

Social Security Administration, Attn: Reports Clearance Officer, 1333 Annex, 6401 Security Blvd., Baltimore, MD 21235-0001, Fax Number: 410-965-6400, E-mail: [OPLM.RCO@ssa.gov](mailto:OPLM.RCO@ssa.gov).

You can submit comments for up to 60 days after the publication of this notice; however, your comments will be most useful if you send them to SSA within 30 days of publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by e-mail or fax.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance.)

#### List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

Dated: September 18, 2008.

**Michael J. Astrue**,  
*Commissioner of Social Security.*

For the reasons set out in the preamble, we propose to amend subpart G of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

#### PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950— )

##### Subpart G—[Amended]

1. The authority citation for subpart G continues to read as follows:

**Authority:** Secs. 202 (i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 402 (i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 902(a)(5)).

2. Amend § 404.630(c) by revising the first sentence to read as follows:

#### § 404.630 Use of date of written statement as filing date.

\* \* \* \* \*

(c) The claimant files an application with us on an application form as described in § 404.611, or one is filed for the claimant by a person described in § 404.612, within 60 days after the date of a notice we will send advising of the need to file an application. \* \* \*

\* \* \* \* \*

[FR Doc. E8-29951 Filed 12-16-08; 8:45 am]

BILLING CODE 4191-02-P

#### DEPARTMENT OF STATE

##### 22 CFR Part 62

[Public Notice: 6455]

#### Exchange Visitor Program

**AGENCY:** Department of State.

**ACTION:** Proposed rule with request for comment; withdrawal.

**SUMMARY:** On December 10, 2008, the State Department published in the **Federal Register** a proposed rule titled Exchange Visitor Program. The Department amended the General Provisions of the existing Exchange Visitor Program regulations set forth at 22 CFR Part 62. This proposed rule is being withdrawn because it was submitted prior to a formal significance designation being made by OMB. The proposed rule is withdrawn in its entirety.

**DATES:** The proposed rule published at 73 FR 75015, December 10, 2008, is withdrawn effective December 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** Michael Cheman, U.S. Department of State, Washington, DC 20547, (202) 312-9605.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 10, 2008, the State Department published a proposed rule at 73 FR 75015. The rule was intended to amend the General Provisions (Subpart A) of the existing Exchange Visitor Program regulations set forth at 22 CFR part 62 in order to provide greater specificity regarding program administration, sponsor obligations and participant eligibility in the Exchange Visitor Program.

##### Reason for Withdrawal

This rule was published prior to submission to OMB for formal significance designation. The proposed rule is withdrawn for OMB review. Accordingly, the Department withdraws the proposed rule "Exchange Visitor Program", Public Notice: 6448, RIN 1400-AC36.

Withdrawal of the proposed rule does not preclude the Department from issuing another rule on the subject matter in the future or committing the agency to any future course of action.

Dated: December 10, 2008.

**Michael G. Cheman**,  
*Deputy Director, Office of Directives Management, Department of State.*

[FR Doc. E8-29784 Filed 12-16-08; 8:45 am]

BILLING CODE 4710-24-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 (HIPAA) of 1996, 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 17, 2009.

**ADDRESSES:** In commenting, please refer to file code OIG-113-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>. (Attachments should be in Microsoft Word, if possible.)

2. *By regular, express, or overnight mail.* You may send written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-113-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, 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:** Marco Villagrana, Department of Health & Human Services, Office of Inspector General, Office of External Affairs, (202) 401-2206.

**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-113-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 of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (202) 401-2206.

## 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 in order 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, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100-93, specifically required the development and promulgation of regulations, the so-called "safe harbor" provisions, specifying various payment and

business practices which, 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.

Existing OIG safe harbors describing those practices that are sheltered from liability are codified in 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 these 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 Public Law 104-191

Section 205 of Public Law 104-191 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 Public Law 104-191, OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 19, 2007 (72 FR 71868). As required under section 205, a status report of the public comments received in response to that notice is set forth in Appendix D to the OIG's Semiannual Report covering the period April 1, 2008, through September 30, 2008.<sup>1</sup> OIG is not seeking additional public comment on the proposals listed in Appendix D at this time. Rather, this notice seeks additional recommendations regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix D to the OIG Semiannual Report referenced above.

### 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 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 the 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.

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

**B. Criteria for Developing Special Fraud Alerts**

In determining whether to issue additional Special Fraud Alerts, we will also 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.

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.

Dated: December 11, 2008.

**Daniel R. Levinson,**

*Inspector General.*

[FR Doc. E8-29982 Filed 12-16-08; 8:45 am]

BILLING CODE 4152-01-P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA 08-2570; MB Docket No. 08-227; RM-11493]

**Radio Broadcasting Services; Batesville, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Katherine Pyeatt, requesting the allotment of Channel 250A at Batesville, Texas. Channel 250A can be allotted to Batesville consistent with the minimum distance separation requirements of the Commission's Rules with the imposition of a site restriction located 11.4 kilometers (7.1 miles) east of the community at reference coordinates 28-58-27 NL and 99-30-12 WL.

**DATES:** Comments must be filed on or before January 21, 2009, and reply comments on or before February 5, 2009.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Katherine Pyeatt, 2215 Cedar Springs Rd. #1910, Dallas, Texas 75201.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking, MB Docket No. 08-227, adopted November 26, 2008, and released November 28, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or via e-mail <http://www.BCPIWEB.com>. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICES**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Batesville, Channel 250A.

Federal Communications Commission.

**Robert A. Hayne,**

*Senior Attorney to Allocations, Audio Division, Media Bureau.*

[FR Doc. E8-29919 Filed 12-16-08; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 20**

[FWS-R9-MB-2008-N0303; 91200-1231-9BPP-L2]

**Service Regulations Committee Meeting**

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

**ACTION:** Notice of meeting.

**SUMMARY:** The Fish and Wildlife Service (hereinafter Service) will conduct an open meeting on January 29, 2009, to identify and discuss preliminary issues concerning the 2009-10 migratory bird hunting regulations.

**DATES:** The meeting will be held January 29, 2009.

**ADDRESSES:** The Service Regulations Committee will meet at the Embassy Suites Hotel, Denver—International Airport, 7001 Yampa Street, Denver, CO (303) 574-3000.

**FOR FURTHER INFORMATION CONTACT:** Robert Blohm, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms-4107-ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358-1714.

**SUPPLEMENTARY INFORMATION:** Under the authority of the Migratory Bird Treaty Act (16 U.S.C. 703-712), the Service regulates the hunting of migratory game birds. We update the migratory game bird hunting regulations, located at 50 CFR part 20, annually. Through these regulations, we establish the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. To help us in this process, we have administratively divided the nation into four Flyways (Atlantic, Mississippi, Central, and Pacific), each of which has a Flyway Council. Representatives from the Service, the Service's Migratory Bird Regulations Committee, and Flyway Council Consultants will meet on January 29, 2009, at 8:30 a.m. to identify preliminary issues concerning the 2009-10 migratory bird hunting regulations for discussion and review by the Flyway Councils at their March meetings.