



G A O

Accountability \* Integrity \* Reliability

United States Government Accountability Office  
Washington, DC 20548

---

B-297214

September 23, 2005

The Honorable John W. Warner  
Chairman  
The Honorable Carl Levin  
Ranking Minority Member  
Committee on Armed Services  
United States Senate

The Honorable Duncan Hunter  
Chairman  
The Honorable Ike Skelton  
Ranking Minority Member  
Committee on Armed Services  
House of Representatives

Subject: *Department of Defense: Defense Federal Acquisition Regulation Supplement; Radio Frequency Identification*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Defense (DoD), entitled “Defense Federal Acquisition Regulation Supplement; Radio Frequency Identification” (DFARS Case 2004-DO11). We received the rule on September 8, 2005. It was published in the Federal Register as a final rule on September 13, 2005. 70 Fed. Reg. 53955.

The final rule amends the Defense Federal Acquisition Regulation Supplement by adding policy pertaining to package marking with passive radio frequency identification (RFID) tags. The rule requires contractors to affix passive RFID tags at the case and palletized unit load levels when shipping packaged operational rations, clothing, individual equipment, tools, personal demand items, or weapon system repair parts to the Defense Distribution Depot in Susquehanna, Pennsylvania, or in San Joaquin, California.

Enclosed is our assessment of the DoD’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that DoD complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Henry Hinton, Managing Director, Defense Capabilities and Management. Mr. Hinton can be reached at (202) 512-4300.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Domenico C. Cipicchio  
Acting Director, Defense Procurement  
and Acquisition Policy  
Department of Defense

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF DEFENSE  
ENTITLED  
"DEFENSE FEDERAL ACQUISITION REGULATION SUPPLEMENT;  
RADIO FREQUENCY IDENTIFICATION"  
(DFARS CASE 2004-DO11)

(i) Cost-benefit analysis

DoD's cost-benefit analysis for the selected alternative (Passive RFID with DoD involvement according to a phased implementation plan) shows a per shipment cost increase of \$11 in years one and two and a per case cost increase of \$.53. For 25,000 shipments in year two, the total cost increase would be \$262,500.

The benefits include reduced shipping costs, reduced inventory loss, reduced duplicate orders, and reduced labor expenses. The optimistic view of the net savings is \$1,781 million over 6 years and the pessimistic view of the net savings is \$69.9 million over the same time period.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

DoD prepared an Initial Regulatory Flexibility Analysis in connection with the proposed rule and a Final Regulatory Flexibility Analysis for the final rule. These analyses comply with the requirements of the Act including a discussion of the three alternatives considered and the impacts of each on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On April 21, 2005, DoD published a Notice of Proposed Rulemaking in the Federal Register. 70 Fed. Reg. 20726. In the preamble to the final rule, DoD responds to the 33 comments received.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains a new information collection requirement that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The collection has been approved for use through September 30, 2008, under Control No. 0704-0434.

Statutory authorization for the rule

The final rule is promulgated under the authority found at 41 U.S.C. 421 and 48 CFR Chapter 1.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.