

the U.S. Department of the Interior, Bureau of Indian Affairs, Osage Negotiated Rulemaking Committee will meet as indicated below.

**DATES:** *Meeting:* The meeting will be held on Tuesday, April 2, 2013, from 9 a.m. to 5 p.m.

**ADDRESSES:** Wah Zha Zhi Cultural Center, 1449 W. Main, Pawhuska, Oklahoma 74056.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, Wewoka Agency, P.O. Box 1540, Seminole, OK 74818; telephone (405) 257-6250; fax (405) 257-3875; or email [osageregneg@bia.gov](mailto:osageregneg@bia.gov). Additional Committee information can be found at: <http://www.bia.gov/osageregneg>.

**SUPPLEMENTARY INFORMATION:** On October 14, 2011, the United States and the Osage Nation (formerly known as the Osage Tribe) signed a Settlement Agreement to resolve litigation regarding alleged mismanagement of the Osage Nation's oil and gas mineral estate, among other claims. As part of the Settlement Agreement, the parties agreed that it would be mutually beneficial "to address means of improving the trust management of the Osage Mineral Estate, the Osage Tribal Trust Account, and Other Osage Accounts." Settlement Agreement, Paragraph 1.i. The parties agreed that a review and revision of the existing regulations is warranted to better assist the Bureau of Indian Affairs (BIA) in managing the Osage Mineral Estate. The parties agreed to engage in a negotiated rulemaking for this purpose. Settlement Agreement, Paragraph 9.b. After the Committee submits its report, BIA will develop a proposed rule to be published in the **Federal Register**.

**Meeting Agenda:** The morning session will include: Final Committee thoughts on proposed final revised regulations and public comment on final proposed revised regulations. The afternoon session will include: Responses by the Committee on public comments and final vote by Committee on final proposed revised regulations. The final agenda will be posted on [www.bia.gov/osageregneg](http://www.bia.gov/osageregneg) prior to each meeting.

**Public Input:** Committee meetings are open to the public. Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. Written comments should be submitted, prior to, during, or after the meeting, to Mr. Eddie Streater, Designated Federal Officer, preferably via email, at [osageregneg@bia.gov](mailto:osageregneg@bia.gov), or by U.S. mail to: Mr. Eddie Streater, Designated

Federal Officer, Bureau of Indian Affairs, Wewoka Agency, P.O. Box 1540, Seminole, OK 74818. Due to time constraints during the meeting, the Committee is not able to read written public comments submitted into the record.

Individuals or groups requesting to make oral comments at the public Committee meeting will be limited to 5 minutes per speaker. Speakers who wish to expand their oral statements, or those who had wished to speak, but could not be accommodated during the public comment period, are encouraged to submit their comments in written form to the Committee after the meeting at the address provided above. There will be a sign-up sheet at the meeting for those wishing to speak during the public comment period.

The meeting location is open to the public. Space is limited, however, so we strongly encourage all interested in attending to preregister by submitting your name and contact information via email to Mr. Eddie Streater at [osageregneg@bia.gov](mailto:osageregneg@bia.gov). Persons with disabilities requiring special services, such as an interpreter for the hearing impaired, should contact Mr. Streater at (405) 257-6250 at least seven calendar days prior to the meeting. We will do our best to accommodate those who are unable to meet this deadline.

Dated: March 8, 2013.

**Michael S. Black,**

*Director, Bureau of Indian Affairs.*

[FR Doc. 2013-06175 Filed 3-15-13; 8:45 am]

**BILLING CODE 4310-02-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 35

[EPA-R09-OAR-2013-0052; FRL-9788-5]

#### Clean Air Act Grant: South Coast Air Quality Management District; Opportunity for Public Hearing

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

**ACTION:** Proposed action; determination with request for comments and notice of opportunity for public hearing.

**SUMMARY:** The U.S. EPA has made a proposed determination that the reduction in expenditures of non-Federal funds for the South Coast Air Quality Management District (SCAQMD) in support of its continuing air program under section 105 of the Clean Air Act (CAA), for the calendar year 2012 is a result of non-selective reductions in expenditures. This

determination, when final, will permit the SCAQMD to receive grant funding for FY 2013 from the EPA, under section 105 of the Clean Air Act.

**DATES:** Comments and/or requests for a public hearing must be received by EPA at the address stated below by April 17, 2013.

**ADDRESSES:** Submit comments, identified by docket ID No. EPA-R09-OAR-2013-0052, by one of the following methods:

1. **Federal Portal:**

[www.regulations.gov](http://www.regulations.gov). Follow the online instructions.

2. **Email:** [lance.gary@epa.gov](mailto:lance.gary@epa.gov) or

3. **Mail:** Gary Lance (Air-8), U.S.

Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**FOR FURTHER INFORMATION CONTACT:** Gary Lance, EPA Region IX, Grants & Program Integration Office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 972-3992, fax: (415) 947-3579 or email address at [lance.gary@epa.gov](mailto:lance.gary@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 105 of the Clean Air Act (CAA) provides grant support for the continuing air programs of eligible state, local, and tribal agencies. In accordance with 40 CFR 35.145(a), the Regional Administrator may provide air pollution control agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution. Section 105 contains two cost-sharing provisions which recipients must meet to qualify for a CAA section 105 grant. An eligible entity must meet a minimum 40% match. In addition, to remain eligible for section 105 funds, an eligible entity must continue to meet the minimum match requirement as well as meet a maintenance of effort (MOE) requirement under section 105(c)(1) of the CAA, 42 U.S.C. 7405.

Program activities relevant to the match consist of both recurring and non-recurring (unique, one-time only) expenses. The MOE provision requires that a state or local agency spend at least the same dollar level of funds as it did in the previous grant year, but only for the costs of recurring activities. Specifically, section 105(c)(1), 42 U.S.C. 7405(c)(1), provides that "No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year." Pursuant to CAA section 105(c)(2), however, EPA may still award a grant to

an agency not meeting the requirements of section 105(c)(1), “if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government.” These statutory requirements are repeated in EPA’s implementing regulations at 40 CFR 35.140–35.148. EPA issued additional guidance to recipients on what constitutes a nonselective reduction on September 30, 2011. In consideration of legislative history, the guidance clarified that a non-selective reduction does not necessarily mean that each Executive branch agency need be reduced in equal proportion. However, it must be clear to EPA, from the weight of evidence, that a recipient’s CAA-related air program is not being disproportionately impacted or singled out for a reduction.

A section 105 recipient must submit a final financial status report no later than 90 days from the close of its grant period that documents all of its federal and non-federal expenditures for the completed period. The recipient seeking an adjustment to its MOE for that period must provide the rationale and the

documentation necessary to enable EPA to make a determination that a nonselective reduction has occurred. In order to expedite that determination, the recipient must provide details of the budget action and the comparative fiscal impacts on all the jurisdiction’s executive branch agencies, the recipient agency itself, and the agency’s air program. The recipient should identify any executive branch agencies or programs that should be excepted from comparison and explain why. The recipient must provide evidence that the air program is not being singled out for a reduction or being disproportionately reduced. Documentation in two key areas will be needed: Budget data specific to the recipient’s air program and comparative budget data between the recipient’s air program, the agency containing the air program, and the other executive branch agencies. EPA may also request information from the recipient about how impacts on its program operations will affect its ability to meet its CAA obligations and requirements; and documentation which explains the cause of the reduction, such as legislative changes or the issuance of a new executive order.

In FY2012, EPA awarded the SCAQMD \$5,234,193, which represented approximately 5% of the

SCAQMD budget. In FY–2013, EPA will award the SCAQMD an estimate of \$4,538,613, which represents approximately 4% of the SCAQMD budget.

SCAQMD’s final Federal Financial Report for FY–2011 indicated that SCAQMD’s maintenance of effort (MOE) level was \$113,142,559. SCAQMD’s final Federal Financial Report for FY–2012 indicates that SCAQMD’s maintenance of effort (MOE) level is at \$108,291,832.

The projected MOE is not sufficient to meet the MOE requirements under the CAA section 105 because it is not equal to or greater than the MOE for the previous fiscal year. In order for the SCAQMD to be eligible to receive its FY2013 CAA section 105 grant, EPA must make a determination (after notice and an opportunity for a public hearing) that the reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of the South Coast Air Quality Management District. The shortfall stems from a decline of 12.4% in stationary sources revenue from FY2008–09 to FY–2011–12 as reflected in the table below:

**Comparison of Stationary Source Revenues**

Description	Actual FY 2008-09	Actual FY 2011-12	Difference
Stationary Source Revenues	\$91,472,243	\$79,815,562	(\$11,656,681)

The SCAQMD is a single-purpose agency whose primary source of funding is emission fee revenue. It is the “unit of government for section 105(c)(2) purposes.”

The decline in stationary source revenues would have been even more pronounced had it not been for the SCAQMD Governing Board-adopted fee increases totaling 5.9% over the last three years. The net loss of stationary revenues has given SCAQMD no choice but to reduce its budget and find less costly ways to meet its mandate. Over the past several years actions were undertaken by SCAQMD to balance its budget by reducing overall expenditures, including deleting or not funding vacant positions, implementing a hiring freeze, enacting pension reform, reducing services and supplies expenditures, and utilizing reserves.

Since FY2009–10, SCAQMD has supplemented revenues with \$18.5 million in reserves to balance the budget and meet program requirements.

In addition to the conditions described above, an increase in expenditures relating to permitting activities under Title V of CAA, 42 U.S.C. 7661–7661–f and an increase in non-recurrent capital expenditures in the amount of \$1,406,240 have resulted in a reduction in the non-federal share which also contributed to a decrease in the FY12 MOE level.

Based on: (1) SCAQMD’s inability to levy taxes, (2) regulated and voluntary emissions reductions, (3) the general economic downturn, (4) voter approval of Proposition 26, (5) an overall decline in stationary source revenue, (6) expenditure cuts, (7) use of financial reserves to balance the budget, (8) increased Title V permitting

activities, and (9) an increase in non-recurrent capital expenditures, the request for a reset of SCAQMD’s MOE meets the criteria for a non-selective reduction determination.

Although SCAQMD receives less than 5 percent of its support from the section 105 grant, the loss of that funding would seriously impact SCAQMD’s ability to carry out its clean air program. The revenue generated from Stationary Sources over the last 10 years is detailed below.

Year	Stationary sources (1)
2003 .....	62,835,710
2004 .....	61,461,482
2005 .....	64,613,635
2006 .....	68,483,189
2007 .....	75,200,253
2008 .....	82,800,004
2009 .....	91,472,243

Year	Stationary sources (1)
2010 .....	81,097,647
2011 .....	78,787,371
2012 .....	79,815,562

The SCAQMD's MOE reduction resulted from a loss of revenues due to circumstances beyond its control. EPA proposes to determine that the SCAQMD lower the FY2012 MOE level to \$108,291,832 to meet the CAA section 105(c)(2) criteria as resulting from a non-selective reduction of expenditures.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by April 17, 2013 on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by April 17, 2013. If no written request for a hearing is received, EPA will proceed to the final determination. While notice of the final determination will not be published in the **Federal Register**, copies of the determination can be obtained by sending a written request to Gary Lance at the above address.

Dated: March 6, 2013.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2013-05923 Filed 3-15-13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 414 and 419

[CMS-1455-P]

RIN 0938-AR73

#### Medicare Program; Part B Inpatient Billing in Hospitals

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed rule would revise Medicare Part B billing policies when a Part A claim for an hospital inpatient admission is denied as not medically reasonable and necessary.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on May 17, 2013.

**ADDRESSES:** In commenting, please refer to file code CMS-1455-P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this document to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1455-P, P.O. Box 8013, Baltimore, MD 21244-8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1455-P, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786-7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section. **FOR FURTHER INFORMATION CONTACT:** Ann Marshall, (410) 786-3059, for issues related to payment of Part B inpatient and Part B outpatient services.

David Danek, (617) 565-2682, for issues related to hospital or beneficiary appeals.

Fred Grabau, (410) 786-0206, for issues related to time limits for filing claims.

Twi Jackson, (410) 786-1159, for information on all other issues.

#### **SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

### **I. Summary and Background**

#### *A. Executive Summary*

##### 1. Purpose

In the Calendar Year (CY) 2013 Hospital Outpatient Prospective Payment System (OPPS)/Ambulatory Surgical Center (ASC) proposed rule (July 30, 2012, 77 FR 45155 through 45157) and final rule with comment period (November 15, 2012, 77 FR 68426 through 68433), we expressed our ongoing concern about recent increases in the length of time that Medicare beneficiaries spend as hospital outpatients receiving observation services. (In this proposed rule, "hospital" means hospital as defined at section 1861(e) of the Social Security Act (the Act), but includes critical access hospitals (CAHs) unless otherwise specified. Although the term "hospital" does not generally include CAHs, section 1861(e) of the Act provides that the term "hospital"