

Example 4. In 2009, Employer D contributes \$1,000 for the calendar year to the HSA of each full-time nonhighly compensated employee who is an eligible individual with self-only HDHP coverage. Employer D also contributes \$1,000 to the HSA of each full-time highly compensated employee who is an eligible individual with self-only HDHP coverage. In addition, the employer contributes an additional \$500 to the HSA of each nonhighly compensated employee who participates in a wellness program. The nonhighly compensated employees did not receive comparable contributions, and, therefore, Employer D's HSA contributions for calendar year 2009 do not satisfy the comparability rules.

Example 5. In 2009, Employer E contributes \$1,000 for the calendar year to the HSA of each full-time non-management nonhighly compensated employee who is an eligible individual with family HDHP coverage. Employer E also contributes \$500 for the calendar year to the HSA of each full-time management nonhighly compensated employee who is an eligible individual with family HDHP coverage. The nonhighly compensated employees did not receive comparable contributions, and, therefore, Employer E's HSA contributions for calendar year 2009 do not satisfy the comparability rules.

Q-3: May an employer make larger HSA contributions for employees with self plus two HDHP coverage than employees with self plus one HDHP coverage even if the employees with self plus two are all highly compensated employees and the employees with self plus one are all nonhighly compensated employees?

A-3: (a) Yes. Q & A-1 in § 54.4980G-4 provides that an employer's contribution with respect to the self plus two category of HDHP coverage may not be less than the contribution with respect to the self plus one category and the contribution with respect to the self plus three or more category may not be less than the contribution with respect to the self plus two category. Therefore, the comparability rules are not violated if an employer makes a larger HSA contribution for the self plus two category of HDHP coverage than to self plus one coverage, even if the employees with self plus two coverage are all highly compensated employees and the employees with self plus one coverage are all nonhighly compensated employees. Likewise, the comparability rules are not violated if an employer makes a larger HSA contribution for the self plus three category of HDHP coverage than to self plus two coverage, even if the employees with self plus three coverage are all highly compensated employees and the employees with self plus two coverage are all nonhighly compensated employees.

(b) *Example.* The following example illustrates the rules in paragraph (a) of this Q & A-3. In the following examples, no contributions are made through a section 125 cafeteria plan and none of the employees are covered by a collective bargaining agreement.

Example. In 2009, Employer F contributes \$1,000 for the calendar year to the HSA of each full-time employee who is an eligible individual with self plus one HDHP coverage. Employer F contributes \$1,500 for the calendar year to the HSA of each employee who is an eligible individual with self plus two HDHP coverage. The deductible for both the self plus one HDHP and the self plus two HDHP is \$2,000. Employee A, an eligible individual, is a nonhighly compensated employee with self plus one coverage. Employee B, an eligible individual, is a highly compensated employee with self plus two coverage. For the 2009 calendar year, Employer F contributes \$1,000 for to Employee A's HSA and \$1,500 to Employee B's HSA. Employer F's HSA contributions satisfy the comparability rules.

Par. 10. Section 54.4980G-7 is added to read as follows:

§ 54.4980G-7 Special comparability rules for qualified HSA distributions contributed to HSAs on or after December 20, 2006 and before January 1, 2012.

Q-1: How do the comparability rules of section 4980G apply to qualified HSA distributions under section 106(e)(2)?

A-1: The comparability rules of section 4980G do not apply to amounts contributed to employee HSAs through qualified HSA distributions. However, in order to satisfy the comparability rules, if an employer offers qualified HSA distributions, as defined in section 106(e)(2), to any employee who is an eligible individual covered under any HDHP, the employer must offer qualified HSA distributions to all employees who are eligible individuals covered under any HDHP. However, if an employer offers qualified HSA distributions only to employees who are eligible individuals covered under the employer's HDHP, the employer is not required to offer qualified HSA distributions to employees who are eligible individuals but are not covered under the employer's HDHP.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-121698-08]

RIN 1545-B100

Amendments to the Section 7216 Regulations—Disclosure or Use of Information by Preparers of Returns; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains a correction to a notice of proposed rulemaking by cross-reference to temporary regulations (REG-121698-08) that was published in the **Federal Register** on Wednesday, July 2, 2008 (73 FR 37910) providing updated guidance affecting tax return preparers regarding the disclosure of a taxpayer's social security number to a tax return preparer located outside of the United States in order to provide an exception allowing such disclosure with the taxpayer's consent in limited circumstances.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Mack, (202) 622-4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 7216 of the Internal Revenue Code.

Need for Correction

As published, a notice of proposed rulemaking by cross-reference to temporary regulations (REG-121698-08) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of a notice of proposed rulemaking by cross-reference to temporary regulations (REG-121698-08), which was the subject of FR Doc. E8-15047, is corrected as follows:

On page 37911, column 2, in the preamble, under the paragraph heading "Comments and Public Hearing", line 4 of the last paragraph, the language "must submit written comments on" is

corrected to read “must submit written comments by”.

LaNita Van Dyke,

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Legal Processing Division, Associate Chief
Counsel, (Procedure and Administration).*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG-2008-0155]

RIN 1625-AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to decrease the size of Romer Shoal Anchorage Ground in Lower New York Bay. This action is necessary to facilitate safe navigation in the area and to provide safe and secure anchorages for vessels transiting this area. This proposal is intended to increase the safety for life and property for the Port of New York, improve the safety of anchored vessels, and provide for the overall safe and efficient flow of commercial vessels and commerce.

DATES: Comments and related material must reach the Coast Guard on or before September 15, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2008-0155 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Online: <http://www.regulations.gov>.

(2) 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.

(3) Hand delivery: Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) Fax: 202-493-2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call LCDR Michael McBrady,

Chief, Waterways Management Division, 718-354-2353. 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. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0155), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them 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. We may change this proposed rule in view of them.

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> at any time. Enter the docket number for this rulemaking (USCG-2008-0155) in the Search box, and click "Go >." You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays; or the Waterways Management Division, Coast Guard Sector New York, 212 Coast Guard Drive, room 210, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one 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 Sandy Hook Pilots Association through the New York/New Jersey Harbor Safety Committee has requested the Coast Guard reduce the size of federal anchorage ground 27(ii) near Romer Shoal located between Ambrose and Swash Channels. The proposed eastern boundary of anchorage ground 27(ii) would move the eastern boundary about 2,860 yards to the west (inshore). The revised anchorage ground would be bound by the following points: 40°28'28.9" N, 073°56'46.0" W; thence to 40°29'48.1" N, 073°56'46.0" W; thence to 40°31'23.2" N, 074°00'51.0" W; thence to 40°32'11.5" N, 074°01'39.3" W; thence to 40°32'12.4" N, 074°02'04.6" W; thence to 40°31'28.5" N, 074°02'05.0" W; thence to 40°30'14.2" N, 074°00'05.0" W; thence to the point of origin (NAD 83).

Discussion of Proposed Rule

The Sandy Hook Pilots have observed foreign flag vessels, inbound via the New York Traffic Separation Scheme (TSS), proceeding through the Precautionary Area and the charted pilot area, sometimes at unsafe speeds of up to 18 knots to anchor in the eastern portion of this anchorage ground. The anchorage ground with charted water depths of between 39-63 feet, has obstructions which have the potential to create a grounding situation to certain types of vessels attempting to