

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 199**

[DoD–2009–HA–0097]

RIN 0720–AB35

**TRICARE; Elimination of Voluntary Disenrollment Lock-Out****AGENCY:** Office of the Secretary, Department of Defense.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule eliminates the 1 year lock-out for non-Active Duty members who disenroll from TRICARE Prime before their annual enrollment renewal date.

**DATES:** Comments must be received on or before December 28, 2009.

**ADDRESSES:** You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, Room 3C843 Pentagon, 1160 Defense Pentagon, Washington, DC 20301–1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Larkin at (703) 681–0039; TRICARE Policy and Operations, TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041.

**SUPPLEMENTARY INFORMATION:****I. Introduction and Background**

The TRICARE benefit was directed by Congress in section 1097 of the National Defense Authorization Act for Fiscal Year 1995. For further information on TRICARE, the reader may refer to the final rule regarding TRICARE published in the **Federal Register** on October 5, 1995.

*Administrative Change*

When TRICARE Prime was implemented, it was envisioned that TRICARE Prime enrollees would transfer their enrollment when they

moved to a new location. The reality is that some enrollees, such as college students, move several times a year. When TRICARE Prime is available at their new location, they transfer enrollment. However, TRICARE Prime might not be available at the gaining location, so they voluntarily disenroll in advance of their annual enrollment date. This automatically triggers a one year lock-out. This proposed rule eliminates the lock-out for active duty family members and allows TRICARE Prime enrollment when they relocate in an area that offers TRICARE Prime.

**II. Regulatory Procedures**

*Executive Order 12866, “Regulatory Planning and Review” and Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)*

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically 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. 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 proposed rule is not a significant regulatory action and will not have a significant impact on a substantial number of small entities for purposes of the RFA. Thus this proposed rule is not subject to any of these requirements.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511)*

This rule will not impose additional information collection requirements on the public.

*Executive Order 13132, “Federalism”*

We have examined the impacts of the rule under Executive Order 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.

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

This rule does not contain unfunded mandates. It 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 1 year.

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

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

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

**PART 199—[AMENDED]**

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

**Authority:** 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.17 is amended by revising paragraph (o)(4) to read as follows:

**§ 199.17 TRICARE Program.**

\* \* \* \* \*

(o) \* \* \*  
(4) *Voluntary disenrollment.* Any non-active duty beneficiary may disenroll at any time. Disenrollment will take effect in accordance with administrative procedures established by the Assistant Secretary of Defense (Health Affairs). Retired beneficiaries and their family members who disenroll prior to their annual enrollment renewal date will not be eligible to reenroll in Prime for a 1-year period from the effective date of the disenrollment. Active Duty family members may change their enrollment status twice in an enrollment year. Any additional disenrollment changes will result in an enrollment lock out for a 1-year period from the effective date of the disenrollment. Enrollment rules may be waived by the Assistant Secretary of Defense (Health Affairs) based on extraordinary circumstances.

\* \* \* \* \*

Dated: October 23, 2009.

**Patricia L. Toppings,**

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

[FR Doc. E9–26044 Filed 10–28–09; 8:45 am]

**BILLING CODE 5001–06–P**

**DEPARTMENT OF DEFENSE****Department of the Air Force**

[Docket ID: USAF–2009–0018]

**32 CFR Part 806b****Privacy Act; Implementation**

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Department of the Air Force is updating the Department of the Air Force Privacy Act Program Rules, 32 CFR part 806b, by adding the (k)(1) thru (k)(7) exemptions to accurately describe the basis for exempting the records. The Privacy Act system of records notice, F051 AF JAA, entitled "Freedom of Information Appeal Records", has already been published on December 12, 2008 (73 FR 75688).

**DATES:** The rule will be effective on December 28, 2009 unless comments are received that would result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ben Swilley at (703) 696–6648.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (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. Chapter 6)**

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

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

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

**Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"**

It has been determined that Privacy Act rules for the Department of Defense do not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

**Executive Order 13132, "Federalism"**

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not 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.

**List of Subjects in 32 CFR Part 806b**

Privacy.

Accordingly, 32 CFR part 806b is amended as follows:

**PART 806b—PRIVACY ACT PROGRAM**

1. The authority citation for 32 CFR part 806b continues to read as follows:

**Authority:** Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Paragraph (e) of Appendix D to 32 CFR part 806b is amended by adding paragraph (26) to read as follows:

**Appendix D to Part 806b—General and Specific Exemptions**

\* \* \* \* \*

(26) System identifier and name: F051 AF JAA, Freedom of Information Appeal Records.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become

part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

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Dated: October 7, 2009.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 190, 192, 195, and 198**

[Docket No. PHMSA–2009–0192]

**RIN 2137–AE43**

**Pipeline Safety: Pipeline Damage Prevention Programs**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** This Advance Notice of Proposed Rulemaking (ANPRM) initiates a rulemaking procedure to establish criteria for determining adequate state enforcement of pipeline damage prevention laws. Under the Pipeline Inspection, Protection, Safety, and Enforcement (PIPES) Act of 2006,