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Dated: January 11, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD-2006-HA-0194; RIN 0720-AB07]

TRICARE; Certain Survivors of Deceased Active Duty Members; and Adoption Intermediaries

AGENCY: Office of the Secretary, DoD.

ACTION: Interim Final Rule.

SUMMARY: This interim final rule implements two provisions of the National Defense Authorization Act for Fiscal Year 2006 (NDAA FY06), Public Law 109-163. First, Section 715 of the NDAA FY06 extends the time frame certain dependents of Active Duty Service Members (ADSM) who die while on active duty for more than 30 days shall receive TRICARE medical benefits at active duty dependent payment rates. Second, Section 592 of the NDAA FY06 modifies the requirement for those intermediaries who provide adoption placements.

Additionally, this interim final rule makes an administrative clarification to the following two eligibility provisions: those placed in the legal custody of a member or former member; and those placed in the home of a member or former member in anticipation of adoption. This clarification makes a distinction between the two groups and specifies that for placement into legal custody by court order, the court order must be for a period of 12 consecutive months.

Public comments are invited and will be considered for possible revisions to the final rule.

DATES: This rule is effective March 20, 2007.

Comments: Written comments received at the address indicated below by March 20, 2007 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Ann N. Fazzini, (303) 676-3803 for questions regarding Section 715 as it relates to the TRICARE Basic Program; and also questions regarding Section 592.

Mr. Michael Kottyan, (303) 676-3520 for questions regarding Section 715 as it relates to the Extended Health Care Option (ECHO).

Mr. John Leininger, (303) 676-3613, for questions regarding TRICARE Prime Remote.

Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION: The Department is publishing this rule as an interim final rule in order to meet statutorily required effective dates. The Department is not exercising any discretion in implementing these provisions. In accordance with Section 715(b), the effective date for Section 715 is October 7, 2001 and shall apply with respect to deaths occurring on or after that date. The Department has no discretion concerning the benefits available to surviving dependents, the effective date, nor the time periods benefits are available to surviving spouses and children respectively. The effective date for Section 592 is January 6, 2006. Prior to the NDAAFY06, a child placed in the home by a placement agency recognized by the Secretary of Defense in anticipation of the legal adoption of the person was eligible for TRICARE. Section 592 of the NDAA FY06 expands those intermediaries who perform adoption placement to include placement by any source authorized by State or local law to provide adoption placement. The Department is not exercising any discretion in defining who are intermediaries who can perform adoption placement. In accordance with Public Law 103-160, section 702(b), the effective date for placement by a court is July 1, 1994. In accordance with Public Law 103-337, section 701, the effective date for placement by a recognized adoption agency October 5, 1994. These last two changes are administrative corrections

only. Public comments are invited and will be considered for possible revisions to the final rule.

The effective date for Section 715 is October 7, 2001 and shall apply with respect to deaths occurring on or after that date. The effective date for Section 592 is January 6, 2006. In accordance with Public Law 103–160, section 702(b), the effective date for placement by a court is July 1, 1994. In accordance with Public Law 103–337, section 701, the effective date for placement by a recognized adoption agency October 5, 1994.

I. Payment Rates for Dependents of Deceased Active Duty Service Members Introduction and Background

Dependents of active-duty members who died while on active duty have been always eligible for TRICARE; however, their payment rates/cost-sharing provisions have changed over time. Initially, their cost-sharing provisions were at the retiree payment rate for all care received. This was amended by Section 707(c) of the National Defense Authorization Act for Fiscal Year 1995, Public Law 103–337, which provided for two changes. First, effective October 1, 1993, care was to be cost-shared at the active duty dependent payment rate for a one-year period. Second, for dependents of active duty members who died while on active duty between January 1, 1993, and October 1, 1993, only care for pre-existing conditions was cost-shared at the active duty dependent payment rate.

An additional amendment to the time period for the payment rate for dependents of deceased active duty members was found in Section 704 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Section 704 added a two-year extension of the active-duty dependent cost-sharing provision which allowed survivors of deceased active duty members to remain eligible for TRICARE at the active duty dependent payment rate for a total of three years from the date of death. After three years, survivors remained eligible for TRICARE at the retiree payment rate.

Section 715 of the NDAA–FY06

General

Section 715 of the NDAA FY06 further modified the cost-sharing provision for certain dependents of deceased active duty members by adding the following subparagraph 1079(g)(2) to title 10, United States Code:

(2) In addition to any continuation of eligibility for benefits under paragraph (1),

when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

- (A) Three years.
- (B) The period ending on the date on which such dependent attains 21 years of age.
- (C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:
 - (i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.
 - (ii) The date on which such dependent attains 23 years of age.
- (3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.
- (4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.
- (5) In this subsection, the term "TRICARE Prime" means the managed care option of the TRICARE program.

(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

(5) In this subsection, the term "TRICARE Prime" means the managed care option of the TRICARE program.

Certain Dependents

Section 715 of the NDAA FY06 changed the time frame that certain dependents shall continue to retain eligibility to enroll in TRICARE Prime at the active duty dependent payment rate and receive the same health benefits that would apply to them if the member were still living and serving on active duty. Section 715 applies to those dependents defined in 10 U.S.C. Chapter 55, subparagraph (D) or (I) of section 1072(2). In the supplementary section of this Interim Final Rule, those dependents in subparagraphs (D) and (I) are referred to as "certain dependents" and the specific legislative language for these two subparagraphs is outlined below.

Subparagraph (D) of 1072(2) addresses a child who—

- (i) has not attained the age of 21;
- (ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support; or
- (iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support.

Subparagraph (I) addresses an unmarried person who—

- (i) is placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months;
- (ii) either—
 - (I) has not attained the age of 21;
 - (II) has not attained the age of 23 and is enrolled in a full time course of study at an institution of higher learning approved by the administering Secretary; or
 - (III) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this subparagraph pursuant to subclause (I) or (II);
 - (iii) is dependent on the member or former member for over one-half of the person's support;
 - (iv) resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe; and
 - (v) is not a dependent of a member or a former member under any other subparagraph.

(iii) is dependent on the member or former member for over one-half of the person's support;

(iv) resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe; and

(v) is not a dependent of a member or a former member under any other subparagraph.

These certain dependents may avail themselves of the active duty dependent payment rates available under TRICARE Standard, Extra, or Prime and enjoy medical benefits at the active duty dependent payment rate in accordance with the time frames listed in Section 715. Of significance is the cost saving opportunity Section 715 presents for those certain dependents that choose to

enroll in TRICARE Prime. Currently, there is no TRICARE Prime enrollment fee and no TRICARE Prime copayment for an active duty dependent Prime enrollee so those certain dependents who are enrolled in Prime also would have no Prime enrollment fee and no Prime copayment.

Those certain dependents that choose TRICARE Standard or Extra would be responsible for the active duty payment rate (cost-share) applicable under those two programs. The active duty dependent payment rates for TRICARE Standard and Extra vary by type of service (inpatient, outpatient, etc.) and can be found in 32 CFR 199.4(f).

TRICARE Prime Remote

Because Section 715 references TRICARE Prime, the Department is interpreting this section to also include the TRICARE "Prime-like" benefit known as TRICARE Prime Remote (TPR). As a result, TPR will be available to surviving spouses and certain dependents whose sponsor died while on active duty for a period of more than 30 days. Surviving spouses will be eligible to enroll in TPR for a three-year period. Certain dependents will be eligible to enroll in TPR as long as they meet the criteria for being a dependent as described in 10 U.S.C. Chapter 55, subparagraph (D) or (I) of section 1072(2).

For additional information on the TPR program, the reader should refer to the interim final rules that were published in the **Federal Register** on February 6, 2002, (67 FR 5477) and July 31, 2003 (68 FR 44883).

Extended Care Health Option (ECHO)

Based on the Department's interpretation of Section 715 of the NDAA FY06, the ECHO is also available to surviving spouses and certain dependents of deceased active duty members because these surviving spouses and certain dependents are treated as if the sponsoring member were still living and serving on active duty.

For additional information on the ECHO program, the reader should refer to the final rules that were published in the **Federal Register** on July 28, 2004, (69 FR 44942) and August 20, 2004, (69 FR 51559).

Surviving Spouse

We note that Section 715 of the NDAA FY 06 provision makes no change to the time frame that the surviving spouse shall receive care at the active duty dependent payment rate. Surviving spouses retain the three year period of TRICARE Prime, TPR,

TRICARE Extra or TRICARE Standard at the active duty dependent payment rate. At the end of the three year period, surviving spouses continue eligibility for TRICARE benefits at the retiree payment rate.

The provisions found in Section 715 are effective with respect to deaths occurring on or after October 7, 2001.

II. Eligibility Determinations

Section 715 of the NDAA FY06 authorizes the time frame that certain dependents shall retain active duty dependent payment rates for medical benefits available under TRICARE. The provision has no impact on eligibility rules. Consequently, this provision does not preclude loss of eligibility as a result of any condition which routinely results in loss of TRICARE eligibility such as reaching age limits, marriage, remarriage, etc.

Although the TRICARE Management Activity is tasked with publishing legislatively mandated eligibility changes to Title 10 U.S.C., determination of dependent eligibility is the primary responsibility of the Uniformed Services. TRICARE relies primarily on the Defense Enrollment Eligibility Reporting System (DEERS) for eligibility verification. However, a determination by the Uniformed Services that a person is eligible does not automatically entitle such a person to TRICARE payments. Before any TRICARE benefits may be extended, additional requirements of 32 CFR Part 199 must be met. In accordance with 10 U.S.C. 1084, as implemented by § 199.3(h), disputes regarding eligibility as a dependent or dates of beginning eligibility for benefits under TRICARE can only be resolved by the appropriate Uniformed Service Secretary.

III. Modification of Requirement for Certain Intermediaries Under Certain Authorities Relating to Adoptions

Section 592 of the NDAA FY06 states that:

(a) Reimbursement for Adoption Expenses—Section 1052(g)(1) of title 10, United States Code, is amended by inserting 'or other source authorized to place children for adoption under State or local law' after 'qualified adoption agency'.

(b) Treatment as Children for Medical and Dental Care Purposes—Section 1072(6)(D)(i) of such title is amended by inserting ', or by any other source authorized by State or local law to provide adoption placement,' after '(recognized by the Secretary of Defense)'.

Prior to the NDAA FY06, a child placed in the home by a placement agency recognized by the Secretary of Defense in anticipation of the legal adoption of the person was eligible for

TRICARE. Section 592 of the NDAA FY06 expands those intermediaries who perform adoption placement to include placement by any source authorized by State or local law to provide adoption placement. This expanded language mirrors the language found in Title 10, Subpart A, Part II, Chapter 53, Section 1052, reimbursement for adoption expenses, and provides consistency between personnel benefit policies in chapter 53 of Title 10, United States Code, and eligibility for TRICARE under chapter 55 of Title 10, United States Code. Effective date of the NDAA FY06 (and this provision) is January 6, 2006.

IV. Administrative Change—Court Order/Adoption Placement

During the course of amending the regulation to incorporate the NDAA FY06 provisions, we identified the need for an administrative clarification to 32 CFR Part 199 Section 3. This interim final rule clarifies the eligibility provisions for an unmarried person who is placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or possession of the United States) by stating that the court order must be for a period of at least 12 consecutive months. We currently address a child who is placed in legal custody of a member or former member, but the language unintentionally omitted the 12 consecutive month period required by 10 U.S.C. 1072(I)(i).

Additionally, this rule clarifies that an unmarried person placed in legal custody of a member or former member is a category that is separate and distinct from those placed for adoption. We accomplish this by providing separate regulatory paragraphs for each group.

For further information on these two groups, we refer the reader to the final rule that established these groups, 64 FR 46133, August 24, 1999.

V. Regulatory Procedures

We have examined the impact of the interim rule under Executive Order (EO) 13132 and it does not have policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, therefore, consultation with State and local officials is not required.

Section 801 of title 5, United States Code, and Executive Order 12866 requires certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as

one that would result in an annual effect of \$100 million or more on the national economy or which would have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities.

This is not a major rule under 5 U.S.C. 801. It is a significant regulatory action but not economically significant, and has been reviewed by the Office of Management and Budget as required under the provisions of E. O. 12866. In addition, we certify that this proposed rule will not significantly affect a substantial number of small entities.

This final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 55).

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.3 is amended by revising paragraph (b)(2)(ii)(H)(4) and by adding new paragraphs (b)(2)(iv), and (c)(9)(iii) to read as follows:

§ 199.3 Eligibility.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(H) * * *

(4) An unmarried person. An unmarried person placed in the home of a member or former member prior to adoption. To be a dependent child, the unmarried person must not have reached the age of 21 (or otherwise meets the requirements of a student or incapacitated child set out in paragraphs (b)(2)(ii)(H)(1) or (b)(2)(ii)(H)(2) of this section) and has been placed in the home of the member or former member by a recognized placement agency or by any other source authorized by State or local law to provide adoption placement, in anticipation of legal adoption by the member or former member.

* * * * *

(iv) An unmarried person who is placed in the legal custody of a member or former member by a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months. The unmarried person shall be considered a dependent of the member or former member under this section provided he or she otherwise meets the following qualifications:

(A) Has not reached the age of 21 unless he or she otherwise meets the requirements of a student set out in paragraph (b)(2)(ii)(H)(1) of this section or the requirements for being incapacitated as set out in paragraph (b)(2)(ii)(H)(2) of this section and the incapacitation occurred while he or she was a dependent of the member or former member through court ordered legal custody;

(B) Is dependent on the member or former member for over one-half of the person's support;

(C) Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other authorized circumstances; and,

(D) Is not a dependent of a member or former member under any other provision of law or regulation.

* * * * *

(c) * * *

(9) * * *

(iii) Has been placed in the home of a member by a placement agency or by any other source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption of the member:

(A) All benefits for which entitled, January 6, 2006.

(B) Extended Care Health Option benefits limited to children of members only, January 6, 2006.

* * * * *

■ 3. Section 199.5 is amended by revising paragraphs (a)(2), (b)(1), and (f)(3)(i) to read as follows:

§ 199.5 TRICARE Extended Care Health Care Option (ECHO).

(a) * * *

(2) The purpose of the ECHO is to provide an additional financial resource for an integrated set of services and supplies designed to assist in the reduction of the disabling effects of the ECHO-eligible dependent's qualifying condition. Services include those necessary to maintain, minimize or prevent deterioration of function of an ECHO-eligible dependent.

(b) * * *

(1) The following categories of TRICARE/CHAMPUS beneficiaries with a qualifying condition are ECHO-eligible dependents:

(i) A spouse, child, or unmarried person (as described in § 199.3(b)(2)(i), (b)(2)(ii), or (b)(2)(iv)) of a member of the Uniformed Services on active duty for a period of more than 30 days.

(ii) An abused dependent as described in § 199.3(b)(2)(iii).

(iii) A spouse, child, or unmarried person (as described in § 199.3(b)(2)(i), (b)(2)(ii), or (b)(2)(iv)), of a member of the Uniformed Services who dies while on active duty for a period of more than 30 days and whose death occurs on or after October 7, 2001. In such case, an eligible surviving spouse remains eligible for benefits under the ECHO for a period of 3 years from the date the active duty sponsor dies. Any other eligible surviving dependent remains eligible for benefits under the ECHO for a period of three years from the date the active duty sponsor dies or until the surviving eligible dependent:

(A) Attains 21 years of age, or

(B) Attains 23 years of age or ceases to pursue a full-time course of study prior to attaining 23 years of age, if, at 21 years of age, the eligible surviving dependent is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by Secretary of Defense and was, at the time of the sponsor's death, in fact dependent on the member for over one-half of such dependent's support.

(iv) A spouse, child, or unmarried person (as defined in paragraphs § 199.3(b)(2)(i), (b)(2)(ii), or (b)(2)(iv)) of a deceased member of the Uniformed Services who, at the time of the member's death was receiving benefits under ECHO, and the member at the time of death was eligible for receipt of hostile-fire pay, or died as a result of a disease or injury incurred while eligible for such pay. In such a case, the surviving dependent remains eligible for benefits under ECHO through midnight of the dependent's twenty-first birthday.

* * * * *

(f) * * *

(3) * * *

(i) *ECHO*. The total Government share of the cost of all ECHO benefits, except ECHO Home Health Care (EHC) and EHC respite care, provided in a given month to a beneficiary may not exceed \$2,500 after application of the allowable payment methodology.

* * * * *

■ 4. Section 199.17 is amended by:

■ a. Redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5) respectively.

■ b. Adding new paragraph (c)(3).

■ c. Revising paragraphs (g)(2) and (g)(3)(i) introductory text.

■ d. Adding new paragraphs (g)(3)(i)(D) and (g)(3)(i)(E) to read as follows:

§ 199.17 TRICARE Program.

* * * * *

(c) * * *

(3) *Survivors of Deceased Members.* (i) The spouse of a member who dies while on active duty for a period of more than 30 days is eligible to enroll in Prime for a 3 year period beginning on the date of the member's death. For the three year period, surviving spouses of a member who dies while on active duty for a period of more than 30 days are subject to the same rules and provisions as dependents of active duty members.

(ii) A dependent child or unmarried person (as described in § 199.3(b)(2)(ii), or (b)(2)(iv)) of a member who dies while on active duty for a period of more than 30 days whose death occurred on or after October 7, 2001, is eligible to enroll in Prime and is subject to the same rules and provisions as dependents of active duty members for a period of three years from the date the active duty sponsor dies or until the surviving eligible dependent:

(A) Attains 21 years of age, or

(B) Attains 23 years of age or ceases to pursue a full-time course of study prior to attaining 23 years of age, if, at 21 years of age, the eligible surviving dependent is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the Secretary of Defense and was, at the time of the sponsor's death, in fact dependent on the member for over one-half of such dependent's support.

* * * * *

(g) * * *

(2) *Active duty family member.* For purposes of this paragraph (g), the term "active duty family member" means one of the following dependents of an active duty member of the Uniformed Services:

(i) Spouse, child, or unmarried person, as defined in paragraphs § 199.3 (b)(2)(i), (b)(2)(ii) or (b)(2)(iv);

(ii) For a 3-year period, the surviving spouse of a member who dies while on active duty for a period of more than 30 days whose death occurred on or after October 7, 2001; and

(iii) The surviving dependent child or unmarried person, as defined in paragraphs § 199.3 (b)(2)(ii) or (b)(2)(iv), of a member who dies while on active duty for a period of more than 30 days

whose death occurred on or after October 7, 2001. Active duty family member status is for a period of 3 years from the date the active duty sponsor dies or until the surviving eligible dependent:

(A) Attains 21 years of age, or

(B) Attains 23 years of age or ceases to pursue a full-time course of study prior to attaining 23 years of age, if, at 21 years of age, the eligible surviving dependent is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the Secretary of Defense and was, at the time of the sponsor's death, in fact dependent on the member for over one-half of such dependent's support.

(3) *Eligibility.* (i) An active duty family member is eligible for TRICARE Prime Remote for Active Duty Family Members if he or she is eligible for CHAMPUS and, on or after December 2, 2003, meets the criteria of (g)(3)(i)(A) and (g)(3)(i)(B) or (g)(3)(i)(C) of this section or on or after October 7, 2001, meets the criteria of (g)(3)(i)(D) or (g)(3)(i)(E) of this section:

* * * * *

(D) For a 3 year period, the surviving spouse of a member who dies while on active duty for a period of more than 30 days whose death occurred on or after October 7, 2001.

(E) The surviving dependent child or unmarried person as defined in paragraphs § 199.3 (b)(2)(ii) or (b)(2)(iv), of a member who dies while on active duty for a period of more than 30 days whose death occurred on or after October 7, 2001, for three years from the date the active duty sponsor dies or until the surviving eligible dependent:

(1) Attains 21 years of age, or

(2) Attains 23 years of age or ceases to pursue a full-time course of study prior to attaining 23 years of age, if, at 21 years of age, the eligible surviving dependent is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the Secretary of Defense and was, at the time of the sponsor's death, in fact dependent on the member for over one-half of such dependent's support.

* * * * *

Dated: January 10, 2007.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD07-05-138]

RIN 1625-AA11

Regulated Navigation Area: Savannah River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: On January 23, 2006, the Coast Guard published a notice of proposed rulemaking (NPRM) to revise the regulated navigation area in Savannah, Georgia, to address changes in Liquefied Natural Gas (LNG) tankship mooring locations following the creation of two new berths within a slip at the Southern LNG facility on the Savannah River. The previous rule only addressed facility and vessel requirements when an LNG vessel was underway or was moored parallel to the navigational channel outside of the slip. This interim rule describes requirements for three different potential mooring situations following the expansion: an LNG tankship moored outside of the slip, one or more LNG tankships moored inside the slip, and LNG tankships moored both inside and outside of the slip. This interim rule will become effective on February 20, 2007. However, we still encourage you to participate in this rulemaking by submitting comments and related material to the docket. We will accept comments for 60 days from the date this rule is published in the Federal Register, after which we intend to publish a final rule. Any comments received will be considered in the final rule. This interim rule is necessary to ensure safe navigation of the Savannah River and the safe transfer of LNG in the Port of Savannah.

DATES: This interim rule is effective February 20, 2007. Comments and related material must reach the Coast Guard on or before March 20, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07-05-138], will become part of this docket and will be available for inspection or copying at Marine Safety Unit Savannah, Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia 31401, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.