

(4) Orestimba Peak, California—Stanislaus Co., 1955 (Photorevised 1971).

(c) Boundary. The Diablo Grande viticultural area is located in the western foothills of Stanislaus County, California. The beginning point is at Reservoir Spillway 780 in section 8, Township 6 South, Range 7 East (T. 6S., R. 7E.) on the Patterson Quadrangle U.S.G.S. map.

(1) Then proceed northwest to Salt Grass Springs to the point where the 1000 foot contour line crosses the northern section line of section 9, T. 6S., R. 6E., on the Copper Mtn., Quadrangle U.S.G.S. map.

(2) Then proceed due south past Copper Mountain in section 16, T. 6S., R. 6E., to Mikes Peak in section 4, T. 7S., R. 6E., on the Wilcox Ridge Quadrangle U.S.G.S. map.

(3) Then proceed due west to Orestimba Creek in section 6, T. 7S., R. 6E.

(4) Then proceed following Orestimba Creek south/southeast and then east/northeast to the point where Orestimba Creek meets Bench Mark #340 in section 28, T. 7S., R. 7E., on the Orestimba Peak Quadrangle U.S.G.S. map.

(5) Then proceed northwest to the point of beginning at Reservoir Spillway 780 in section 8, T. 6S., R. 7E.

Signed: June 13, 1997.

John W. Magaw,
Director.

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OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure for E-Z Trials

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains revisions to the procedural rules governing the E-Z Trial program. These revisions are intended to assist the E-Z Trial process in meeting its objective of allowing parties in less complex cases to argue their cases before the Commission with as few legal formalities as possible.

DATES: Comments must be received by July 24, 1997.

ADDRESSES: All comments concerning these proposed rules should be addressed to Earl R. Ohman, Jr., General Counsel, Occupational Safety and Health Review Commission, 1120 20th Street NW., 9th Floor, Washington, DC 20036-3419..

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 606-5410.

SUPPLEMENTARY INFORMATION: On August 14, 1995, the Occupational Safety and Health Review Commission published in the **Federal Register** (60 FR 41805) new procedural rules for a pilot program designed to simplify and accelerate adjudication for those cases appropriate for a less formal process. Designated "E-Z Trial," the pilot program was to run for one year, beginning on October 1, 1995, and terminating on September 30, 1996, under a "sunset provision" unless extended by the Commission. On September 27, 1996, the Commission extended the sunset provision until March 31, 1997, to allow for an evaluation of the pilot program (61 FR 50711). During that period, the Commission held focus groups with parties, including small employers, safety consultants, representatives of employers, and attorneys from the Cleveland office of the Solicitor of Labor, who had participated in E-Z Trial proceedings. The participants were given an opportunity to comment on the E-Z Trial process and to suggest changes that would enable the E-Z Trial program to more effectively achieve its goals. The Commission also solicited comments and experiences from Commission judges who had conducted E-Z Trials. On March 28, 1997, the Commission further extended the sunset provision until July 31, 1997 (62 FR 14821) in order to evaluate the comments it had received about the E-Z Trial program. Based on that evaluation, the Commission has proposed revisions to its procedural rules involving the eligibility of cases for E-Z Trial and mandatory disclosure by the parties. Specifically, the Commission has determined that cases involving fatalities or allegations of repeat violations are not appropriate for E-Z Trial designation, and that cases involving aggregated proposed penalties of more than \$10,000, but not more than \$20,000, may be designated for E-Z Trial at the discretion of the Chief Administrative Law Judge, if otherwise appropriate. Additionally, the Commission believes that the goal of E-Z Trial is best served by requiring the Secretary to turn over to the employer any photographs or videotapes that the Secretary anticipates using at the hearing. Having received many comments concerning the increased use of videotapes and photographs during inspections, the Commission believes that the disclosure of such evidence will promote fairness and will help expedite the resolution of E-Z Trial cases. The

Commission invites comments from the public regarding these proposed changes.

List of Subjects in 29 CFR Part 2200

Administrative practice and procedure, Hearing and appeal procedures.

For the reasons set forth in the preamble, the Occupational Safety and Health Review Commission proposes to amend Title 29, Chapter XX, Part 2200, Subpart M of the Code of Federal Regulations as follows:

PART 2200—RULES OF PROCEDURE

1. The authority citation continues to read as follows:

Authority: 29 U.S.C. 661(g).

2. Section 2200.202 is revised to read as follows:

§ 2200.202 Eligibility for E-Z Trial.

(1) Those cases selected for E-Z Trial will be those that do not involve complex issues of law or fact. Cases appropriate for E-Z Trial would generally include those with one or more of the following characteristics:

- (a) relatively few citation items,
- (b) an aggregate proposed penalty of not more than \$10,000,
- (c) no allegation of willfulness or a repeat violation,
- (d) not involving a fatality,
- (e) a hearing that is expected to take less than two days, or
- (f) a small employer whether appearing *pro se* or represented by counsel.

(2) Those cases with an aggregate proposed penalty of more than \$10,000, but not more than \$20,000, if otherwise appropriate, may be selected for E-Z Trial at the discretion of the Chief Administrative Law Judge.

3. Section 2200.206(a) is revised to read as follows:

§ 2200.206 Disclosure of information.

(a) *Disclosure to employer.* (1) Within 12 working days after a case is designated for E-Z Trial, the Secretary shall provide the employer, free of charge, copies of the narrative (Form OSHA 1-A) and the worksheet (Form OSHA 1-B), or their equivalents.

(2) Within 30 calendar days after a case is designated for E-Z Trial, the Secretary shall provide the employer with reproductions of any photographs or videotapes that the Secretary anticipates using at the hearing.

(3) The Judge shall act expeditiously on any claim by the employer that the Secretary improperly withheld or redacted any portion of the documents,

photographs, or videotapes on the grounds of confidentiality or privilege.

* * * * *

4. Section 2200.207(a) is amended by revising the first sentence to read as follows:

§ 2200.207 Pre-hearing conferences.

(a) *When held.* As early as practicable after the employer has received the documents set forth in § 2200.206(a)(1), the presiding Judge will order and conduct a pre-hearing conference. * * *

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Dated: June 18, 1997.

Earl R. Ohman, Jr.,

General Counsel.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

RIN 0720-AA38

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Retiree Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule establishes the TRICARE Retiree Dental Program (TRDP) to provide dental care to military members entitled to retired pay and eligible family members and their dependents. The rule details operation of the program and seeks comments on our plan to implement the TRDP.

DATES: Comments must be received on or before July 24, 1997.

ADDRESSES: Office of Health Services Financing Policy, Department of Defense, Room 1B657 Pentagon, Washington, DC 20301-1200.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Speight, Office of the Assistant Secretary of Defense (Health Affairs), (703) 697-8975.

SUPPLEMENTARY INFORMATION:

I. Overview of the Proposed Rule

Implementation of the TRICARE Retiree Dental Program (TRDP) was directed by Congress in section 703 of the National Defense Authorization Act for Fiscal year 1997, Pub. L. 104-201, which amended title 10, United States Code, by adding section 1076c. This law directed the implementation of a dental program for: (1) Members of the Armed

Forces who are entitled to retired pay, (2) Members of the Retired Reserve under the age of 60, (3) Eligible dependents of (1) or (2) who are covered by the enrollment of the member, and (4) The unremarried surviving spouse and eligible child dependents of a deceased member who dies while in status described in (1) or (2), or the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity.

Included in the program are the 50 United States and the District of Columbia, Canada, Puerto Rico, Guam and the U.S. Virgin Islands. Enrollment in the program is voluntary and members enrolled in the dental plan will be responsible for paying the full cost of the premiums. The premium payment may be collected pursuant to procedures established by the Assistant Secretary of Defense (Health Affairs). Dental coverage under the TRDP will provide basic dental care, to include diagnostic services, preventive services, basic restorative services (including endodontics), surgical services, and emergency oral examinations.

Under this approach, where possible, members entitled to retired pay and eligible family members and their dependents may make use of participating dental providers in their areas and may benefit from reduced out-of-pocket costs and provider submission of claims and acceptance of contractor allowances and arrangements. TRDP eligibles will obtain information concerning the program and the application process from the contractor.

This proposed 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 Retiree Dental Program directs the Department of Defense to implement this program by October 1, 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.

Pursuant to the Paperwork Reduction Act of 1995, the reporting and recordkeeping of this proposed rule have been submitted to the OMB for review under 3507(d) of the Act.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed information collection and seeks public comment on the provision thereof. Comments are invited on: (a) Whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

The collection of information is necessary to enroll military members entitled to retired pay and eligible dependents in the TRICARE Retiree Dental Program. The application will allow the Department of Defense to identify enrollment applicants, evaluate their eligibility for the enrollment, and determine other health insurance coverage which an applicant may have.

Affected Public: Eligible family members and their dependents.

Annual Burden Hours: 71,640.

Number of Respondents: 286,570.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: Once, at time of initial application.

Respondents are military members entitled to retired pay and eligible family members and their dependents who are seeking enrollment in the TRICARE Retiree Dental Program. The enrollment application will allow the Department to collect the information necessary to properly identify the program's applicants and to determine their eligibility for enrollment in the TRICARE Retiree Dental Program. In completing and signing a TRICARE Retiree Dental Program enrollment form, applicants will acknowledge that they understand the benefits offered under