

forth in SAR regulations for other industries.

In addition to any proposed SAR reporting regulations for non-bank residential mortgage lenders or originators, FinCEN also may propose to require these businesses to file currency transaction reports (rather than Form 8300) or retain certain records, including those related to large transmittals of funds.¹⁹ These changes could be accomplished through amendments to the definitions regulation, 31 CFR 103.11 (specifically, to the definition of “financial institution”), and the exemptions regulation, 31 CFR 103.170 (specifically, to the temporary exemption from the AML program requirement); or they could be accomplished by issuing new regulations. FinCEN also recognizes that persons engaged in residential mortgage lending or origination may already have programs and practices in place to meet existing legal obligations or protect the business from fraud and other illegal activities. FinCEN requests comment on any aspect of possible new regulatory requirements, including any factors FinCEN should consider in structuring new requirements, exceptions, and differences from established regulations. Useful information would include any available estimates of volumes of transactions that might be subject to particular reporting or recordkeeping requirements.

6. Should Any Persons or Transactions Be Exempted From Coverage of AML or SAR Regulations?

FinCEN also solicits comment regarding whether there should be regulatory exemptions for any category of persons engaged in non-bank residential mortgage lending or origination, or any category of transactions conducted by such persons. Comments regarding possible exemptions should be designed to enable FinCEN to evaluate whether the risk of money laundering through a category of persons or transactions is sufficiently small that a proposed rule could be crafted that would exempt the categories, while also providing adequate protection for the industry from the risks of money laundering. The question of exemption is specifically directed to professionals and those persons who are primarily engaged in a business related to residential mortgage lending or origination.

III. Conclusion

With this ANPRM, FinCEN is seeking input on how FinCEN should

implement the requirements of the BSA with respect to non-bank residential mortgage lenders and originators. We also seek input on: (1) Estimates and financial projections on the likely costs of complying with AML program and SAR reporting regulations by specific types of non-bank residential mortgage lenders and originators; (2) the impact of any such regulatory requirements on industry profitability, growth and business practices; (3) the impact of these requirements on consumers seeking to obtain residential mortgages; (4) the effectiveness of examining for and enforcing compliance with these requirements; and (5) the advisability of establishing some minimum transaction threshold value or annual volume threshold below which some or all of these requirements would not apply. We also solicit comment on the impact to law enforcement and regulatory agencies. FinCEN welcomes comments on all aspects of the ANPRM, and we encourage all interested parties to provide their views.

IV. Executive Order 12866

This advance notice of proposed rulemaking is not a significant regulatory action under Executive Order 12866. Therefore, a Regulatory Assessment is not required.

William F. Baity,

Acting Director, Financial Crimes Enforcement Network.

[FR Doc. E9-17117 Filed 7-20-09; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2009-0395]

RIN 1625-AA08

Special Local Regulation, Swim Across the Sound, Long Island Sound, Port Jefferson, NY to Captain's Cove Seaport, Bridgeport, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent special local regulation on the navigable waters of Long Island Sound between Port Jefferson, NY and Captain's Cove Seaport, Bridgeport, CT for the annual Swim Across the Sound event. This special local regulation is necessary to provide for the swimmers' safety on the navigable waters of Long Island Sound.

Under this proposed regulation, persons and vessels are prohibited from entering the regulated area during this annual event unless entry is authorized by the Captain of the Port Long Island Sound or by designated on-scene patrol personnel.

DATES: Comments and related material must be received by the Coast Guard on or before August 20, 2009.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0395 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail: Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203-468-4459, e-mail

christie.m.dixon@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0395), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and

¹⁹ See 31 CFR 103.22, 103.30 and 103.33.

material online (via <http://www.regulations.gov>) or by fax, mail, or hand deliver, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2009-0395" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2009-0395 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets

in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Swim Across the Sound has been successfully held for over twenty years on the waters of Long Island Sound between Port Jefferson, NY and Bridgeport, CT. This 25 KM swim has historically involved over 200 swimmers and accompanying safety craft. The swim course is located directly northwest of Port Jefferson, NY and extends to Captain's Cove Seaport, Bridgeport, CT. Currently there is no regulation in place to protect the swimmers or safety craft from the hazards imposed by passing water traffic and other water related activities.

To ensure the continued safety of the swimmers, safety craft and the boating public, the Coast Guard is proposing to establish a special local regulation that would prohibit unauthorized persons and vessel traffic from approaching within 100 yards of the swim participants as they proceed along the race course. This action is intended to increase the safety of the swimmers, the swimmer's safety craft and the boating community from the hazards posed by vessels operating near persons participating in this open water swim.

Discussion of Proposed Rule

The Coast Guard proposes to establish a permanent special local regulation on the navigable waters of Long Island Sound to exclude all unauthorized persons and vessels from approaching within 100 yards away from any swimmer and/or the planned race course. The regulated area is bounded by the following approximate points: Starting Point of Port Jefferson Beach 40°58'11.71" N, 073°05'51.12" W, north westerly to the finishing point at Captain's Cove Seaport at approximate position 41°09'25.07" N, 073°12'47.82" W. The duration of the event, and thus the enforcement period of the special local regulation, is generally from 8:30 a.m. to 7:30 p.m. on the day of the race.

While the special local regulation will be permanent, it will only be enforced for approximately 11 hours on the day of the race normally held on a single

day in August. Marine traffic that may safely do so may transit outside of the area during the enforcement period, allowing navigation in all other portions of Long Island Sound not covered by this rule. Within the regulated area, approaching within 100 yards of any swimmer would be prohibited unless authorized by the Captain of the Port Long Island Sound or designated on-scene patrol personnel. Notification of the race date and subsequent enforcement of the special local regulation will be made via marine broadcasts and broadcast notice to mariners. This rule would be effective annually on a date in August to be specified in the **Federal Register**. Any violation of the special local regulation described herein is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This regulation may have some impact on the public, but any potential impact would be minimized for the following reason: Vessels may transit in all areas of Long Island Sound, other than within 100 yards of event participants within the regulated area; thus vessel traffic would be allowed to pass through the regulated area during the event as long as they remained outside 100 yards of any swimmer. Further, vessels would only have minimal increased transit time and the special local regulation will only be enforced for approximately 11 hours on a single specified day each August, made publicly known in advance of the scheduled event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a

substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies that under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in those portions of Long Island Sound covered by the special local regulation. Before the activation of the zone, we would issue maritime advisories in advance of the event and make them widely available to users of the waterway. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact: MSTC Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203–468–4459, christie.m.dixon@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and

would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have

determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the promulgation of special local regulations in conjunction with a permitted marine event and falls under the category of actions under paragraph 34(h) of the instruction for which further environmental analysis is not normally required. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.125 to read as follows:

§ 100.125 Swim Across the Sound, Long Island Sound, Port Jefferson, NY to Captain's Cove Seaport, Bridgeport, CT.

(a) *Regulated area.* All navigable waters of Long Island Sound within 100 yards of the swim event race course consisting of the following points: Starting Point at Port Jefferson Beach at approximate position 40°58'11.71" N, 073°05'51.12" W, north-westerly to the finishing point at Captain's Cove Seaport at approximate location 41°09'25.07" N, 073°12'47.82" W.

(b) *Definitions.* The following definition applies to this section: *Designated On-scene Patrol Personnel,* means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port Long Island Sound.

(c) *Special local regulations.* (1) No person or vessel may approach or remain within 100 yards of any swimmer within the regulated area during the enforcement period of this regulation unless they are officially participating in the Swim Across the Sound event or are otherwise authorized by the Captain of the Port Long Island Sound or by Designated On-scene Patrol Personnel.

(2) All persons and vessels must comply with the instructions from the Coast Guard Captain of the Port or the Designated On-scene Patrol Personnel. The Designated On-scene Patrol Personnel may delay, modify, or cancel the swim event as conditions or circumstances require.

(3) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(4) Persons and vessels desiring to enter the regulated area within 100 yards of a swimmer may request permission to enter from the designated on scene patrol personnel by contacting them on VHF-16 or by a request to the Captain of the Port Long Island Sound via phone at (203) 468-4401.

(d) *Enforcement Period.* This rule is enforced annually on a date in August. Notification of the specific date and enforcement of the special local regulation will be made via Notice in the **Federal Register**, marine broadcasts and local Notice to Mariners.

Dated: June 17, 2009.

Daniel A. Ronan,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. E9-17244 Filed 7-20-09; 8:45 am]

BILLING CODE 4910-15-P

POSTAL REGULATORY COMMISSION**39 CFR Part 3050**

[Docket No. RM2009-7; Order No. 245]

Periodic Reporting Rules

AGENCY: Postal Regulatory Commission.

ACTION: Proposed rule; availability of rulemaking petition.

SUMMARY: Under a new law, the Postal Service must file an annual compliance report with the Postal Regulatory Commission on costs, revenues, rates and quality of service associated with its products. This document notes that the Postal Service has filed a petition for consideration of a proposed change in analytical methods approved for use in periodic reporting. The focus of this petition (involving an issue referred to as Proposal Two) is on the Postal Service's development of revenue, piece and weight estimates for bulk mail categories. The Commission has established a docket for consideration of Proposal Two and has addressed preliminary procedural matters, including an opportunity for public comment. Proposal One is under consideration in a pending docket.

DATES: Deadline for initial comments: July 29, 2009.

ADDRESSES: File comments electronically via the Commission's Filing Online system.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6829 or stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION:

Regulatory History, 74 FR 31386 (July 1, 2009).

On July 7, 2009, the Postal Service filed a petition to initiate an informal rulemaking proceeding to consider a change in the analytical methods approved for use in periodic reporting.¹

¹ Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider

The Petition explains that the Postal Service's current practice is to combine data from two sources to fashion Revenue, Pieces, and Weight (RPW) estimates for the various categories of bulk mail. It combines census data recorded by its PostalOne! system (which reflects automated office activity) with data found on postage statements that are taken from a probability sample of non-automated offices. It notes that the sample data taken from non-automated offices are becoming less reliable as the pool of non-automated offices shrinks and the sample frames for that pool become increasingly dated. It also notes that the sampling process is more expensive than the modeling process that it proposes.

The Postal Service proposes to discontinue sampling non-automated offices when preparing its RPW estimates. In place of the current non-automated office sample, it proposes to take the universe of offices, and stratify it according to size. It will then impute the incidence of mail characteristics for a given product found in automated offices in a particular size stratum, as reflected in PostalOne! data, to the characteristics of products found in non-automated offices in the same size stratum. The Postal Service calls this its "modeling" approach. Petition at 1-2.

The Petition, which is available on the Commission's Web site, <http://www.prc.gov>, includes appendices purporting to show the results of testing the accuracy of its modeling approach in estimating revenue, pieces, and weight with respect to all market dominant bulk mail categories. The Postal Service concludes that the results are accurate for all categories except for Within County Periodicals. Even with respect to Within County Periodicals, it asserts that the modeled results are more accurate than the current approach which employs data gathered from a sample of non-automated offices. *Id.* at 2 and Attachment at 2.

The attachment and the appendices to the Postal Service's Petition explain its proposal in more detail, including its background, objective, rationale, and estimated impact.

It is ordered:

1. Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Change in Analytic Principles (Proposal Two), filed July 7, 2009, is granted.

2. The Commission establishes Docket No. RM2009-7 to consider the matters raised by the Postal Service's Petition.

Proposed Change in Analytic Principles (Proposal Two), July 7, 2009 (Petition).