

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

#### List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

#### PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under DC Code 8–137(1981) and DC Code 40–721 (1981).

2. Section 7.57 is amended by revising the section heading and adding paragraph (h) to read as follows:

#### § 7.57 Lake Meredith National Recreation Area.

\* \* \* \* \*

(h) *Personal watercraft (PWC).* (1) PWC may operate on Lake Meredith except in the following closed areas: stiling basin below Sanford Dam, within 750 feet of the Sanford Dam intake tower, and on the waters of the Canadian River.

(2) PWC may operate on Lake Meredith under the following conditions:

(i) Fueling of PWC is prohibited on the lake, except at the marina fuel dock with an attendant providing the fuel service, or onshore and out of the water.

(ii) Carrying of fuel in an external or portable container onboard a PWC is prohibited.

(iii) PWC may only be launched at designated launch sites established by the Superintendent in accordance with 36 CFR 1.5 and 1.7.

(iv) PWC may not operate at greater than flat wake speed in the following designated areas: North Turkey Creek, Bugbee Canyon, North Canyon, North Cove, South Canyon, Sexy Canyon,

Amphitheater Canyon, the coves between day markers 9 and 11, Fritch Canyon, Short Creek, Evans Canyon and Canal Canyon. Flat wake areas are designated by buoys marked with “flat wake” or other similar markings. The location of those buoys may be adjusted by the Superintendent based on reservoir water levels.

(3) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: November 28, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 03–30556 Filed 12–11–03; 8:45 am]

**BILLING CODE 4310–3A–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA 296–0427b; FRL–7594–1]

#### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from adhesives and sealants. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by January 12, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA’s technical support document (TSD), and public comments at our Region IX office during normal business hours by appointment.

You may also see copies of the submitted SIP revisions by appointment at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 “I” Street, Sacramento, CA 95814.  
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Fong, EPA Region IX, (415) 947–4117, [fong.yvonne@epa.gov](mailto:fong.yvonne@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rule: SCAQMD 1168. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: November 20, 2003.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

[FR Doc. 03–30775 Filed 12–11–03; 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 (HIPAA) of 1996, this annual notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Federal and State health care programs’ 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 10, 2004.

**ADDRESSES:** Please mail or deliver your written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-81-N, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG-81-N. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Joel Schaer, (202) 619-0089, OIG Regulations Officer.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. The 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. The OIG may also impose civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a-7(a)(7)), or 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. The 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 any enforcement action under the anti-kickback statute or related administrative authorities.

To date, the OIG has developed and codified in 42 CFR 1001.952 a total of 22 final safe harbors that describe practices that are sheltered from liability.

*B. OIG Special Fraud Alerts*

The OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices the 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. The OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as those charged with administering the Federal health care programs.

In developing these Special Fraud Alerts, the OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within the OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry. To date, the OIG has issued 12 individual Special Fraud Alerts.

*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, the 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 the 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, the OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 9, 2002 (67 FR 72894). As required under section 205, a status report of the public comments received in response to that notice is set forth in appendix G to the OIG's Semiannual Report covering the period April 1, 2003 through September, 30, 2003.<sup>1</sup> The OIG is not seeking additional public comment on the proposals listed in appendix G 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 G to the OIG Semiannual Report referenced above.

*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 vary based on their

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

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.

#### *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: November 26, 2003.

**Dara Corrigan,**

*Acting Principal Deputy Inspector General.*

[FR Doc. 03-30803 Filed 12-11-03; 8:45 am]

BILLING CODE 4150-04-P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 192 and 195

[Docket Number RSPA-97-3001]

RIN 2137-AC54

#### Pipeline Safety: Periodic Underwater Inspections

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would amend the pipeline safety regulations to require operators of gas and hazardous liquid pipelines to have procedures for periodic inspections of pipeline facilities in offshore waters less than 15 feet deep or crossing under a navigable waterway. These inspections would ensure that the pipeline is not exposed or a hazard to navigation.

**DATES:** Interested persons are invited to submit written comments by February 10, 2004. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:**

#### Filing Information

You may submit written comments by mail or delivery to the Dockets Facility, U.S. Department of Transportation,

Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. It is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone desiring confirmation of mailed comments must include a self-addressed stamped postcard.

#### Privacy Act Statement

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477-78), or you may visit <http://dms.dot.gov>.

#### Electronic Access

You may also submit written comments to the docket electronically. To submit comments electronically, log onto the following Internet Web address: <http://dms.dot.gov>. Click on "Help & Information" for instructions on how to file a document electronically.

#### General Information

You may contact the Dockets Facility by phone at (202) 366-9329, for copies of this proposed rule or other material in the docket. All materials in this docket may be accessed electronically at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** L.E. Herrick by phone at (202) 366-5523, by fax at (202) 366-4566, or by e-mail at [le.herrick@rspa.dot.gov](mailto:le.herrick@rspa.dot.gov), regarding the subject matter of this proposed rule. General information about RSPA's Office of Pipeline Safety (OPS) programs may be obtained by accessing OPS's Internet page at <http://ops.dot.gov>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### *RSPA/OPS Pipeline Safety Mission*

RSPA/OPS has responsibility for ensuring safety and environmental protection against risks posed by the nation's approximately two million miles of gas and hazardous liquid pipelines. RSPA/OPS shares responsibility for inspecting and overseeing the nation's pipelines with State pipeline safety offices.

#### *The Need for Periodic Underwater Inspections*

On July 24, 1987, the fishing vessel *Sea Chief* struck and ruptured an 8 inch submerged natural gas liquids pipeline in the Gulf of Mexico. The escaping gas ignited and exploded, killing two crew members. A similar accident occurred on October 3, 1989, when the fishing vessel *Northumberland* struck and ruptured a 16 inch submerged gas pipeline, killing 11 crew members.

The National Transportation Safety Board (NTSB) investigated the *Northumberland* accident and found that the probable cause of the accident was the failure of the pipeline operator to maintain the pipeline at the burial depth to which it was initially installed. NTSB also found that the failure of RSPA/OPS to require pipeline operators to inspect and maintain submerged pipelines in a protected condition contributed to the accident. The NTSB subsequently issued Safety Recommendation P-90-29, which directed RSPA/OPS to "develop and implement with the assistance of the Mineral Management Service (MMS), the United States Coast Guard (USCG), and the United States Army Corp of Engineers (USACE), effective methods and requirements to bury, protect, inspect the burial depth of and maintain all submerged pipelines in areas subject to damage by surface vessels and their operations."

#### *Joint Task Force Report on Offshore Pipelines*

In response to this recommendation a multi-agency task force on offshore pipelines was formed to study the issue. The task force consisted of representatives from RSPA/OPS, USCG, Department of the Interior, MMS, Department of Commerce, National Oceanic and Atmospheric Administration/National Oceans Service, Department of Defense/USACE, Louisiana Office of Conservation, and the Texas Railroad Commission.

The task force reviewed information, views, and concerns provided by the government and the marine and pipeline industries. The assessment focused on the extent and adequacy of federal regulations, the technology for determining pipeline location and cover, the extent and availability of maps and charts depicting the location of pipelines, and possible government initiatives to enhance safety.

The task force concluded that exposed pipelines pose a potential risk to navigation safety, especially for mariners operating in the shallow, near-shore waters. The task force also