

concerns the implementation and administration of the Privacy Act within the Department of the Treasury.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury has determined that this final rule will not impose new recordkeeping, application, reporting or other types of information collection requirements.

#### Lists of Subjects in 31 CFR Part 1

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

#### PART 1—[AMENDED]

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

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

#### § 1.36—[Amended]

2. Section 1.36 of subpart C is amended by adding the following text to the listing in paragraph a. 1. and b. 1. under the heading THE UNITED STATES CUSTOMS SERVICE:

*	*	*	*	*
a.	*	*	*	
1.	*	*	*	
00.171—Pacific Basin Reporting Network				*
*	*	*	*	*
b.	*	*	*	
1.	*	*	*	
00.171—Pacific Basin Reporting Network				*
*	*	*	*	*

Dated: May 5, 1997.

**Alex Rodriguez,**

*Deputy Assistant Secretary (Administration).*  
[FR Doc. 97-12611 Filed 5-15-97; 8:45am]

BILLING CODE: 4810-25-F

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 199

[DoD 6010.8-R]

RIN 0720-AA40

#### Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Selected Reserve Dental Program

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule establishes the TRICARE Selected Reserve Dental Program (TSRDP) to provide dental care to members of the

Selected Reserves of the Ready Reserve. The rule details operation of the program and seeks comments on our plan to implement the TRSDP.

**DATES:** This rule is effective August 1, 1997. Public comments must be received by July 15, 1997.

**ADDRESSES:** TRICARE Support Office (TSO)/Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch; Aurora, Colorado 80045-6900.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gunther J. Zimmerman, Office of the Assistant Secretary of Defense (Health Affairs), (703) 695-3331.

#### SUPPLEMENTARY INFORMATION:

##### I. Overview of the Proposed Rule

Implementation of the TRICARE Selected Reserve Dental Program (TSRDP) was directed by Congress in section 705 of the National Defense Authorization Act for Fiscal Year 1996, Public Law 104-106, which amended title 10, United States Code, by adding section 1076b. This law directed the implementation of a dental program for members of the Selected Reserve of the Ready Reserve, providing for voluntary enrollment and premium sharing between DoD and the enrollee.

Section 702 of the 1997 National Defense Authorization Act amended Title 10, U.S.C., by revising the program's start date, requiring the program to start during fiscal year 1997 and also to conform to several operational requirements. The costs of the program will be shared between the enrollee and the government. The statute directs that a members enrolling in the program shall pay a share of the premium charged for the insurance coverage.

Dental coverage under the TSRDP will provide basic dental care, to include diagnostic services, preventive services, basic restorative services, and emergency oral examinations.

Under this approach, where possible, reservists may make use of participating dental providers in their areas and benefit from the reduced copayments and provider submission of claims and acceptance of contractor allowances and arrangements. TSRDP eligible beneficiaries will obtain information concerning the program and the application process from the contractor.

This interim final rule adopts the statutory preemption authority of 10 U.S.C., section 1103. This statute broadly authorizes preemption of state laws in connection with DoD contracts for medical and dental care. We have made the judgment that preemption is

necessary and appropriate to assure the operation of a consistent, effective, and efficient federal program. In addition, the enacting legislation for the TRICARE Selected Reserve Dental Program directs the Department of Defense to utilize full and open competition in selecting a contractor and to implement this program during fiscal year 1997. Absent preemption of certain state and local laws on insurance regulation and other matters, competition would be severely limited and the process substantially delayed.

##### II. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any "significant regulatory action," defined as one which would result in an annual effect on the economy of \$100 million or more, or 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 significant regulatory action under the provisions of Executive Order 12866, and it would not have a significant impact on a substantial number of small entities.

The interim 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).

The Department is publishing this rule as an interim final rule in order to implement the program in a timely manner. Regulations involving military affairs are exempt from the notice and comment rulemaking procedures of the Administrative Procedures Act. Because this rule deals exclusively with a program for the military reserves, there is a heightened impact on the conduct of affairs peculiar to military functions of the government, and a significant reduced impact on the public. Based on this, it is appropriate, as an exemption to our normal practice of providing an opportunity for prior public comment on all CHAMPUS regulations, to issue this rule as an interim final rule, with a subsequent opportunity for public comment. Public comments are invited. All comments will be carefully considered. A discussion of the major issues received by public comments will be included with the issuance of the permanent final rule, anticipated approximately 90 days after the end of the comment period.

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

Claims, Handicapped, Health insurance, Military personnel.

Accordingly, 32 CFR Part 199 is amended as follows:

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

**Authority:** 10 U.S.C., Chapter 55.5 U.S.C. 301.

2. Part 199 is amended by adding § 199.21, as follows:

**§ 199.21 TRICARE Selected Reserve Dental Program (TSRDP).**

(a) *Purpose.* The TSRDP is a premium based indemnity dental insurance coverage program that will be available to members of the Selected Reserve of the Ready Reserve. Dental coverage will be available only to members of the Selected Reserve, no family coverage will be offered. Benefits are limited to preventive, restorative and emergency care. Premium costs for this coverage will be shared by the enrollee and the government.

(b) *General provisions.* The TSRDP is authorized by 10 U.S.C. 1076b.

(c) *Definitions.* Except as may be specifically provided in this section, to the extent terms defined in §§ 199.2 and 199.13(b) are relevant to the administration of the TRICARE Selected Reserved Dental Program, the definitions contained in those sections shall apply to the TSRDP as they do to CHAMPUS and the active duty dependents dental plan.

(d) *Eligibility and enrollment—(1) Eligibility.* Enrollment in the TRICARE Selected Reserve Dental Program is open to members of the Selected Reserve of the Ready Reserve.

(2) *Notification of eligibility.* The contractor will notify persons eligible to receive dental benefits under the TRICARE Selected Reserve Dental Program.

(3) *Election of Coverage.* Following this notification, interested reservists may elect to enroll. In order to obtain dental coverage, written election by eligible beneficiary must be made.

(4) *Enrollment.* Enrollment in the TRICARE Selected Reserve Dental Program is voluntary and will be accomplished by submission of an application to the TSRDP contractor.

(5) *Period of coverage.* TRICARE Selected Reserve Dental Program coverage is terminated on the last day of the month in which the member is discharged, transferred to the Individual Ready Reserve, Standby Reserve, or Retired Reserve, or ordered to active duty for a period of more than 30 days.

(e) *Premium sharing.* The Government and the enrollee will share in the monthly premium cost.

(f) *Premium Payments.* The enrollee will be responsible for a monthly premium payment in order to obtain the dental insurance.

(1) *Premium payment method.* The premium payment may be collected pursuant to procedures established by the Assistant Secretary of Defense (Health Affairs).

(2) *Effects of failure to make premium payments.* Failure to make monthly renewal premium payments will result in the enrollee being disenrolled from the TSRDP and subject to lock-out period of 12 months. Following this period of time, eligible reservists will be able to enroll if they so choose.

(3) *Member's share of premiums.* The cost of the TSRDP monthly premium will be shared between the Government and the enrollee. Interested eligible reservists may contact the dental contractor to obtain the enrollee premium cost. The members's share may not exceed \$25 per month.

(g) *Plan Benefits.* The TSRDP will provide basic dental coverage, to include diagnostic services, preventive services, basic restorative services, and emergency oral examinations. The following is the TSRDP covered dental benefit (using the American Dental Association, The Council on Dental Care Program's Code On Dental Procedures and Nomenclature):

(1) Diagnostic: Comprehensive oral examination (00150), and Periodic oral examination (00120), Intraoral-complete series (including bitewings) (00210); Intraoral-periapical-first film (00220); Intraoral-periapical-each additional film (00230); Bitewings-single film (00270); Bitewings-two films (00272); Bitewings-four films (00274); Panoramic film (00330); Pulp Vitality Tests (00460).

(2) Preventive: Prophylaxis-adult (limit—two per year) (01110); Topical application of fluoride (excluding prophylaxis)—adult (01204).

(3) Restorative: Amalgam-one surface, permanent (02140); Amalgam-two surfaces, permanent (02150); Amalgam-three surfaces; permanent (02160); Amalgam-four or more surfaces, permanent (02161); Resin-one surface, anterior (02330); Resin-two surfaces, anterior (02331); Resin-three surfaces, anterior (02332); Resin-four or more surfaces or involving incisal angle (anterior) (02335); Pin retention-per tooth, in addition to restoration (02951).

(4) Oral Surgery: Single tooth (07110); Each additional tooth (07120); Root removal-exposed roots (07130); Surgical removal of erupted tooth requiring evaluation of mucoperiosteal flap and removal of bone and/or section of tooth (07210); Surgical removal of residual tooth roots (cutting procedure) (07250).

(5) Emergency: Emergency oral examination (00130); Palliative (emergency) treatment of dental pain-minor procedures (09110).

(h) *Maximum Annual Cap.* TSRDP enrollees will be subject to a maximum \$1,000.00 of paid allowable charges per year.

(i) *Annual Review of Rates.* TSRDP premiums will be determined as part of the competitive contracting process. The contractor will annually notify eligible reservists of the TSRDP premium rates.

(j) *Authorized Providers.* The TSRDP enrollee may seek covered services from any provider who is fully licensed and approved to provide dental care in the state where the provider is located.

(k) *Benefit Payment.* Enrollees are not required to utilize the special network of dental providers established by the TSRDP contractor. For enrollees who do use this network, however, providers shall not balance bill any amount in excess of the maximum payment allowable by the TSRDP. Enrollees using non-network providers may be balanced billed such as amount. The maximum payment allowable by the TSRDP (minus the appropriate cost-share) will be the lesser of:

(1) Billed charges; or  
(2) Usual, Customary and Reasonable rates, in which the customary rate is calculated at the 85th percentile of billed charges in that geographic area, as measured in an undiscounted charge profile in 1995 or later for that geographic area (as defined by three-digit zip code).

(l) *Appeal and Hearing Procedures.* All levels of appeals and grievances established by the Contractor for internal review shall be exhausted prior to forwarding to OCHAMPUS for a final review. Procedures comparable to those established under § 199.13(h) shall apply.

(m) *Preemption of State Laws.* Pursuant to 10 U.S.C. 1103, any state or local law or regulation relating to health or dental insurance, prepaid health or dental plans, or other health or dental care delivery, administration, and financing methods is preempted and does not apply in connection with the TRICARE Selected Reserve Dental Program contract. Any such law, or regulation pursuant to such law, is without any force or effect, and State or local governments have no legal authority to enforce them in relation to the TRICARE Selected Reserve Dental Program contract. (However, the Department of Defense may, by contract, establish legal obligations on the part of the TRICARE Selected Reserve Dental Program contractor to conform with requirements similar or identical to

requirements of State or local laws or regulations.)

(n) *Director, OCHAMPUS.* The Director, OCHAMPUS, may establish other rules and procedures for the administration of the TRICARE Selected Reserve Dental Program.

Dated: May 12, 1997.

**L.M. Bynum,**

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

[FR Doc. 97-12871 Filed 5-15-97; 8:45 am]

BILLING CODE 5000-04-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-300490; FRL-5718-1]

RIN 2070-AB78

### Emamectin Benzoate; Pesticide Tolerances for Emergency Exemptions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of the insecticide emamectin benzoate: 4''-epi-methylamino-4''-deoxyavermectin B1 benzoate in or on the raw agricultural commodities head and Napa (chinese) cabbage in connection with EPA's granting an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on head and Napa cabbage in Hawaii. The tolerance will expire and is revoked on December 31, 1998.

**DATES:** This regulation becomes effective May 16, 1997. Objections and requests for hearings must be received by EPA on or before July 15, 1997.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300490], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300490], must be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of

Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: oppdocket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300490]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Olga Odiott, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA. (703) 308-6418, e-mail: odiott.olga@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The regulations governing section 18 require that the Agency publish a notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing the use of an unregistered chemical [40 CFR 166.24]. Emamectin benzoate is an active ingredient not currently found in any registered product. Accordingly, a notice of receipt of this request was published in the **Federal Register** on April 11, 1997. One comment was received regarding the requirement for a groundwater monitoring study. EPA is not requiring such study under section 18. Based on the available environmental fate data, the Agency has determined that the use proposed by this emergency exemption will not cause unreasonable adverse effects on the environment. EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the insecticide 4''-epi-methylamino-4''-deoxyavermectin B1 benzoate, also referred to in this document as emamectin benzoate, in or on head and

Napa cabbage at 0.025 part per million (ppm). This tolerance will expire and be revoked by EPA on December 31, 1998. After December 31, 1998, EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

### I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL-5572-9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166. Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted