

List of Subjects 21 CFR Part 558

Animal drugs, Animal feeds.
Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.4 is amended by adding an entry alphabetically to the

Category I table in paragraph (d) to read as follows:

§ 558.4 Requirement of a medicated feed mill license.

* * * * *

(d) * * *

CATEGORY I

| Drug | Assay limits percent ¹ type A | Type B maximum (200x) | Assay limits percent ¹ type B/C ² |
|------------|--|-----------------------|---|
| * * * * * | * * * * * | * * * * * | * * * * * |
| Diclazuril | 90–110 | 182 g/t (0.02%) | 85–115/70–120 |
| * * * * * | * * * * * | * * * * * | * * * * * |

¹ Percent of labeled amount.

² Values given represent ranges for either Type B or Type C medicated feeds. For those drug that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make Type C medicated feed.

* * * * *
Dated: December 14, 1999.

Claire M. Lathers,
Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.
[FR Doc. 99–33281 Filed 12–22–99; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 44

[DoD Directive 1200.7]

RIN 0790–AF57

Screening the Ready Reserve

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule provides guidance governing screening of Reserve component members of the U.S. military departments relative to their civilian employment. The purpose of the screening program is to ensure availability of Ready Reserve members for military mobilization purposes. The intended effect of the screening is to preclude conflicts between Reserve mobilization obligations and Federal civilian employment requirements during times of war or national emergency.

EFFECTIVE DATE: November 18, 1999.

FOR FURTHER INFORMATION CONTACT: Dan Kohner, (703) 693–7479.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, “Regulatory Planning and Review”

It has been determined that this is not a significant regulatory action. The rule does not:

1. Have an annual effect to the economy of \$100 million or more, or otherwise have material adverse economic effects.
2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.
3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or,
4. Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

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

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601). The Department of Defense is not subject to the RFA when making rules related to a “military or foreign affairs function of the United States” or to Executive Order 12866 for those regulations that “pertain to a military or foreign affairs function of the United States [other than procurement functions or import-export of non-defense articles].”

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

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. Interagency Report Control Number 0192–DOD–AN remains in effect, with a

current expiration date of September 30, 1998.

List of Subjects in 32 CFR Part 44

Armed forces reserves.

Accordingly, 32 CFR part 44 is revised to read as follows:

PART 44—SCREENING THE READY RESERVE

- Sec.
- 44.1 Purpose.
 - 44.2 Applicability.
 - 44.3 Definitions.
 - 44.4 Policy.
 - 44.5 Responsibilities.
- Appendix A to Part 44—Guidance

Authority: 10 U.S.C. 10145.

§ 44.1 Purpose.

Updates DoD policy and responsibilities for the screening of Ready Reservists under 10 U.S.C. 1003, 1005, and 1209.

§ 44.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard, when it is not operating as a Military Service in the Navy by agreement with the Department of Transportation), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities and all other organizational entities within the Department of Defense (hereafter referred to collectively as the “DoD Components”). The term “Military Services” as used in this part, refers to the Army, the Navy, the Air Force and the Marine Corps.

§ 44.3 Definitions.

For purposes of this part, the following definitions apply:

Extreme community hardship. A situation that, because of a Reservist's mobilization, may have a substantially adverse effect on the health, safety, or welfare of the community. Any request for a determination of such hardship shall be made by the Reservist and must be supported by documentation, as required by the Secretary concerned.

Extreme personal hardship. An adverse impact on a Reservist's dependents resulting from his or her mobilization. Any request for a determination of such hardship shall be made by the Reservist and must be supported by documentation, as required by the Secretary concerned.

Individual Ready Reserve. Within the Ready Reserve of each of the Reserve Components there is an Individual Ready Reserve. The Individual Ready Reserve consists of members of the Ready Reserve who are not in the Selected Reserve or the Inactive National Guard.

Key employee. Any Federal employee occupying a key position.

Key position. A Federal position that shall not be vacated during a national emergency or mobilization without SERIOUSLY impairing the capability of the parent Federal Agency or office to function effectively. The four categories of Federal key positions are set out in this paragraph. The first three categories are, by definition, key positions. However, the third category, Article III Judges, provides for exceptions on a case-by-case basis. The fourth category requires a case-by-case determination and designation as described in the following:

(1) The Vice President of the United States or any official specified in the order of presidential succession as in 3 U.S.C. 19.

(2) The members of the Congress and the heads of the Federal Agencies appointed by the President with the consent of the Senate. For this part, the term "the heads of the Federal Agencies" does not include any person appointed by the President with the consent of the Senate to a Federal Agency as a member of a multimember board or commission. Such positions may be designated as key positions only in accordance with paragraph (4) of this definition.

(3) *Article III Judges.* However, each Article III Judge, who is a member of the Ready Reserve and desires to remain in the Ready Reserve, must have his or her position reviewed by the Chief Judge of the affected Judge's Circuit. If the Chief Judge determines that mobilization of

the Article III Judge concerned will not seriously impair the capability of the Judge's court to function effectively, the Chief Judge will provide a certification to that effect to the Secretary of the Military Department concerned.

Concurrently, the affected Judge will provide a statement to the Secretary concerned requesting continued service in the Ready Reserve and acknowledging that he or she may be involuntarily called to active duty (AD) under the laws of the United States and the Directives and Regulations of the Department of Defense and pledging not to seek to be excused from such orders based upon his or her judicial duties.

(4) Other Federal positions determined by the Federal Agency heads, or their designees, to be key positions in accordance with the guidelines in the appendix to this part.

Mobilization. Involuntary call-up of Reserve component members in accordance with 10 U.S.C. 12301, 12302, or 12304. That includes full mobilization, partial mobilization and, selective mobilization (Presidential Reserve Call-Up Authority).

Ready reserve. Reserve unit members or individual Reserve and National Guard members, or both, liable for AD, as provided in 10 U.S.C. 12301, 12302, and, for some members, 10 U.S.C. 12304. It consists of the Selected Reserve, the Individual Ready Reserve, and the Inactive National Guard.

Selected reserve. A category of the Ready Reserve in each of the Reserve components. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of individual Reserve members, trained as prescribed in 10 U.S.C. 10147(a)(1) or 32 U.S.C. 502(a), as appropriate.

Standby reserve. The Standby Reserve consists of those units or members, or both, of the Reserve components, other than those in the Ready Reserve or the Retired Reserve, who are liable for active duty only as provided for in 10 U.S.C. 12301 and 12306. The Standby Reserve consists of personnel who are maintaining their military affiliation without being in the Ready Reserve, but have been designated "key civilian employees," or have a temporary hardship or disability. Those individuals are not required to perform training and are not part of the Ready Reserve. The Standby Reserve is a pool of trained individuals who may be mobilized as needed to fill manpower needs in specific skills. The Standby Reserve consists of the active status list and the inactive status list categories.

§ 44.4 Policy.

It is DoD policy that:

(a) Members of the Ready Reserve shall be screened (see the appendix to this part for specific screening guidance) at least annually to meet the provisions of 10 U.S.C. 10149 and to provide a Ready Reserve force composed of members who:

(1) Meet Military Service wartime standards of mental, moral, professional, and physical fitness.

(2) Possess the military qualifications required in the various ranks, ratings, and specialties.

(3) Are available immediately for active duty (AD) during a mobilization or as otherwise required by law.

(b) On mobilization under 10 U.S.C. 12301(a) or 10 U.S.C. 12302, all personnel actions relating to the screening program shall be held in abeyance, and all members remaining in the Ready Reserve shall be considered immediately available for AD service. After such a mobilization is ordered, no deferment, delay, or exemption from mobilization shall be granted to Ready Reservists because of their civilian employment. On involuntary activation of Reserve members under 10 U.S.C. 12304 (Presidential Reserve Call-Up Authority), the Secretary of Defense, or designee, shall make a determination regarding the continuation or cessation of personnel actions related to the screening program.

(c) All Ready Reservists shall be retained in the Ready Reserve for the entire period of their statutory obligation or voluntary contract. Exceptions to that policy are made in paragraphs (g), (h), and (i) of this section, or may be made by the Secretaries concerned, in accordance with 10 U.S.C. 10145 and 10146.

(d) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other applicable authority of the State, commonwealth, or territory concerned (including the District of Columbia) in accordance with 10 U.S.C. 10146.

(e) Any eligible member of the Standby Reserve may be transferred back to the Ready Reserve when the reason for the member's transfer to the Standby Reserve no longer exists in accordance with 10 U.S.C. 10150 and DoD Instruction 1200.15.¹

(f) Ready Reservists whose immediate recall to AD during an emergency would create an extreme personal or community hardship shall be transferred to the Standby Reserve or the Retired Reserve, or shall be

¹ Copies may be obtained at <http://web7.whs.osd.mil/corres.htm>.

discharged, as applicable, except as specified in paragraph (b) of this section.

(g) Ready Reservists who are designated key employees or who occupy key positions, as defined in this section, shall be transferred to the Standby Reserve or the Retired Reserve, or shall be discharged, as appropriate, except as specified in paragraph (b) of this section.

(h) Ready Reservists who are also DoD civilian employees may not hold a mobilization assignment to the same positions that they fill as civilian employees. Those Ready Reservists shall be reassigned or transferred, as applicable. Reserve component military technicians (dual status), as members of Reserve units, are excluded from this provision.

(i) Ready Reservists who are preparing for the ministry in an accredited theology or divinity school cannot be involuntarily called to AD or required to participate in inactive duty training (IDT) in accordance with 10 U.S.C. 12317. Accordingly, such Ready Reservists (other than those participating in a military Chaplain Candidate or Theology Student Program) shall be transferred to the Standby Reserve (active status list) for the duration of their ministerial studies and duties at accredited theology or divinity schools. Ready Reservists participating in a military Chaplain Candidate or Theology Student Program may continue their Ready Reserve affiliation and engage in AD and IDT.

(j) Ready Reservists may not be transferred from the Ready Reserve solely because they are students, interns, residents, or fellows in the healthcare professions. On mobilization, they either shall be deferred or shall be mobilized in a student, intern, resident, or fellow status until qualified in the applicable medical specialty, as prescribed by the Secretaries of the Military Departments.

(k) The Secretaries concerned, or their designees, shall make determinations for mobilization availability on a case-by-case basis, consistent with this part, and not by class or group determinations.

§ 44.5 Responsibilities.

(a) The *Deputy Secretary of Defense* shall adjudicate, before mobilization, conflicts between the mobilization manpower needs of the civilian sector and the military that the Ready Reserve Screening process has identified, but has not resolved.

(b) The *Assistant Secretary of Defense for Reserve Affairs*, under the *Under*

Secretary of Defense for Personnel and Readiness, shall:

(1) Provide oversight and policy support to the overall Ready Reserve screening program, and manage and control the Federal sector screening program in accordance with 10 U.S.C. 10149, Executive Order 11190, and pp. 63–66 of House Appropriations Committee Report 95–451, which is available from the Government Printing Office, Washington, DC 20401.

(2) Annually, provide Federal Agencies with a listing of all Federal employees who are also Ready Reservists to assist them in conducting employer screening activities.

(3) Prepare an annual report on the status of Ready Reservists employed by the Federal Government.

(4) Employ the guidance in appendix A of this part in coordinating the screening program with employers of Ready Reservists.

(5) Coordinate conflicts between the mobilization manpower needs of the civilian sector and the military identified but not resolved through the Ready Reserve Screening process.

(c) The *Secretaries of the Military Departments* shall:

(1) Screen, at least annually, all Ready Reservists under their jurisdiction to ensure their immediate availability for active duty (AD) and to ensure compliance with 10 U.S.C. 10149.

(2) Ensure coordination with the Assistant Secretary of Defense for Reserve Affairs to resolve conflicts (identified, but not resolved through the Ready Reserve screening process) between the mobilization manpower needs of the civilian sector and the military.

(3) Review recommendations for removal of both Federal and other civilian employees from the Ready Reserve submitted by employers and take applicable action.

(4) After making a removal determination in response to a petition for such action, promptly transmit the results of that determination to the Ready Reservist concerned and his/her employer.

(5) Transfer Ready Reservists identified as occupying key positions to the Standby Reserve or the Retired Reserve, or discharge them, as applicable.

(6) Ensure that Ready Reservists not on AD are examined as to physical fitness in accordance with DoD Directive 1332.18.²

(7) Process members of the Ready Reserve who do not participate satisfactorily in accordance with DoD

Instruction 1200.15 and DoD Directive 1215.13.³

(8) Ensure that all Ready Reservists have a favorably completed background check for military service suitability on file (e.g., Entrance National Agency Check (ENTNAC), NAC).

(9) Ensure that personnel records systems incorporate information on any factors that limit the mobilization availability of a Ready Reservist.

(10) Develop and maintain current information pertaining to the mobilization availability of Ready Reservists.

Appendix A to Part 44—Guidance

Deputy Secretary of Defense

The Deputy Secretary of Defense shall adjudicate, before mobilization, conflicts between the mobilization manpower needs of the civilian sector and the military that the Ready Reserve screening process has identified, but has not resolved.

Employers of Ready Reservists

(a) Federal Employers

(1) To ensure that Federal employees essential to the continuity of the Federal Government are not retained as members of the Ready Reserve, the following guidance is provided:

(i) Conduct annual screening program as provided for by the Assistant Secretary of Defense for Reserve Affairs.

(ii) Responses from Federal Agencies shall be reported under Interagency Report Control Number 0912–DoD–AN, “Ready Reservists in the Federal Government,” in accordance with DoD 8910.1–M.⁴

(iii) Federal Agency heads, or their designees, concerned shall designate those positions that are of essential nature to, and within, the organization as “key positions,” and shall require that they shall NOT be filled by Ready Reservists to preclude such positions from being vacated during a mobilization. Upon request from Federal Agencies, Secretaries of the Military Departments shall verify the essential nature of the positions being designated as “key,” and shall transfer Ready Reservists occupying key positions to the Standby Reserve or the Retired Reserve or shall discharge them, as applicable, under 10 U.S.C. 10149, except as specified in § 44.4 (b).

(iv) In determining whether or not a position should be designated as a “key position,” the following questions should be considered by the Federal Agency concerned:

(A) Can the position be filled in a reasonable time after mobilization?

(B) Does the position require technical or managerial skills that are possessed uniquely by the incumbent employee?

(C) Is the position associated directly with defense mobilization?

(D) Does the position include a mobilization or relocation assignment in an

³ See footnote 1 to § 44.4(e).

⁴ See footnote 1 to § 44.4(e).

² See footnote 1 to § 44.4(e).

Agency having emergency functions, as designated by Executive Order 12656?

(E) Is the position directly associated with industrial or manpower mobilization, as designated in Executive Orders 12656 and 12919?

(F) Are there other factors related to the national defense, health, or safety that will make the incumbent of the position unavailable for mobilization?

(2) [Reserved]

(b) *Non-Federal Employers of Ready Reservists.* Non-Federal employers of Ready Reservists, particularly in the fields of public health and safety and defense support industries, are encouraged to adopt personnel management procedures designed to preclude conflicts between the emergency manpower needs of civilian activities and the military during a mobilization. Employers also are encouraged to use the Federal key position guidelines contained in this appendix for making their own key position designations and, when applicable, for recommending key employees for removal from the Ready Reserve.

(c) All employers who determine that a Ready Reservist is a key employee, in accordance with the guidelines in this appendix, should promptly report that determination, using the letter format at the end of this appendix, to the applicable Reserve personnel center, requesting the employee be removed from the Ready Reserve.

Individual Ready Reservists

(a) Each Ready Reservist who is not a member of the Selected Reserve is obligated to notify the Secretary concerned of any change of address, marital status, number of dependents, or civilian employment and any other change that would prevent a member from meeting mobilization standards prescribed by the Military Service concerned (10 U.S.C. 10205).

(b) All Ready Reservists shall inform their employers of their Reserve military obligation.

List of Reserve Personnel Centers to Which Reserve Screening Determination and Removal Requests Shall be Forwarded

Army Reserve

Army Reserve Personnel Command
1 Reserve Way
ATTN: ARPC-PSP-T
St. Louis, MO 63132

Naval Reserve

Commander
Navy Personnel Command (Pers 91)
5720 Integrity Drive
Millington, TN 38055-9100

Marine Corps Reserve

Commanding General
Marine Corps Reserve Support Command
ATTN: IRR Division
15303 Andrews Road
Kansas City, MO 64147-1207

Air Force Reserve

Commander
Air Reserve Personnel Center/DPAF
6760 E. Irvington Pl. #2600

Denver, CO 80280-2600

Army and Air National Guard

Submit requests to the adjutant general of the applicable State, commonwealth, or territory (including the District of Columbia).

Coast Guard Reserve

Commander (CGPC-RPM)
U.S. Coast Guard Personnel Command
2100 Second St. S.W.
Washington, DC 20593

Letter Format to Reserve Personnel Centers Requesting That Employee be Removed From the Ready Reserve

From: (Employer-Agency or Company)
To: (Appropriate Reserve Personnel Center)
Subject: Request for Employee to Be Removed from the Ready Reserve

This is to certify that the employee identified below is vital to the nation's defense efforts in (his or her) civilian job and cannot be mobilized with the Military Services in an emergency for the following reasons: [STATE REASONS]

Therefore, I request that (he/she) be removed from the Ready Reserve and that you advise me accordingly when this action has been completed.

The employee is:

1. Name of employee (last, first, M.I.):
2. Military grade and Reserve component:
3. Social security number:
4. Current home address (street, city, State, and ZIP code):
5. Military unit to which assigned (location and unit number):
6. Title of employee's civilian position:
7. Grade or salary level of civilian position:
8. Date (YYMMDD) hired or assigned to position:

Signature and Title of Agency or Company Official.

Dated: December 9, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-32307 Filed 12-22-99; 8:45 am]

BILLING CODE 5000-10-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

Tricare; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Nonavailability Statement Requirement for Maternity Care

AGENCY: Office of the Secretary, DoD.

ACTION: Interim final rule.

SUMMARY: This interim final rule implements Section 712(c) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. No. 106-65), which requires that a nonavailability-of-health-care statement shall be required for a non-enrolled beneficiary for TRICARE cost-share of maternity care

services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy. The Act reestablishes a requirement which was previously eliminated under the broad direction of The National Defense Authorization Act of FY 1997, section 734, which removed authority for nonavailability statements (NASs) for outpatient services.

Therefore, the Act changes the existing provisions require an NAS for inpatient delivery but do not require an NAS for outpatient prenatal and post-partum care. The change will significantly contribute to continuity of care for maternity patients. In furtherance of that principle, and consistent with the previous policy, an NAS for maternity care shall not be required when a beneficiary has other health insurance for primary coverage. This is being issued as an interim final rule in order to comply with the statutory mandate. Public comments, however, are invited and will be considered in connection with possible revisions to this rule.

DATES: This rule is effective October 5, 1999 (the effective date of Section 712(c) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. No. 106-65) which imposes the requirement). Written comments will be accepted until February 22, 2000.

ADDRESSES: Forward comments to Medical Benefits and Reimbursement Systems, TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011-9043.
FOR FURTHER INFORMATION CONTACT: Tariq Shahid, Medical Benefits and Reimbursement Systems, TRICARE Management Activity, telephone (303) 676-3801.

SUPPLEMENTARY INFORMATION: This interim final rule implements section 712(c) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. No. 106-65) which requires that a nonavailability-of-health-care statement shall be required for TRICARE/CHAMPUS cost-share of maternity care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy. The nonavailability statement requirement applies to non-enrolled TRICARE beneficiaries who live in a catchment area of a military treatment facility (MTF). Except for an emergency or when there is other primary health insurance coverage, these beneficiaries are required to obtain all maternity care from the MTF. If care is unavailable at the MTF, an NAS will be issued for the