

detailed information regarding this provision.

III. Modification of Requirement for Certain Intermediaries Under Certain Authorities Relating to Adoptions. 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, United States Code, 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. The reader is referred to the interim final rule published on January 19, 2007 (72 FR 2444), for detailed information regarding this provision.

IV. Administrative Change—Court Order/Adoption Placement. This 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(2)(I)(i). This rule also 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. The reader is referred to the interim final rule published on January 19, 2007 (72 FR 2444), for detailed information regarding this provision. Additionally, for historical information on these two groups, we refer the reader to the final rule that established these groups (64 FR 46133, August 24, 1999).

#### Review of Public Comments

*Comment:* One commenter applauded the enhanced benefit, but recommended further direction that this benefit only be extended upon the initiation and/or completion of an appropriate Line of Duty (LOD) determination. Generally, LOD determinations do not apply for battle injuries or battle-related deaths. This commenter requested that clarification be directed toward ADMS

deaths that occur under in-garrison, non-combat operations.

*Response:* We appreciate the comment and note that the statutory language provides the benefit “when a member dies while on active duty for a period of more than 30 days.” There are no qualifiers or limitation on this provision; consequently, there is no statutory authority to apply LOD determinations.

*Comment:* A second commenter asked about the effective date of the provisions.

*Response:* For the payment rates for dependents of deceased active duty family members, the provision is effective with respect to those active duty service members whose death occurred on or after October 7, 2001. The modification of adoption intermediaries is effective January 6, 2006.

#### Regulatory Procedures

*Executive Order 12866, “Regulatory Planning and Review”*

Section 801 of title 5, United States Code (U.S.C.) and Executive Order (E.O.) 12866 require 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.

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.

*Section 202, Public Law 104-4, “Unfunded Mandates Reform Act”*

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

*Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)*

The Regulatory Flexibility Act 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. In addition, we certify that this final rule will not significantly affect a substantial number of small entities.

*Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)*

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).

*Executive Order 13132, “Federalism”*

We have examined the impact of the rule under E.O. 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.

#### List of Subjects in 32 CFR Part 199

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

■ Accordingly, the interim final rule published January 19, 2007 (72 FR 2444), is confirmed as final without change.

Dated: May 19, 2008.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 706

#### Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS STOUT (DDG 55) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** This rule is effective May 28, 2008 and is applicable beginning March 26, 2008.

**FOR FURTHER INFORMATION CONTACT:** Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, telephone 202-685-5075.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS STOUT (DDG 55) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a

naval ship: Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

**PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972**

■ 1. The authority citation for part 706 continues to read:

**Authority:** 33 U.S.C. 1605.

■ 2. Table Four, Paragraph 16 of § 706.2 is amended by removing the entry for USS STOUT (DDG 55).

■ 3. Table Five, of § 706.2 is amended by revising the following entry for USS STOUT (DDG 55), to read as follows:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

TABLE FIVE

Vessel	Hull No.	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward masthead Light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS STOUT .....	DDG 55 .....	*	*	X	20.3

Approved: April 29, 2008.

**M. Robb Hyde,**  
Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG-2008-0354]

**Drawbridge Operation Regulations; Sacramento River, Rio Vista, CA, Drawbridge Maintenance**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Rio Vista Drawbridge across the Sacramento River, mile 12.8, at Rio Vista, CA. The deviation is necessary to allow the bridge owner, the California Department of Transportation (Caltrans), to conduct required maintenance of the drawspan. This deviation allows for a 4-hour notice for openings during nighttime.

**DATES:** This deviation is effective between 9 p.m. and 5 a.m., from May 27, 2008 through June 27, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0354 and are available online at [www.regulations.gov](http://www.regulations.gov). They are also available for inspection or copying two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Commander (dpw), Eleventh Coast Guard District, Building 50-2, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

**SUPPLEMENTARY INFORMATION:** Caltrans requested a temporary change to the operation of the Rio Vista Drawbridge, mile 12.8, Sacramento River, at Rio Vista, CA. The Rio Vista Drawbridge navigation span provides a vertical clearance of 17 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal as required by 33 CFR 117.5. Navigation on the waterway consists of both commercial and recreational vessels.