

### Energy Effects

We have analyzed this 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

We received no letters commenting on this section and have therefore made no changes to the regulatory text related to this subject.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are proposing to establish a security zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

We received no letters commenting on this section and have therefore made no changes to the regulatory text related to this subject.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. Add § 165.1108 to read as follows:

#### § 165.1108 Security Zones; Cruise Ships, Port of San Diego, California.

(a) **Definition.** "Cruise ship" as used in this section means a passenger vessel, except for a ferry, 100 gross tons or more, authorized to carry more than 12 passengers for hire; capable of making international voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are

embarked, disembarked or at a port of call in the San Diego port.

(b) **Location.** The following areas are security zones:

(1) All waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is anchored at a designated anchorage within the San Diego port area inside the sea buoys bounding the port of San Diego.

(2) The shore area and all waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored at any berth within the San Diego port area inside the sea buoys bounding the Port of San Diego; and

(3) All waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is underway on the waters inside the sea buoys bounding the Port of San Diego.

(c) **Regulations.** (1) In accordance with the general regulation in § 165.33 of the part, entry into or remaining in these zones is prohibited unless authorized by the Coast Guard Captain of the Port, San Diego or his designated representative.

(2) Persons desiring to transit the area of the security zones may contact the Captain of the Port at telephone number (619) 683-6495 or on VHF-FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(d) **Authority.** In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) **Enforcement.** The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zones by the San Diego Harbor Police.

Dated: December 13, 2002.

**S. P. Metruck,**

*Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.*

[FR Doc. 03-315 Filed 1-7-03; 8:45 am]

**BILLING CODE 4910-15-P**

### DEPARTMENT OF EDUCATION

#### 34 CFR Part 200

**RIN 1810-AA91**

#### Title I—Improving the Academic Achievement of the Disadvantaged; Correction

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Final regulations; correction.

**SUMMARY:** The Department of Education published in the **Federal Register** of

December 2, 2002, regulations governing the programs administered under Title I, parts A, C, and D of the Elementary and Secondary Education Act of 1965 (ESEA), as amended (hereinafter referred to as the Title I programs). The December 2, 2002, document contained minor errors. Additionally, some material was inadvertently left out of the Analysis of Comments and Changes appendix to the document. This document corrects the errors and adds the omitted material to the appendix.

**DATES:** These regulations are effective January 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** For subparts A, D, and E of part 200, Jacquelyn C. Jackson, Ed. D. Acting Director, Student Achievement and School Accountability Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W202, FB-6, Washington, DC 20202-6132. Telephone: (202) 260-0826.

For subparts B and C of part 200, Francisco Garcia, Director, Migrant Education Program, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E217, FB-6, Washington, DC 20202-6135. Telephone: (202) 260-0089.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** In the final regulations published on December 2, 2002 (67 FR 71710) make the following corrections:

1. On page 71716, in the second column, the introductory text of § 200.13(b) is corrected by adding the acronym "AYP" following the word "define".

2. On page 71720, in the first column § 200.29(a) is correctly designated as paragraph (a)(1).

3. On page 71741, in the appendix, in the second column, after the fourth line, add the following text to read:

\* \* \* \* \*

*Comment:* Several commenters noted a "catch-22" in the requirement to demonstrate increasing proficiency by limited English proficient students, since lack of English proficiency is the defining characteristic of this group and successful students "graduate" from, and thus are no longer counted in, the subgroup. Two commenters recommended that the final regulations

permit the inclusion of “formerly” limited English proficient students in the limited English proficient (LEP) subgroup for the purpose of determining adequate yearly progress. The commenters feared that counting only “current” limited English proficient students would result in permanent identification for improvement of any school serving sufficient numbers of such students.

**Discussion:** The Secretary recognizes the concern raised by the commenter not to penalize schools and LEAs that succeed in developing the English proficiency of limited English proficient students. However, these provisions are statutory and may not be changed by the Secretary. Also, the definition of “limited English proficient” in section 9101 (25) of the ESEA includes three alternative definitions and may give States some flexibility to address this concern. The Secretary may further address this issue in Title I guidance.

**Changes:** None.

\* \* \* \* \*

### Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister/>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

Dated: January 3, 2003.

**Susan B. Neuman,**

*Assistant Secretary, Office of Elementary and Secondary Education.*

[FR Doc. 03-351 Filed 1-7-03; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AK88

#### Health Care for Certain Children of Vietnam Veterans—Covered Birth Defects and Spina Bifida

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations regarding health care for

Vietnam veterans' children suffering from spina bifida to also encompass health care for women Vietnam veterans' children with certain other birth defects. This is necessary to provide health care for such children in accordance with recently enacted legislation. The amendments also reduce the requirements for preauthorization, reflect changes in organizational and personnel titles, revise contact information for the VHA Health Administration Center, and make nonsubstantive changes for purposes of clarity.

**DATES: Effective Date:** January 8, 2003.

**Applicability Dates:** This rule is applicable retroactively to December 1, 2001, for benefits added by Public Law 106-419. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

#### FOR FURTHER INFORMATION CONTACT:

Susan Schmetzer, Chief, Policy & Compliance Division, Health Administration Center, Department of Veterans Affairs, PO Box 65020, Denver, CO 80206, telephone (303) 331-7552.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on January 2, 2002 (67 FR 209), we proposed to amend VA health care regulations to provide benefits for women Vietnam veterans' children with covered birth defects, reduce the requirements for preauthorization, reflect changes in organizational and personnel titles, revise contact information for the VHA Health Administration Center, and make nonsubstantive changes for purposes of clarity. Prior to the enactment of Public Law 106-419 on November 1, 2000, the provisions of 38 U.S.C. chapter 18 only concerned benefits for children with spina bifida who were born to Vietnam veterans. Effective December 1, 2001, section 401 of Public Law 106-419 amended 38 U.S.C. chapter 18 to add benefits for women Vietnam veterans' children with certain birth defects (referred to as “covered birth defects”).

Two companion proposed rule documents concerning the provision of benefits under that legislation were also set forth in the January 2, 2002, issue of the **Federal Register**. One concerned monetary allowances and the identification of covered birth defects (RIN: 2900-AK67) (67 FR 200). The other concerned the provision of vocational training benefits (RIN: 2900-AK90) (67 FR 215). With respect to the first document, we published a final rule entitled “Monetary Allowances for Certain Children of Vietnam Veterans; Identification of Covered Birth Defects”

in the July 31, 2002, issue of the **Federal Register** (67 FR 49585).

For the proposed rule on health care, we provided, except for the information collection provisions, a thirty-day period for public comments, which ended on February 1, 2002. Pursuant to the Paperwork Reduction Act, we provided for the information collections in the document a 60-day comment period, which ended on March 4, 2002. We received comments from one organization and two individuals. None of the comments concerned the information collections.

One commenter, an individual, felt that the U.S. government is displaying a bias in favor of women veterans in this regulation and that the hidden effect of Agent Orange may also have remained dormant in men's systems and produced chromosomal disorders in their children. No changes are made based on this comment. Public Law 106-419, which was based on a comprehensive health study conducted by VA of 8,280 women Vietnam-era veterans, provides benefits specifically for women Vietnam veterans' children with certain birth defects. We have no legal authority to award the new health care benefits to children of male Vietnam veterans.

Another individual commented about payment of transportation expenses for medical care and treatment, and suggested two changes to the regulations. First, he suggested a change that he said would clarify § 17.902(a), which in the first sentence requires preauthorization for certain travel and other benefits. In our view, his suggested change would not be merely a clarification but rather would be a substantive change to the benefits paid for travel of beneficiaries and any necessary attendants. The proposed rule contained the same language concerning travel as in the current regulations in 38 CFR part 17 for health care for Vietnam veterans' children with spina bifida. We believe that a substantive change to travel benefits is beyond the scope of this rulemaking.

Second, this commenter suggested that § 17.903, concerning payment, be amended to contain specific provisions about travel benefits. The commenter's suggested language would, in part, unnecessarily restate statutory provisions that are already reflected in the language in proposed § 17.900, which defines “health care” as including “direct transportation costs to and from approved health care providers (including any necessary costs for meals and lodging en route, and accompaniment by an attendant or attendants).” Also, his suggested language would add substantive