or messenger delivery:* U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003.

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions at this Web site.

**FOR FURTHER INFORMATION CONTACT:** Ray Brady at (202) 912-7312 or Linda Resseguie at (202) 912-7337 regarding the substance of this ANPR. For information on procedural matters or the rulemaking process generally, you may contact Joseph Berry at (202) 912-7442. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877-8339, 24 hours a day, seven days a week to contact the above individuals.

**SUPPLEMENTARY INFORMATION:** In order to foster the growth and development of the renewable energy sector of the

economy and to administer the public lands in a more orderly manner, the BLM believes that a rulemaking is needed to enhance the Agency's ability to establish an efficient competitive process for issuing Right-of-Way (ROW) leases for solar and wind energy development that is based upon the Agency's authority under the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701 *et seq.*).

The BLM believes that a competitive process would enhance its ability to capture fair market value for the use of public lands, as required under Section 504(g) of FLPMA (43 U.S.C. 1764(g)), and ensure fair access to leasing opportunities for renewable energy development. This rulemaking would establish competitive bidding procedures for lands within designated solar and wind energy development leasing areas, define qualifications for potential bidders, and structure the financial arrangements necessary for the process.

The purpose of this ANPR is to solicit public comments that will be helpful to the BLM in preparing a subsequent proposed rule, as well as to gather the input that is needed to develop an efficient competitive process for ROW leasing. The scope of the proposed rule will include existing BLM wind and solar policies and guidelines, and terms and conditions of lease authorizations as well as the competitive process.

To help the BLM prepare the proposed rule, the Agency is seeking public comments and suggestions on the scope of the competitive process. See section III of this ANPR for a list of specific questions relating to this topic.

#### I. Public Comment Procedures

##### Commenting on the ANPR

Written comments and suggestions should:

- Be specific;
- Explain the reasoning behind your comments and suggestions; and
- Address the issues outlined in the ANPR.

For comments and suggestions to be the most useful, and most likely to inform decisions on the content of the proposed rule, they should:

- Be substantive; and
- Facilitate the development and implementation of an environmentally and fiscally responsible process for leasing public lands for solar and wind energy development.

The BLM is particularly interested in receiving comments and suggestions in response to the questions listed in

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