



Federal Register

**Monday,
December 22, 2003**

Part V

**Department of
Defense**

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

48 CFR Ch. II

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 "Regulatory Planning and Review." This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

For this edition of the Department of Defense's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in part II of this issue of the **Federal Register**. The Regulatory Plan entries are listed in the table of contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate sequence number in part II.

This agenda updates the report published on May 19, 2003, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in the spring of 2004, with the next regulatory plan scheduled to be published in the fall of 2004. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific

statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-6269, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, or e-mail: robert.cushing@dior.whs.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Mr. Dan Cragg, telephone 703-601-4722, or write to Directives and Records Division, Directorate for Correspondence and Directives, Washington Headquarters Services, Suite 501, 1111 Jefferson Davis Highway, Arlington, Virginia 22202, or e-mail: dcragg@cd.whs.mil.

For general information on Office of the Secretary agenda items which are procurement-related, contact Ms. Michele Peterson, telephone 703-602-0311, or write to Defense Acquisition Regulations Directorate, 3062 Defense Pentagon, Washington, DC 20301-3062, or e-mail: michele.peterson@osd.mil.

For general information on Department of the Army regulations, contact Ms. Luz D. Ortiz, telephone 703-806-3708, or write to the U.S. Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, 6000 6th Street, Stop 5603, Fort Belvoir, Virginia 22060-5603, or e-mail: luz.ortiz@rmda.belvoir.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Chip Smith, telephone 703-693-3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail: chip.smith@hqda.army.mil.

For general information on Department of the Navy regulations, contact Major Edward McDonnell, telephone 703-601-3631, or write to

Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: edward.mcdonnell@navy.mil.

For general information on Department of the Air Force regulations, contact Mrs. Pamela D. Fitzgerald, telephone 703-601-2835, or write to Department of the Air Force, AF-CIO/RR, 1155 Air Force Pentagon, Washington, DC 20330-1155, or e-mail: pamelafitzgerald@pentagon.af.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

To ease identification and to differentiate among the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes component level of authority and type of issuance, in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

1. Regulatory Flexibility Act;

DOD

- 2. Paperwork Reduction Act of 1995;
- 3. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these

entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although

sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: September 25, 2003.
Howard G. Becker,
Deputy Director, Administration and Management.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
774	Development of a Munitions Response Site Prioritization Protocol	0790-AG94
775	Defense Contract Management Agency Freedom of Information Act (FOIA) Program	0790-AH00
776	Provision of Early Intervention and Special Education Services to Eligible DoD Dependents	0790-AH70
777	Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Service Members, and Former Service Members	0790-AH73

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
778	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5) ..	0790-AF59
779	Restoration Advisory Boards (RABs)	0790-AG31
780	Settling Personnel and General Claims and Processing Advance Decision Requests	0790-AG47
781	Personnel Security Policies for Granting Access to Classified Information	0790-AG54
782	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity	0790-AG55
783	National Policy on Technical Surveillance Countermeasures	0790-AG56
784	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations	0790-AG76
785	Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)	0790-AG86
786	Procedures for Settling Personnel and General Claims and Processing Advance Decision Requests	0790-AG89
787	Waiver of Debts Resulting From Erroneous Payments of Pay and Allowances (DoD Directive 1340.21)	0790-AG90
788	Waiver Procedures for Debts Resulting From Erroneous Payments of Pay and Allowances (DoD Instruction 1340.23)	0790-AG91
789	National Security Agency/Central Security Service (NSA/CSS) Freedom of Information Act Program	0790-AG96
790	Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects	0790-AG97
791	Review of the Manual for Courts-Martial (DoD Directive 5500.17)	0790-AG99
792	Implementation of Section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and Section 1051 of the National Defense Authorization Act for Fiscal Year 2003	0790-AH02

Office of the Secretary—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
793	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B)	0790-AG22

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Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
794	Closed, Transferred, and Transferring Ranges Containing Military Munitions	0790-AG46
795	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance	0790-AG83
796	Stars and Stripes (S&S) Newspaper	0790-AG84
797	Department of Defense Newspapers, Magazines, and Civilian Enterprise Publications	0790-AG85
798	DoD Grant and Agreement Regulations	0790-AG87
799	Voluntary State Tax Withholding From Retired Pay	0790-AG93
800	Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects	0790-AH01

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
801	Patent Rights—Ownership by the Contractor (Large Business) (DFARS Case 2001-D015)	0750-AD72
802	Fish, Shellfish, or Seafood Products (DFARS Case 2002-D034)	0750-AD91
803	Protests, Disputes, and Appeals (DFARS Case 2003-D010)	0750-AE01
804	Improper Business Practices, Organizational Conflicts of Interest, and Debarment (DFARS Case 2003-D012)	0750-AE02
805	Protection of Privacy and Freedom of Information (DFARS Case 2003-D038)	0750-AE03
806	Contractor Qualifications Relating to Contract Placement (DFARS Case 2003-D011)	0750-AE06
807	Government Source Inspection Requirements (DFARS Case 2002-D032)	0750-AE08
808	Cost Accounting Standards (DFARS Case 2003-D015)	0750-AE10
809	Geographic Use of the Term "United States" (DFARS Case 2001-D003)	0750-AE12
810	Laws Inapplicable to Commercial Subcontracts (DFARS Case 2003-D018)	0750-AE14
811	Berry Amendment—Exception for Fabrics and Fibers (DFARS Case 2003-D022)	0750-AE15

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
812	Incremental Funding, Fixed-Price Contracts (DFARS Case 1990-037)	0750-AA07
813	Competition Requirements for Purchases From a Required Source (DFARS Case 2002-D003)	0750-AD57
814	Electronic Submission and Processing of Payment Requests (DFARS Case 2002-D001)	0750-AD70
815	Codification and Modification of Berry Amendment (DFARS Case 2002-D002)	0750-AD76
816	Indian Incentive Clause—Contract Types (DFARS Case 2002-D013)	0750-AD78
817	Approval of Service Contracts and Task Orders (DFARS Case 2002-D024)	0750-AD81
818	Provisional Award Fee Payments (DFARS Case 2001-D013)	0750-AD83
819	Payment Withholding (DFARS Case 2002-D017)	0750-AD85
820	Information Assurance (DFARS Case 2002-D020)	0750-AD86
821	Purchase Card Internal Controls (DFARS Case 2002-D025)	0750-AD87
822	Follow-On Production Contracts for Products Developed Pursuant to Prototype Projects (DFARS Case 2002-D023)	0750-AD88
823	Indian Incentive Program—Commercial Items (DFARS Case 2002-D033)	0750-AD97
824	Multiyear Procurement Authority for Environmental Services for Military Installations (DFARS Case 2003-D004)	0750-AD99
825	DoD Activity Address Codes in Contract Numbers (DFARS Case 2003-D005)	0750-AE00
826	Buy-to-Budget Acquisition of End Items (DFARS Case 2002-D036)	0750-AE04
827	Multiyear Contracting Authority Revisions (DFARS Case 2002-D041)	0750-AE05
828	Production Surveillance and Reporting (DFARS Case 2002-D015)	0750-AE07
829	Unique Item Identification and Property Valuation (DFARS Case 2003-D081)	0750-AE09
830	Central Contractor Registration (DFARS Case 2003-D040)	0750-AE11

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Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identification Number
831	Foreign Acquisition (DFARS Case 2002–D009)	0750–AD73
832	Payment Bonds on Cost-Reimbursement Contracts (DFARS Case 2002–D030)	0750–AD79
833	Efficiency Savings (DFARS Case 2002–D022)	0750–AD80
834	Contractor Performance of Security-Guard Functions (DFARS Case 2002–D042)	0750–AD82
835	Liability for Loss Under Vessel Repair and Alteration Contracts (DFARS Case 2002–D016)	0750–AD84
836	Transportation of Supplies by Sea—Commercial Items (DFARS Case 2002–D019)	0750–AD89
837	Contracting With Federal Prison Industries (DFARS Case 2002–D040)	0750–AD95
838	Extension of Contract Goal for Small Disadvantaged Businesses and Certain Institutions of Higher Education (DFARS Case 2002–D038)	0750–AD96
839	Competitiveness Demonstration Codes Update (DFARS Case 2003–D003)	0750–AD98
840	Caribbean Basin Country—Dominican Republic (DFARS Case 2003–D007)	0750–AE13
841	Reporting Requirements Update (DFARS Case 2003–D002)	0750–AE16
842	Deletion of Federal Prison Industries Clearance Exception (DFARS Case 2003–D006)	0750–AE17

Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
843	Foreign Acquisition	0702–AA38
844	Solicitation Provisions and Contract Clauses	0702–AA39

Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identification Number
845	United States Soldiers' and Airmen's Home	0702–AA37

U.S. Army Corps of Engineers—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
846	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA)	0710–AA42
847	Clean Water Act Regulatory Definition of "Waters of the United States"	0710–AA50
848	Regulatory Program of the Army Corps of Engineers and Historic Properties	0710–AA51

U.S. Army Corps of Engineers—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
849	Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers	0710–AA47
850	Programmatic Regulations for the Comprehensive Everglades Restoration Plan (Reg Plan Seq No. 33)	0710–AA49
851	Civil Monetary Penalty Inflation Adjustment Rule	0710–AA54

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Army Corps of Engineers—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
852	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis	0710–AA43

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U.S. Army Corps of Engineers—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identification Number
853	Cost-Sharing Requirements Under the Ability To Pay Provisions	0710-AA44
854	Special Events Rule	0710-AA53

U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identification Number
855	Regulatory Programs of the Corps of Engineers	0710-AA30
856	Regulatory Programs of the Corps of Engineers—Wetland Delineator Certification Program	0710-AA38

Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
857	Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy	0703-AA51

Department of the Navy—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
858	Shipbuilding Capability Preservation Agreements	0703-AA50

Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identification Number
859	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft	0703-AA48

Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
860	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care	0720-AA20
861	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions	0720-AA41
862	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prosthetic Devices	0720-AA49
863	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Double Coverage	0720-AA50
864	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of an Appeals Process for TRICARE Claimcheck Denials	0720-AA56
865	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Methodology for Coverage of NIH-Sponsored Clinical Trials	0720-AA57
866	CHAMPUS/TRICARE; Implementation of the Pharmacy Benefits Program	0720-AA63
867	Civilian Health and Medical Program of the Uniformed Services; Individual Case Management Program for Persons With Extraordinary Conditions (ICMP-PEC)	0720-AA65
868	TRICARE; Prime Remote for Active Duty Family Members	0720-AA68
869	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Voluntary Disenrollment From the TRICARE Retiree Dental Program (TRDP)	0720-AA69

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Office of Assistant Secretary for Health Affairs—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identification Number
870	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enuretic Devices, Breast Reconstructive Surgery, PFPWD Valid Authorization Period, Early Intervention Services	0720-AA70
871	TRICARE; Waiver of Certain TRICARE Deductibles; Clarification of the TRICARE Prime Enrollment Period	0720-AA72
872	TRICARE; Sub-Acute Care Program; Uniform Skilled Nursing Facility Benefit; Home Health Care Benefit; Adopting Medicare Payment Methods for Skilled Nursing Facilities and Home Health Care Providers	0720-AA73
873	TRICARE; CHAMPUS; Appeals and Hearings Procedures, Formal Review	0720-AA74
874	TRICARE Program; Special Supplemental Food Program for Women, Infants, and Children Overseas	0720-AA75
875	TRICARE Program; Inclusion of Anesthesiologist's Assistants as Authorized Providers; Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabilitation Facilities	0720-AA76
876	TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02) and a Technical Correction Included in the NDAA-03	0720-AA77
877	TRICARE: Individual Case Management: Program for Persons With Disabilities: Extended Benefits for Disabled Family Members of Active Duty Service Members: Custodial Care	0720-AA78
878	TRICARE; Elimination of Nonavailability Statement and Referral Authorization Requirements and Elimination of Specialized Treatment Services Program	0720-AA79
879	TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2003 (NDAA-03)	0720-AA85

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
880	TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Eligibility and Payment Procedures for CHAMPUS Beneficiaries Age 65 and Over	0720-AA66
881	TRICARE; Coordination of Benefits Between TRICARE and the Department of Veterans Affairs	0720-AA86

Department of Defense (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

774. DEVELOPMENT OF A MUNITIONS RESPONSE SITE PRIORITIZATION PROTOCOL

Priority: Other Significant

Legal Authority: 10 USC 2710

CFR Citation: 32 CFR 179

Legal Deadline: None

Abstract: In response to section 311 of the Fiscal Year 2002 National Defense Authorization Act, the Office of the Deputy Under Secretary of Defense (Installations & Environment), U.S. Department of Defense (DoD), proposes to develop a site prioritization protocol for assigning to each defense site (hereinafter, munitions response site) a relative priority for response activities related to unexploded ordnance, discarded military munitions, and munitions constituents. Section 311 lists specific factors to be included in the protocol. DoD is requesting input from interested parties on: (a) These factors; (b) any additional factors to

consider in developing a site prioritization protocol; (c) how the proposed protocol should incorporate such factors as they relate to safety and environmental hazards; and (d) recommendations on any existing prioritization methods, models, or tools that should be evaluated.

Timetable:

Action	Date	FR Cite
ANPRM	03/20/02	67 FR 12937
ANPRM Comment	05/20/02	
Period End		
NPRM	08/22/03	68 FR 50900
NPRM Comment	11/20/03	
Period End		
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

Agency Contact: Patricia Ferrebee, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 695-6107

RIN: 0790-AG94

775. DEFENSE CONTRACT MANAGEMENT AGENCY FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 289

Legal Deadline: None

Abstract: This rule implements the Freedom of Information Act, as amended. It assigns responsibility for responding to written requests made pursuant to the Act and provides for the review required to determine the appropriateness of classification.

DOD—OS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/00/03	
NPRM Comment Period End	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Cathy Alphin,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301

Phone: 703 428-1453

RIN: 0790-AH00

776. • PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES TO ELIGIBLE DOD DEPENDENTS

Priority: Substantive, Nonsignificant.
Major status under 5 USC 801 is
undetermined.

Legal Authority: 10 USC 301**CFR Citation:** 32 CFR 57**Legal Deadline:** None

Abstract: This rule implements the
Individuals with Disabilities Education
Act, as amended in 1997. The rule
integrates into one policy both CFR part
57 (which concerned provision of early
intervention and special education to

eligible DoD dependents in overseas
areas) and CFR part 80 (which
concerned provision of early
intervention and special education
services in domestic Department of
Defense schools).

Timetable:

Action	Date	FR Cite
NPRM	11/00/03	
NPRM Comment Period End	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: R. Posante,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301

Phone: 703 696-4493

RIN: 0790-AH70

777. • CRIMINAL JURISDICTION OVER CIVILIANS EMPLOYED BY OR ACCOMPANYING THE ARMED FORCES OUTSIDE THE UNITED STATES, SERVICE MEMBERS, AND FORMER SERVICE MEMBERS

Priority: Substantive, Nonsignificant.
Major status under 5 USC 801 is
undetermined.

Legal Authority: 18 USC 3261**CFR Citation:** 32 CFR 153**Legal Deadline:** None

Abstract: This rule establishes policies
and procedures, and assigns
responsibilities, under the Military
Extraterritorial Jurisdiction Act (MEJA),
for exercising extraterritorial criminal
jurisdiction over certain military
personnel, former service members of
the United States Armed Forces, and
over civilians employed by or
accompanying the Armed Forces
outside the United States (as
specifically defined in section 3267 of
MEJA).

Timetable:

Action	Date	FR Cite
NPRM	11/00/03	
NPRM Comment Period End	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:**

Undetermined

Federalism: Undetermined

Agency Contact: Robert E. Reed,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301

Phone: 703 695-1055

RIN: 0790-AH73

Department of Defense (DOD)

Office of the Secretary (OS)

Final Rule Stage

778. NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION (DOD INSTRUCTION 1025.5)

Priority: Substantive, Nonsignificant**Legal Authority:** 20 USC 1141(a)**CFR Citation:** 32 CFR 206**Legal Deadline:** Final, Statutory, April 5, 1994, Final.

Abstract: The National Security
Education Act provided for the
National Security Education Program,
the National Security Education Board,
and a trust fund in the U.S. Treasury
to provide all resources for the
program. Under the Act, the Secretary
is directed to carry out a program to
award undergraduate scholarships,

graduate fellowships, and grants to
institutions of higher education. This
rule is to inform those concerned with
institutional grants to be offered under
the 1994-1995 pilot grants program of
the preliminary guidelines.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/05/94	59 FR 26116
Interim Final Rule Interim Final Rule Comment Period End	05/19/94 07/18/94	59 FR 26116
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Organizations**Government Levels Affected:** None**Federalism:** Undetermined

Agency Contact: Steve Door,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301

Phone: 703 696-1991

Email: nsep@nsep.policy.osd.mil

RIN: 0790-AF59

779. RESTORATION ADVISORY BOARDS (RABS)

Priority: Other Significant**Legal Authority:** 5 USC 551 et seq; 10 USC 2705**CFR Citation:** 32 CFR 202

DOD—OS

Final Rule Stage

Legal Deadline: NPRM, Statutory, September 15, 1996, NPRM.

Abstract: In accordance with the National Defense Authorization Acts for 1995 and 1996, the Department has prepared this rule for Restoration Advisory Boards (RABs). DoD has established RABs at over 200 installations and formerly used Defense sites that have environmental restoration programs for cleanup of contaminated sites. The purpose of the RAB is to facilitate public participation in restoration activities at operating and closing installations. The proposed rule is based on DoD's current policies for RABs, as well as DoD's experience in establishing and operating RABs over the past 2 years.

Timetable:

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764
NPRM Comment Period End	11/04/96	61 FR 40765
NPRM Extension of Comment Period	11/19/96	61 FR 58803
NPRM Comment Period End	01/20/97	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Federalism: Undetermined

Agency Contact: Patricia Ferrebee, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 695-6107

RIN: 0790-AG31

780. SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS

Priority: Other Significant

Legal Authority: 10 USC 2575; 10 USC 2771; 10 USC 4712; 10 USC 9712; 24 USC 420; 31 USC 3529; 31 USC 3702; 32 USC 714; 37 USC 554; ...

CFR Citation: 32 CFR 281

Legal Deadline: None

Abstract: This rule proposes policy and assigns responsibilities for settling personnel and general claims and for processing requests for an advance decision. The Legislative Branch

Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

Timetable:

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68956
NPRM Comment Period End	01/13/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: Pending analysis of public comments and issuance of final regulations, DOHA intends to use the procedures and practices applicable to claims and waiver applications before the effective dates of the transfers of authority, June 30, 1996, and December 18, 1996, respectively, which are published in title 4, Code of Federal Regulations, chapter 1, subchapters C and G. See also 61 FR 50285, September 25, 1996; and 62 FR 5387, February 5, 1997.

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 696-8510

RIN: 0790-AG47

781. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 147

Legal Deadline: None

Abstract: This rule is published to streamline security practices throughout the Government. Uniform adjudicative guidelines, investigative standards, and guidelines for temporary access are being established. This initiative will simplify security processing and allow the deserving public to obtain a security clearance in a faster, more efficient manner.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 602-9969

RIN: 0790-AG54

782. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY

Priority: Substantive, Nonsignificant

Legal Authority: EO 12968

CFR Citation: 32 CFR 148

Legal Deadline: None

Abstract: This rule is published to make physical facilities available for reciprocal use in the storage of classified information. Once a facility has been certified as suitable for classified use by one organization, it may also be used by another for like purposes.

DOD—OS

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	63 FR 4580
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 602-9969

RIN: 0790-AG55

783. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES**Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12968**CFR Citation:** 32 CFR 149**Legal Deadline:** None

Abstract: This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Terence Thompson, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 602-9969

RIN: 0790-AG56

784. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS**Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC 113**CFR Citation:** 32 CFR 22; 32 CFR 32**Legal Deadline:** None

Abstract: This rulemaking is the Department of Defense portion of a multipleh;agency action. The agencies are amending their rules implementing Office of Management and Budget (OMB) Circular A-110 "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." The amendments to the rules incorporate updated language in Circular A-110 requiring Federal awarding agencies to ensure that all data produced under awards subject to the Circular are made available to the public through the procedures established under the Freedom of Information Act (FOIA). OMB updated the Circular language in this way in October 1999, in response to a provision in Public Law 105-277. With this rule amendment to 32 CFR parts 22 and 32, the Department of Defense therefore will maintain policies on access to data produced under awards subject to Circular A-110 that are consistent with the policies of other executive departments and agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 696-0372

Email: herbstm@acq.osd.mil

RIN: 0790-AG76

785. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)**Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12549; EO 12689; PL 103-355**CFR Citation:** 32 CFR 25; 32 CFR 26**Legal Deadline:** None

Abstract: The Department of Defense (DoD) proposes to adopt two updated common rules, on nonprocurement debarment and suspension and on drug-free workplace requirements for grants and agreements. In adopting these rules, the Office of the Secretary of Defense, Military Departments, Defense Agencies, and DoD Field Activities will maintain uniform policies and procedures that are consistent with those of other executive departments and agencies.

Timetable:

Action	Date	FR Cite
NPRM	01/23/02	67 FR 3265
NPRM Comment Period End	03/25/02	67 FR 3267
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Mark Herbst, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 696-0372

Email: herbstm@acq.osd.mil

RIN: 0790-AG86

786. PROCEDURES FOR SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS**Priority:** Other Significant

Legal Authority: 5 USC 552a; 10 USC 2575; 10 USC 2771; 10 USC 4712; 10 USC 9712; 24 USC 420; 31 USC 3529; 31 USC 3702; 32 USC 714; 37 USC 554;

...

DOD—OS

Final Rule Stage

CFR Citation: 32 CFR 282**Legal Deadline:** None

Abstract: This rule proposes policy and prescribes procedures for processing and settling personnel and general claims and for processing requests for an advance decision. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignments of the Comptroller General's former duties within the Department of Defense with little impact on the public.

Timetable:

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68957
NPRM Comment Period End	01/13/03	67 FR 68958
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 696-8510

RIN: 0790-AG89**787. WAIVER OF DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES (DOD DIRECTIVE 1340.21)****Priority:** Other Significant**Legal Authority:** 5 USC 5584; 10 USC 2774; 32 USC 716**CFR Citation:** 32 CFR 283**Legal Deadline:** None

Abstract: This rule proposes policy and assigns responsibilities for considering applications for the waiver of debts resulting from erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services and civilian DoD employees. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

Timetable:

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68963
NPRM Comment Period End	01/13/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Michael Hipple, Department of Defense, Office of the Secretary, Office of the Secretary,

Defense Pentagon, Washington, DC 20301

Phone: 703 696-8510

RIN: 0790-AG90**788. WAIVER PROCEDURES FOR DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES (DOD INSTRUCTION 1340.23)****Priority:** Other Significant**Legal Authority:** 5 USC 552a; 5 USC 2104; 5 USC 2105; 5 USC 5584; 10 USC 2774; 32 USC 716; ...**CFR Citation:** 32 CFR 284**Legal Deadline:** None

Abstract: This rule proposes policy and prescribes procedures for considering waiver applications. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

Timetable:

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68965
NPRM Comment Period End	01/13/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

DOD—OS

Final Rule Stage

Agency Contact: Michael Hipple,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301
Phone: 703 696-8510
RIN: 0790-AG91

789. NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE (NSA/CSS) FREEDOM OF INFORMATION ACT PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 552

CFR Citation: 32 CFR 299

Legal Deadline: None

Abstract: This rule implements the Freedom of Information Act, as amended. It assigns responsibility for responding to written requests made pursuant to the Act and provides for the review required to determine the appropriateness of classification.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	08/05/02	
Interim Final Rule	05/23/03	68 FR 28132
Interim Final Rule Comment Period End	07/22/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Pamela Phillips,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301
Phone: 301 688-6527

RIN: 0790-AG96

790. TRANSACTIONS OTHER THAN CONTRACTS, GRANTS, OR COOPERATIVE AGREEMENTS FOR PROTOTYPE PROJECTS

Priority: Substantive, Nonsignificant

Legal Authority: PL 103-160

CFR Citation: 32 CFR 3

Legal Deadline: None

Abstract: This rule implements section 822 of the National Defense Authorization Act for Fiscal Year 2002,

Public Law 107-107. Section 822 provides for award of a follow-on production contract to traditional Defense contractors, without further competition, when the Other Transaction agreement for the prototype project provided for at least one-third non-Federal cost-share, consistent with law, and the Other Transaction agreement for the prototype project satisfies certain additional conditions of law.

Timetable:

Action	Date	FR Cite
NPRM	05/20/03	68 FR 27497
NPRM Comment Period End	07/21/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Boyd,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301
Phone: 703 697-6710

RIN: 0790-AG97

791. REVIEW OF THE MANUAL FOR COURTS-MARTIAL (DOD DIRECTIVE 5500.17)

Priority: Substantive, Nonsignificant

Legal Authority: EO 12473; 10 USC 47

CFR Citation: 32 CFR 152

Legal Deadline: None

Abstract: The Department of Defense promulgates procedures implementing Executive Order 12473, dated July 13, 1984, calling upon the Secretary of Defense to cause an annual review of the Manual for Courts-Martial (MCM) and to recommend to the President any appropriate amendments. Through the annual review process, the Secretary of Defense assists the President in fulfilling his rulemaking responsibilities under article 36 of the Uniform Code of Military Justice (UCMJ; chapter 47 of title 10, United States Code). Under the direction of the General Counsel of the Department of Defense, a Joint Service Committee on Military Justice (JSC) is established with responsibility to conduct the annual review and propose MCM

amendments. The JSC also proposes amendments to the UCMJ, as necessary.

This rule updates part 152 to title 32, Code of Federal Regulations, "Review of the Manual for Courts-Martial," to reflect practice and procedures for conducting annual reviews and to change the annual review cycle from concluding with an annual report due to the General Counsel by December 31, instead of May 1. The change in the annual review cycle is due to legislative requirements on affecting JSC responsibilities. This interim rule is provided to afford a 60-day opportunity for public comment prior to issuing a final rule. This rule is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/03/03	68 FR 36915
Interim Final Rule	06/20/03	68 FR 36915
Interim Final Rule Comment Period End	08/19/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert E. Reed,
Department of Defense, Office of the
Secretary, Office of the Secretary,
Defense Pentagon, Washington, DC
20301
Phone: 703 695-1055

RIN: 0790-AG99

792. IMPLEMENTATION OF SECTION 740 OF THE WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY AND SECTION 1051 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Priority: Substantive, Nonsignificant

Legal Authority: PL 106-181; PL 107-314

CFR Citation: 32 CFR 207

Legal Deadline: None

DOD—OS

Final Rule Stage

Abstract: This rule prescribes regulations to implement section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Pub. L. 106–181) and section 1051 of the National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107–314). The regulations will establish procedures for the sale of excess Department of Defense aircraft to persons or entities that provide oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan

that has been approved by the Secretary of the Department in which the Coast Guard is operating.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/22/03	68 FR 27904
Interim Final Rule Effective	05/22/03	
Interim Final Rule Comment Period End	07/21/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Debra Bennett, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 604–0098

RIN: 0790–AH02

**Department of Defense (DOD)
Office of the Secretary (OS)**

Long-Term Actions

793. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14–R, VOL 7, PART B)

Priority: Substantive, Nonsignificant

CFR Citation: 32 CFR 63

Timetable:

Action	Date	FR Cite
NPRM	04/06/95	60 FR 17507
NPRM Comment Period End	06/06/95	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Fiti Malufau

Phone: 703 607–5061

Email: malufauf@cleveland.dfas.mil

RIN: 0790–AG22

**Department of Defense (DOD)
Office of the Secretary (OS)**

Completed Actions

794. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS

Priority: Other Significant

Legal Authority: 10 USC 172 et seq; 10 USC 2701 et seq; 42 USC 9601 et seq; EO 12580

CFR Citation: 32 CFR 178

Legal Deadline: None

Abstract: The proposal for this Department of Defense (DoD) rule addresses the unique explosives safety considerations associated with military munitions (including UXO) and the need for environmental protection, and it does so under DERP, 10 U.S.C. 172 et seq., and CERCLA authorities.

Timetable:

Action	Date	FR Cite
NPRM	09/26/97	62 FR 50796
Public Meetings Begin	10/22/97	
Public Meetings End	12/10/97	
NPRM Comment Period End	12/26/97	
Withdrawn	09/05/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: COL John Selstrom, Department of Defense, Office of the Secretary, 3E787, Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301–3400
Phone: 703 697–5372

RIN: 0790–AG46

795. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 794; 42 USC 2000d to 2000d–7; 42 USC 6101 to 6107; EO 12250

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Department of Defense proposes to make amendments to its regulations implementing title VI of the

Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial assistance. In 1988, the Civil Rights Restoration Act (CRRA) added definitions of “program or activity” and “program” to title VI and added a definition of “program or activity” to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients’ programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRA’s definition of “program or activity” and “program” into the Department of Defense’s title VI, section 504, and Age Discrimination Act regulations. The Department of Defense’s proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

DOD—OS

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	08/26/03	68 FR 51334
Final Action Effective	09/25/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Jerry Anderson, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 695-0105

RIN: 0790-AG83**796. STARS AND STRIPES (S&S) NEWSPAPER****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 113**CFR Citation:** 32 CFR 246**Legal Deadline:** None**Abstract:** This rule establishes policies and assigns responsibilities for the Stars and Stripes (S&S) newspaper operations. It designates the Secretary of the Army as the DoD Executive Agent for nonappropriated fund support to S&S and designates the successor-in-interest to S&S.**Timetable:**

Action	Date	FR Cite
Withdrawn	09/05/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** R. Oleszewski, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 428-0629

RIN: 0790-AG84**797. DEPARTMENT OF DEFENSE NEWSPAPERS, MAGAZINES, AND CIVILIAN ENTERPRISE PUBLICATIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 113**CFR Citation:** 32 CFR 247**Legal Deadline:** None**Abstract:** This rule establishes policy, assigns responsibilities, and prescribes procedures concerning authorized DoD Appropriated Funded (APF) newspapers and magazines and Civilian Enterprise (CE) newspapers, magazines, guides, and installation maps (hereafter referred to as DoD publications) in support of the DoD Internal Information Program.**Timetable:**

Action	Date	FR Cite
Withdrawn	09/05/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** R. Oleszewski, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 428-0629

RIN: 0790-AG85**798. DOD GRANT AND AGREEMENT REGULATIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC 113**CFR Citation:** 32 CFR 21; 32 CFR 22; 32 CFR 32; 32 CFR 34; 32 CFR 37**Legal Deadline:** None**Abstract:** The Department of Defense (DoD) is adding a new part 37 to the DoD Grant and Agreement Regulations (DoDGARs) to incorporate policies and procedures for the award and administration of Technology Investment Agreements (TIAs). TIAs are a relatively new class of assistance instruments. DoD components use TIAs to support or stimulate defense research projects involving for-profit firms, especially commercial firms that do business primarily in the commercial marketplace. The new part 37 therefore gives DoD agreements officers greater flexibility to negotiate award provisions in areas that can present barriers to those commercial firms (e.g., intellectual property, audits, and cost principles). This rule also provides revisions to parts 21, 22, 32, and 34 of the DoDGARs to conform the rest of the DoDGARs with the new part 37.**Timetable:**

Action	Date	FR Cite
NPRM	04/30/02	67 FR 21486
NPRM Comment Period End	07/01/02	
Final Action	08/07/03	68 FR 47150
Final Action Effective	09/08/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Mark Herbst, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 696-0372

Email: herbstm@acq.osd.mil

RIN: 0790-AG87**799. VOLUNTARY STATE TAX WITHHOLDING FROM RETIRED PAY****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 1045**CFR Citation:** 32 CFR 78**Legal Deadline:** None**Abstract:** This rule amends 32 CFR part 78, Voluntary State Tax Withholding From Retired Pay, to comply with the Treasury Financial Manual, Volume 1, section 5060f.**Timetable:**

Action	Date	FR Cite
Final Rule	06/20/03	68 FR 36914

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Peter Dragon, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 604-6350

RIN: 0790-AG93**800. TRANSACTIONS OTHER THAN CONTRACTS, GRANTS, OR COOPERATIVE AGREEMENTS FOR PROTOTYPE PROJECTS****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 103-160**CFR Citation:** 32 CFR 3**Legal Deadline:** None

DOD—OS

Completed Actions

Abstract: This final rule establishes the Department's audit policy for prototype projects that use "other transaction" authority. Representatives of the military departments, Defense agencies, and other DoD activities have agreed on a final rule that amends the proposed rule as a result of comments received.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103-160, as amended, authorizes the Secretary of a Military Department, the Director of Defense Advanced Research Projects Agency, and any other official designated by the Secretary of Defense, to enter into transactions other than contracts, grants, or cooperative agreements in certain situations for prototype projects that are directly relevant to weapons

or weapon systems proposed to be acquired or developed by the Department of Defense. Such transactions are commonly referred to as "other transaction" agreements for prototype projects. To the extent that a particular statute or regulation is limited in its applicability to the use of a procurement contract, it would generally not apply to "other transactions" for prototype projects.

Part 3 to 32 CFR was established to codify policy pertaining to prototype "other transactions" that have a significant impact on the public and are subject to rulemaking. Additional guidance on prototype "other transactions" directed at Government officials can be found at the Defense Procurement web site at: <http://www.osd.dp.mil>

Timetable:

Action	Date	FR Cite
NPRM	11/21/01	66 FR 58422
NPRM Comment Period End	01/22/02	
Public Meeting	03/27/02	67 FR 9632
Final Action	05/20/03	68 FR 27452
Final Action Effective	06/19/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: David Boyd, Department of Defense, Office of the Secretary, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 697-6710

RIN: 0790-AH01

Department of Defense (DOD)

Proposed Rule Stage

Defense Acquisition Regulations Council (DARC)

801. PATENT RIGHTS-OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS) (DFARS CASE 2001-D015)**Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 227.3; 48 CFR 252.227**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to add a contract clause on patent rights to replace a FAR clause that has been proposed for deletion.

Timetable:

Action	Date	FR Cite
Case Opened	10/09/01	
NPRM	12/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0131

Fax: 703 602-0350

Email: gail.cruz@osd.mil

RIN: 0750-AD72

802. FISH, SHELLFISH, OR SEAFOOD PRODUCTS (DFARS CASE 2002-D034)**Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-248, sec 8136**CFR Citation:** 48 CFR 225.7002-2; 48 CFR 252.212-7001; 48 CFR 252.225-7012**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to implement section 8136 of the Fiscal Year 2003 Defense Appropriations Act. Section 8136 requires the acquisition of domestic fish, shellfish, and seafood.

Timetable:

Action	Date	FR Cite
Case Opened	10/28/02	
Interim Final Rule	02/14/03	68 FR 7441
Interim Final Rule Comment Period End	04/15/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0131

Fax: 703 602-0350

Email: gail.cruz@osd.mil

RIN: 0750-AD91

803. ● PROTESTS, DISPUTES, AND APPEALS (DFARS CASE 2003-D010)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421**CFR Citation:** 48 CFR 233**Legal Deadline:** None

Abstract: Amends part 233 of the Defense FAR Supplement (DFARS) to implement proposals resulting from the DFARS Transformation Initiative that pertain to protests, disputes, and appeals.

Timetable:

Action	Date	FR Cite
Case Opened	06/16/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0131

Fax: 703 602-0350

DOD—DARC

Proposed Rule Stage

Email: gail.cruz@osd.mil

RIN: 0750—AE01

804. • IMPROPER BUSINESS PRACTICES, ORGANIZATIONAL CONFLICTS OF INTEREST, AND DEBARMENT (DFARS CASE 2003—D012)**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 203; 48 CFR 209**Legal Deadline:** None**Abstract:** Amends parts 203 and 209 of the Defense FAR Supplement (DFARS) to implement proposals resulting from the DFARS Transformation Initiative that pertain to improper business practices, organizational conflicts of interest, and debarment.**Timetable:**

Action	Date	FR Cite
Case Opened	06/16/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301—3062
Phone: 703 602—0131
Fax: 703 602—0350
Email: gail.cruz@osd.mil

RIN: 0750—AE02

805. • PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION (DFARS CASE 2003—D038)**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 224**Legal Deadline:** None**Abstract:** Amends part 224 of the Defense FAR Supplement (DFARS) to implement proposals resulting from the DFARS Transformation Initiative that pertain to protection of privacy and freedom of information.**Timetable:**

Action	Date	FR Cite
Case Opened	07/28/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301—3062
Phone: 703 602—0131
Fax: 703 602—0350
Email: gail.cruz@osd.mil

RIN: 0750—AE03

806. • CONTRACTOR QUALIFICATIONS RELATING TO CONTRACT PLACEMENT (DFARS CASE 2003—D011)**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 209; 48 CFR 252.209**Legal Deadline:** None**Abstract:** Amends part 209 of the Defense FAR Supplement (DFARS) to implement proposals resulting from the DFARS Transformation Initiative that relate to contractor qualification requirements and contract placement.**Timetable:**

Action	Date	FR Cite
Case Opened	06/16/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301—3062
Phone: 703 602—0131
Fax: 703 602—0350
Email: gail.cruz@osd.mil

RIN: 0750—AE06

807. • GOVERNMENT SOURCE INSPECTION REQUIREMENTS (DFARS CASE 2002—D032)**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 246.4**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to limit Government source inspection requirements for contracts below \$250,000. This change will permit contract administration offices to devote more resources to high-risk contracts.**Timetable:**

Action	Date	FR Cite
Case Opened	10/25/02	
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301—3062
Phone: 703 602—0131
Fax: 703 602—0350
Email: gail.cruz@osd.mil

RIN: 0750—AE08

808. • COST ACCOUNTING STANDARDS (DFARS CASE 2003—D015)**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 230**Legal Deadline:** None**Abstract:** Amends part 230 of the Defense FAR Supplement (DFARS) to implement noncomplex proposals resulting from the DFARS Transformation Initiative that pertain to Cost Accounting Standards.**Timetable:**

Action	Date	FR Cite
Case Opened	07/01/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis Required: No

DOD—DARC

Proposed Rule Stage

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE10

809. • GEOGRAPHIC USE OF THE TERM "UNITED STATES" (DFARS CASE 2001-D003)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204; 48 CFR 208; 48 CFR 209; 48 CFR 212; 48 CFR 213; 48 CFR 215; 48 CFR 219; 48 CFR 252; ...

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement to standardize the use of geographic terms, in accordance with definitions found in the FAR.

Timetable:

Action	Date	FR Cite
Case Opened	02/13/01	
NPRM	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn:

IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE12

810. • LAWS INAPPLICABLE TO COMMERCIAL SUBCONTRACTS (DFARS CASE 2003-D018)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 212.504

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement (DFARS) to remove the Buy American Act and the Trade Agreements Act from the list of laws inapplicable to commercial subcontracts. This change implements a proposal resulting from the DFARS Transformation Initiative.

Timetable:

Action	Date	FR Cite
Case Opened	07/02/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE14

811. • BERRY AMENDMENT-EXCEPTION FOR FABRICS AND FIBERS (DFARS CASE 2003-D022)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement (DFARS) to clarify the exception to the Berry Amendment that permits the acquisition of small amounts of cotton, other natural fibers, and wool from foreign sources and expands the exception to apply to all fabrics and fibers. This change implements a proposal resulting from the DFARS Transformation Initiative.

Timetable:

Action	Date	FR Cite
Case Opened	07/02/03	
NPRM	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE15

Department of Defense (DOD)

Defense Acquisition Regulations Council (DARC)

Final Rule Stage

812. INCREMENTAL FUNDING, FIXED-PRICE CONTRACTS (DFARS CASE 1990-037)

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 232.7; 48 CFR 252.232

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement to permit the use of

incremental funding of fixed-price contracts in certain situations.

Timetable:

Action	Date	FR Cite
Case Opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Final Action	12/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AA07

DOD—DARC

Final Rule Stage

813. COMPETITION REQUIREMENTS FOR PURCHASES FROM A REQUIRED SOURCE (DFARS CASE 2002–D003)**Priority:** Other Significant**Legal Authority:** PL 107–107, sec 811; PL 107–314, sec 819**CFR Citation:** 48 CFR 208.6; 48 CFR 210.0; 48 CFR 219.5; 48 CFR 252.219**Legal Deadline:** NPRM, Statutory, March 2, 2003, NPRM. Final, Statutory, May 31, 2003, Final. The legal deadlines described above are imposed by section 819 of Public Law 107–314.**Abstract:** Amends the Defense FAR Supplement to implement section 811 of the Fiscal Year 2002 National Defense Authorization Act and section 819 of the Fiscal Year 2003 National Defense Authorization Act. These laws require DoD to conduct market research before purchasing a product from Federal Prison Industries (FPI) to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector.**Timetable:**

Action	Date	FR Cite
Case Opened	01/08/02	
Interim Final Rule	04/26/02	67 FR 20687
Interim Final Rule Comment Period End	06/25/02	
NPRM	05/15/03	68 FR 26265
NPRM Comment Period End	07/14/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062 Phone: 703 602–0131 Fax: 703 602–0350 Email: gail.cruz@osd.mil**RIN:** 0750–AD57**814. ELECTRONIC SUBMISSION AND PROCESSING OF PAYMENT REQUESTS (DFARS CASE 2002–D001)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 106–398, sec 1008**CFR Citation:** 48 CFR 232.70; 48 CFR 252.212–7001; 48 CFR 252.232–7003; 48 CFR 252.246–7000**Legal Deadline:** Final, Statutory, October 1, 2002, Final.**Abstract:** Amends the Defense FAR Supplement to implement section 1008 of the Fiscal Year 2001 National Defense Authorization Act, which requires that any claim for payment be submitted and processed electronically.**Timetable:**

Action	Date	FR Cite
Case Opened	01/09/02	
NPRM	05/31/02	67 FR 38057
NPRM Comment Period End	07/30/02	
Interim Final Rule	02/21/03	68 FR 8450
Interim Final Rule Comment Period End	04/22/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062 Phone: 703 602–0131 Fax: 703 602–0350 Email: gail.cruz@osd.mil**RIN:** 0750–AD70**815. CODIFICATION AND MODIFICATION OF BERRY AMENDMENT (DFARS CASE 2002–D002)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107–107, sec 832**CFR Citation:** 48 CFR 225.7002; 48 CFR 252.212–7001; 48 CFR 252.225–7012**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to implement section 832 of the Fiscal Year 2002 National Defense Authorization Act. Section 832 codifies and makes minor modifications to the provision of law known as the Berry Amendment, which requires the acquisition of certain items from domestic sources.**Timetable:**

Action	Date	FR Cite
Case Opened	01/08/02	

Action	Date	FR Cite
Interim Final Rule	04/26/02	67 FR 20697
Interim Final Rule Comment Period End	06/25/02	
Final Action	12/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062 Phone: 703 602–0131 Fax: 703 602–0350 Email: gail.cruz@osd.mil**RIN:** 0750–AD76**816. INDIAN INCENTIVE CLAUSE—CONTRACT TYPES (DFARS CASE 2002–D013)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 252.226–7001**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to clarify that the clause permitting incentive payments for use of Indian organizations as subcontractors can be applied to all contract types.**Timetable:**

Action	Date	FR Cite
Case Opened	06/11/02	
NPRM	11/22/02	67 FR 70389
NPRM Comment Period End	01/21/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062 Phone: 703 602–0131 Fax: 703 602–0350 Email: gail.cruz@osd.mil**RIN:** 0750–AD78

DOD—DARC

Final Rule Stage

817. APPROVAL OF SERVICE CONTRACTS AND TASK ORDERS (DFARS CASE 2002–D024)**Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107–107, sec 801(b)**CFR Citation:** 48 CFR 237.170**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to implement section 801(b) of the Fiscal Year 2002 National Defense Authorization Act. Section 801(b) requires DoD to establish and implement a management structure for the procurement of services.

Timetable:

Action	Date	FR Cite
Case Opened	08/02/02	
Interim Final Rule	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD81**818. PROVISIONAL AWARD FEE PAYMENTS (DFARS CASE 2001–D013)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 216.405–2**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to address the use of provisional award fee payments under cost-plus-award-fee contracts.

Timetable:

Action	Date	FR Cite
Case Opened	08/29/01	
NPRM	11/22/02	67 FR 70388
NPRM Comment	01/21/03	
Period End		
Final Rule	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD83**819. PAYMENT WITHHOLDING (DFARS CASE 2002–D017)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 232.111; 48 CFR 252.232**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to remove the requirement for a contracting officer to routinely withhold 5 percent of payments due under a time-and-materials or labor-hour contract.

Timetable:

Action	Date	FR Cite
Case Opened	06/18/02	
NPRM	02/28/03	68 FR 9627
NPRM Comment	04/29/03	
Period End		
Final Action	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD85**820. INFORMATION ASSURANCE (DFARS CASE 2002–D020)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 239.71; 48 CFR 252.239–7000**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to address requirements for information assurance in the acquisition of information technology.

Timetable:

Action	Date	FR Cite
Case Opened	06/25/02	
NPRM	05/23/03	68 FR 28187
NPRM Comment	07/22/03	
Period End		
Final Action	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD86**821. PURCHASE CARD INTERNAL CONTROLS (DFARS CASE 2002–D025)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 213.3**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to add policy on internal controls for proper use of the Governmentwide commercial purchase card.

Timetable:

Action	Date	FR Cite
Case Opened	08/02/02	
NPRM	12/20/02	67 FR 77955
NPRM Comment	02/18/03	
Period End		
Final Action	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD87

DOD—DARC

Final Rule Stage

822. FOLLOW-ON PRODUCTION CONTRACTS FOR PRODUCTS DEVELOPED PURSUANT TO PROTOTYPE PROJECTS (DFARS CASE 2002–D023)**Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107–107, sec 822**CFR Citation:** 48 CFR 206.001**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to implement section 822 of the Fiscal Year 2002 National Defense Authorization Act. Section 822 provides for award of a follow-on production contract, without competition, to participants in an “other transaction” agreement for a prototype project under certain conditions.

Timetable:

Action	Date	FR Cite
Case Opened	07/24/02	
NPRM	06/03/03	68 FR 33057
NPRM Comment Period End	08/04/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD88**823. INDIAN INCENTIVE PROGRAM—COMMERCIAL ITEMS (DFARS CASE 2002–D033)****Priority:** Substantive, Nonsignificant**Legal Authority:** 107–248, sec 8021**CFR Citation:** 48 CFR 226.1; 48 CFR 252.212–7001; 48 CFR 252.226–7001**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to implement section 8021 of the Fiscal Year 2003 Defense Appropriations Act. Section 8021 revises the criteria for application of the Indian Incentive Program to DoD contracts.

Timetable:

Action	Date	FR Cite
Case Opened	10/25/02	
Interim Final Rule	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD97**824. • MULTIYEAR PROCUREMENT AUTHORITY FOR ENVIRONMENTAL SERVICES FOR MILITARY INSTALLATIONS (DFARS CASE 2003–D004)****Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** PL 107–314, sec 827**CFR Citation:** 48 CFR 217.1**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to implement section 827 of the Fiscal Year 2003 National Defense Authorization Act. Section 827 provides authority for DoD to enter into multiyear contracts for environmental remediation services for military installations.

Timetable:

Action	Date	FR Cite
Case Opened	03/31/03	
Interim Final Rule	07/22/03	68 FR 43332
Interim Final Rule Comment Period End	09/22/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350

Email: gail.cruz@osd.mil

RIN: 0750–AD99**825. • DOD ACTIVITY ADDRESS CODES IN CONTRACT NUMBERS (DFARS CASE 2003–D005)****Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 204.70**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to prescribe use of DoD activity address codes in the first six positions of solicitation and contract numbers. This change will provide consistency in the method of identifying DoD activities.

Timetable:

Action	Date	FR Cite
Case Opened	04/15/03	
NPRM	06/11/03	68 FR 34879
NPRM Comment Period End	08/11/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AE00**826. • BUY-TO-BUDGET ACQUISITION OF END ITEMS (DFARS CASE 2002–D036)****Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** PL 107–314, sec 801**CFR Citation:** 48 CFR 207.70**Legal Deadline:** Final, Statutory, April 1, 2003, Final.

Abstract: Amends the Defense FAR Supplement to implement section 801 of the Fiscal Year 2003 National Defense Authorization Act. Section 801 authorizes DoD to acquire a higher quantity of an end item than the

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quantity specified in a law providing for the funding of the acquisition, under certain conditions.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/02	
Interim Final Rule	07/22/03	68 FR 43331
Interim Final Rule	09/22/03	
Comment Period End		
Final Action	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE04

827. • MULTIYEAR CONTRACTING AUTHORITY REVISIONS (DFARS CASE 2002-D041)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: PL 107-314, sec 820

CFR Citation: 48 CFR 217.1

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement to implement section 820 of the Fiscal Year 2003 National Defense Authorization Act. Section 820 restricts the use of multiyear contracts for supplies to only those for complete and usable end items and restricts the use of advance procurement to only those long-lead items necessary to meet a planned delivery schedule for complete major end items.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/02	
Interim Final Rule	08/21/03	68 FR 50474
Interim Final Rule	10/20/03	
Comment Period End		
Final Action	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131

Fax: 703 602-0350

Email: gail.cruz@osd.mil

RIN: 0750-AE05

828. • PRODUCTION SURVEILLANCE AND REPORTING (DFARS CASE 2002-D015)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.1104

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement to eliminate requirements for DoD contract administration offices to perform production surveillance on contractors that have only Criticality Designator C (low-urgency) contracts. This change will permit contract administration offices to devote more resources to critical and high-risk contracts.

Timetable:

Action	Date	FR Cite
Case Opened	06/17/03	
NPRM	08/21/03	68 FR 50495
NPRM Comment Period End	10/20/03	
Final Action	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE07

829. • UNIQUE ITEM IDENTIFICATION AND PROPERTY VALUATION (DFARS CASE 2003-D081)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204.7104; 48 CFR 211.2; 48 CFR 212.301; 48 CFR 252.211

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement to add requirements for DoD contractors to provide unique identification for property items delivered to DoD, through the use of item identification marking. In addition, this change adds requirements for DoD contracts to identify the acquisition cost of all items built or acquired by the contractor and subsequently delivered to DoD under the contract. This change will improve management of DoD assets.

Timetable:

Action	Date	FR Cite
Case Opened	08/07/03	
Interim Final Rule	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE09

830. • CENTRAL CONTRACTOR REGISTRATION (DFARS CASE 2003-D040)

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 204; 48 CFR 212.3; 48 CFR 213.1; 48 CFR 252.204

Legal Deadline: None

Abstract: Amends the Defense FAR Supplement to remove Central Contractor Registration (CCR) requirements, upon incorporation of CCR requirements into the FAR.

Timetable:

Action	Date	FR Cite
Case Opened	07/28/03	
Interim Final Rule	11/00/03	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

DOD—DARC

Final Rule Stage

Government Levels Affected: Federal
Agency Contact: Noranzie (Gail) Cruz,
 Department of Defense, Defense

Acquisition Regulations Council, Attn:
 IMD 3C132, OUSD AT&L, 3062 Defense
 Pentagon, Washington, DC 20301-3062
 Phone: 703 602-0131

Fax: 703 602-0350
 Email: gail.cruz@osd.mil
RIN: 0750-AE11

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Completed Actions

831. FOREIGN ACQUISITION (DFARS CASE 2002-D009)**Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 206.303; 48 CFR 208.7203; 48 CFR 212.301; 48 CFR 225; 48 CFR 242.302; 48 CFR 252.212; 48 CFR 252.225**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to simplify and clarify policy pertaining to the acquisition of supplies and services from foreign sources.**Timetable:**

Action	Date	FR Cite
Case Opened	03/22/02	
NPRM	10/07/02	67 FR 62590
NPRM Comment Period End	12/06/02	
Final Rule	03/31/03	68 FR 15616
Final Rule Effective	04/30/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz,
 Department of Defense, Defense
 Acquisition Regulations Council, Attn:
 IMD 3C132, OUSD AT&L, 3062 Defense
 Pentagon, Washington, DC 20301-3062
 Phone: 703 602-0131
 Fax: 703 602-0350
 Email: gail.cruz@osd.mil**RIN:** 0750-AD73**832. PAYMENT BONDS ON COST-REIMBURSEMENT CONTRACTS (DFARS CASE 2002-D030)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 228.102**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to permit the use of alternative payment protections for

fixed-price construction subcontracts between \$25,000 and \$100,000 issued under cost-reimbursement contracts.

Timetable:

Action	Date	FR Cite
Case Opened	10/03/02	
NPRM	02/14/03	68 FR 7490
NPRM Comment Period End	04/15/03	
Final Rule	06/20/03	68 FR 36944

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Federalism:** Undetermined**Agency Contact:** Noranzie (Gail) Cruz,
 Department of Defense, Defense
 Acquisition Regulations Council, Attn:
 IMD 3C132, OUSD AT&L, 3062 Defense
 Pentagon, Washington, DC 20301-3062
 Phone: 703 602-0131
 Fax: 703 602-0350
 Email: gail.cruz@osd.mil**RIN:** 0750-AD79**833. EFFICIENCY SAVINGS (DFARS CASE 2002-D022)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 242.76**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to add policies and procedures for the negotiation of advance agreements to permit DoD to share efficiency savings with contractors.**Timetable:**

Action	Date	FR Cite
Case Opened	07/23/02	
Withdrawn	08/26/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz,
 Department of Defense, DefenseAcquisition Regulations Council, Attn:
 IMD 3C132, OUSD AT&L, 3062 Defense
 Pentagon, Washington, DC 20301-3062
 Phone: 703 602-0131Fax: 703 602-0350
 Email: gail.cruz@osd.mil**RIN:** 0750-AD80**834. CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS (DFARS CASE 2002-D042)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-314, sec 332**CFR Citation:** 48 CFR 237.1**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to implement section 332 of the Fiscal Year 2003 National Defense Authorization Act. Section 332 provides temporary authority for contractor performance of security-guard functions at military installations or facilities to meet the increased need for such functions since September 11, 2001.**Timetable:**

Action	Date	FR Cite
Case Opened	12/12/02	
Interim Final Rule	02/14/03	68 FR 7443
Interim Final Rule Comment Period End	04/15/03	
Final Rule	08/21/03	68 FR 50476

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz,
 Department of Defense, Defense
 Acquisition Regulations Council, Attn:
 IMD 3C132, OUSD AT&L, 3062 Defense
 Pentagon, Washington, DC 20301-3062
 Phone: 703 602-0131Fax: 703 602-0350
 Email: gail.cruz@osd.mil**RIN:** 0750-AD82

DOD—DARC

Completed Actions

835. LIABILITY FOR LOSS UNDER VESSEL REPAIR AND ALTERATION CONTRACTS (DFARS CASE 2002–D016)**Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 252.217–7012**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to increase a contractor's liability for loss or damage under vessel repair and alteration contracts from \$5,000 to \$50,000 per incident. The increased dollar ceiling is based on adjustments for inflation, the need to provide a financial incentive for contractors to minimize loss and damage, and common insurance practices.

Timetable:

Action	Date	FR Cite
Case Opened	06/17/02	
NPRM	02/14/03	68 FR 7491
NPRM Comment Period End	04/15/03	
Final Rule	08/21/03	68 FR 50477

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD84**836. TRANSPORTATION OF SUPPLIES BY SEA—COMMERCIAL ITEMS (DFARS CASE 2002–D019)****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 2631**CFR Citation:** 48 CFR 252.212–7001**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to add an alternate version of a clause, pertaining to the transportation of supplies by sea, for use in contracts for commercial items at or below the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
Case Opened	06/24/02	

Action	Date	FR Cite
NPRM	10/25/02	67 FR 65528
NPRM Comment Period End	12/24/02	
Final Rule	06/03/03	68 FR 33026

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD89**837. CONTRACTING WITH FEDERAL PRISON INDUSTRIES (DFARS CASE 2002–D040)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107–314, sec 819**CFR Citation:** 48 CFR 208.6

Legal Deadline: NPRM, Statutory, March 2, 2003, NPRM.
Final, Statutory, May 31, 2003, Final.

Abstract: Amends the Defense FAR Supplement to implement section 819 of the Fiscal Year 2003 National Defense Authorization Act. Section 819 contains requirements regarding the acquisition of products from Federal Prison Industries.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/02	
Merged With 0750–AD57	04/28/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal

Additional Information: This case was closed and combined with DFARS Case 2002–D003, RIN 0750–AD57.

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD95**838. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 2002–D038)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107–314, sec 816**CFR Citation:** 48 CFR 219.0; 48 CFR 226.70**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to implement section 816 of the Fiscal Year 2003 National Defense Authorization Act. Section 816 extends, through September 30, 2006, the 5 percent goal for DoD contract awards to small disadvantaged businesses, historically black colleges and universities, and minority institutions.

Timetable:

Action	Date	FR Cite
Case Opened	12/05/02	
Final Rule	03/31/03	68 FR 15381

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301–3062
Phone: 703 602–0131
Fax: 703 602–0350
Email: gail.cruz@osd.mil

RIN: 0750–AD96**839. ● COMPETITIVENESS DEMONSTRATION CODES UPDATE (DFARS CASE 2003–D003)**

Priority: Substantive, Nonsignificant.
Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421**CFR Citation:** 48 CFR 219.1005**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to update the industry categories designated for enhanced small business participation under the Small Business Competitiveness Demonstration Program.

DOD—DARC

Completed Actions

Timetable:

Action	Date	FR Cite
Case Opened	03/25/03	
Final Rule	08/21/03	68 FR 50476

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AD98**840. • CARIBBEAN BASIN COUNTRY-DOMINICAN REPUBLIC (DFARS CASE 2003-D007)**

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421**CFR Citation:** 48 CFR 252.225-7021**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to reinstate treatment of products of the Dominican Republic as eligible products in acquisitions subject to the Trade Agreements Act, in accordance with a determination of the U.S. Trade Representative.

Timetable:

Action	Date	FR Cite
Case Opened	05/19/03	
Final Rule	08/21/03	68 FR 50477

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE13**841. • REPORTING REQUIREMENTS UPDATE (DFARS CASE 2003-D002)**

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421**CFR Citation:** 48 CFR 253.204**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to update DoD contract action reporting requirements for fiscal year 2004.

Timetable:

Action	Date	FR Cite
Case Opened	03/25/03	
Final Rule	06/20/03	68 FR 36945
Final Rule Effective	10/01/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn:

IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE16**842. • DELETION OF FEDERAL PRISON INDUSTRIES CLEARANCE EXCEPTION (DFARS CASE 2003-D006)**

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 41 USC 421**CFR Citation:** 48 CFR 208.606**Legal Deadline:** None

Abstract: Amends the Defense FAR Supplement to delete obsolete text pertaining to an exception from requirements for purchase of products from Federal Prison Industries.

Timetable:

Action	Date	FR Cite
Case Opened	05/16/03	
Final Rule	06/20/03	68 FR 36944

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062
Phone: 703 602-0131
Fax: 703 602-0350
Email: gail.cruz@osd.mil

RIN: 0750-AE17

Department of Defense (DOD)

Department of the Army (DOA)

Final Rule Stage

843. • FOREIGN ACQUISITION

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 10 USC 2202; FAR 1.301; DFARS 201.3; DODD 5000.35; ...

CFR Citation: 48 CFR 5125**Legal Deadline:** None

Abstract: To increase consistency in Army contracts that may require

deployment of personnel, the Department of the Army is amending 48 CFR chapter 51. This interim rule is a consolidation and summarization of current information available in several documents, some of which are currently in draft form, and does not include new Army contracting policy.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/03	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Additional Information: This interim rule is added to incorporate information to facilitate deploying contractor personnel to Iraq and other areas of operations. It also seeks to ease the administrative difficulty for each contractor and contracting office researching current guidance on

DOD—DOA

Final Rule Stage

contractors accompanying the force and to increase consistency among Army contracts. This amendment addresses contractor and Army contracting offices' questions and concerns.

Agency Contact: Luz D. Ortiz, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, U.S. Army Records Management and Declassification Agency, Stop 5603, ATTN: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 806-3708
Fax: 703 806-3230
Email: luz.ortiz@rmda.belvoir.army.mil

RIN: 0702-AA38

844. • SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 301; 10 USC 2202; FAR 1.301; DOD FAR 201.3; DODD 5000.35; ...

CFR Citation: 48 CFR 5152

Legal Deadline: None

Abstract: To increase consistency in Army contracts that may require deployment of contractor personnel, the Department of the Army is amending 48 CFR part 5152. This interim rule seeks to incorporate information to facilitate the deployment of contractor personnel to Iraq or other areas of operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/03	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Additional Information: This rule is a consolidation and summarization of current information available in several documents, some of which are currently in draft form, and does not include new Army contracting policy.

Agency Contact: Luz D. Ortiz, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, U.S. Army Records Management and Declassification Agency, Stop 5603, ATTN: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 806-3708
Fax: 703 806-3230
Email: luz.ortiz@rmda.belvoir.army.mil

RIN: 0702-AA39

Department of Defense (DOD) Department of the Army (DOA)

Completed Actions

845. • UNITED STATES SOLDIERS' AND AIRMEN'S HOME

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 24 USC 401 to 433; PL 101-510

CFR Citation: 32 CFR 574

Legal Deadline: None

Abstract: This action removes 32 CFR part 574 published in the Federal Register, February 26, 1979 (44 FR

10981). The rule is being removed because it is now obsolete and no longer applies to or governs the policies of the U.S. Soldiers' and Airmen's Home facility.

Timetable:

Action	Date	FR Cite
Final Action	05/23/03	68 FR 28138

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Luz D. Ortiz, Army Federal Register Liaison Officer, Department of Defense, Department of the Army, U.S. Army Records Management and Declassification Agency, Stop 5603, ATTN: TAPC-PDD-RP, 6000 6th Street, Fort Belvoir, VA 22060-5603
Phone: 703 806-3708
Fax: 703 806-3230
Email: luz.ortiz@rmda.belvoir.army.mil

RIN: 0702-AA37

Department of Defense (DOD) U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

846. ENVIRONMENTAL QUALITY; PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Priority: Substantive, Nonsignificant

Legal Authority: 42 USC 4321 et seq; 40 CFR 1500.6

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: The purpose of this regulatory revision is to clarify and provide additional guidance for Corps

NEPA requirements for activities at Federal water resource development projects and lands.

Timetable:

Action	Date	FR Cite
NPRM	12/00/03	
NPRM Comment Period End	07/00/04	
Final Action	10/00/04	
Final Action Effective	02/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Forester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-PC), 441 G Street NW, Washington, DC 20314
Phone: 202 761-4589

RIN: 0710-AA42

DOD—COE

Proposed Rule Stage

847. CLEAN WATER ACT REGULATORY DEFINITION OF "WATERS OF THE UNITED STATES"**Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 1361; 33 USC 1362**CFR Citation:** 33 CFR 328; 40 CFR 110; 40 CFR 112; 40 CFR 116; 40 CFR 117; 40 CFR 122; 40 CFR 230; 40 CFR 232; 40 CFR 257; 40 CFR 300; 40 CFR 401**Legal Deadline:** None

Abstract: An advance notice of proposed rulemaking on the Clean Water Act Regulatory Definition of "Waters of the United States" was published jointly by EPA and the Department of the Army on January 15, 2003. This action solicited public input on aspects of Clean Water Act regulatory jurisdiction that should be addressed in joint rulemaking by EPA and the Department of the Army to clarify the jurisdictional status under the Clean Water Act (CWA) of "isolated intrastate non-navigable waters and wetlands." The existing regulations contain language asserting jurisdiction over isolated intrastate waters, but that regulatory provision has been the subject of a January 9, 2001, U.S. Supreme Court opinion, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (SWANCC). In SWANCC, the Court held that the scope of "waters of the United States" protected under the Clean Water Act did not extend to isolated intrastate non-navigable waters based solely on presence of migratory birds. While SWANCC did not actually invalidate regulations under the CWA, the decision does establish limitations on their use. Revision of the regulatory language is necessary to address the Court's decision, improve regulatory clarity, and provide more specificity regarding CWA jurisdiction. Approximately 150,000 comments were received in response to the ANPRM. The Corps and EPA are currently sorting comments by nature and

substance to facilitate final review and consideration. The assessment of the comments will be factored into the decision on the need for, and scope of, further rulemaking. Among other things, a rulemaking process would clarify CWA jurisdiction for entities (e.g., industrial, commercial, governmental) that discharge pollutants, including dredged or fill material, to isolated intrastate surface waters or wetlands. Small entities or State/local/tribal governments might be affected by a change in regulatory definition of "waters of the United States" if they either are regulated under or help administer CWA programs affecting such waters; e.g., sections 402, 404, 311. Significant impacts on such entities or governments are not anticipated, as the proposed regulatory revisions would be consistent with the Supreme Court ruling.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/03	68 FR 1991
ANPRM Comment Period End	04/16/03	68 FR 9613
NPRM	05/00/04	
NPRM Comment Period End	07/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses, Governmental Jurisdictions, Organizations**Government Levels Affected:** Federal, Local, State, Tribal

Agency Contact: Thaddeus J. Rugeil, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3G65), 441 G Street NW, Washington, DC 20314-1000
 Phone: 202 761-4595
 Fax: 202 761-4150

Email: thaddeus.j.rugeil@hq02.usace.army.mil

RIN: 0710-AA50**848. REGULATORY PROGRAM OF THE ARMY CORPS OF ENGINEERS AND HISTORIC PROPERTIES****Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413**CFR Citation:** 33 CFR 325**Legal Deadline:** None

Abstract: In 1990, the Corps published its final regulations regarding the protection of historic properties and compliance with the National Historic Preservation Act (NHPA) and other historic preservation laws. Since those final regulations were published, the NHPA was amended in 1992, and the Advisory Council on Historic Preservation's implementing regulations at 36 CFR 800 have been revised substantially. The Corps will revise appendix C of 33 CFR 325 to conform to its regulations to the NHPA, as amended.

Timetable:

Action	Date	FR Cite
NPRM	01/00/04	
NPRM Comment Period End	03/00/04	
Final Action	12/00/04	
Final Action Effective	02/00/05	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3E76), 441 G Street NW, Washington, DC 20314-1000
 Phone: 202 761-4598
 Fax: 202 761-4150

Email: david.b.olson@hq02.usace.army.mil

RIN: 0710-AA51

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

849. NATURAL DISASTER PROCEDURES: PREPAREDNESS, RESPONSE, AND RECOVERY ACTIVITIES OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 701

CFR Citation: 33 CFR 203

Legal Deadline: None

Abstract: This revision of 33 CFR 203 is necessary to reflect current policy, add features required by the Water Resources Development Act of 1996 (Pub. L. 104-303), and streamline certain procedures concerning Corps authority for disaster preparedness, response, and recovery activities. Public Law 104-303 additions are the option of a nonstructural alternative to structural levee repairs for damage caused by flood events and the provision of a levee owners' manual. Other changes include a change in the cost share provision for rehabilitation of Federal and non-Federal flood control works, expansion of investigation ability for potential Advance Measures work, and a streamlined approach for requests for assistance from Native American tribes and Alaska Native Corporations.

Timetable:

Action	Date	FR Cite
NPRM	02/26/02	67 FR 8748
NPRM Comment Period End	04/29/02	
Final Action	11/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected:

Undetermined

Agency Contact: George Gilmore, Program Manager, Public Law 84-99, Department of Defense, U.S. Army Corps of Engineers, CECW-OE (3F68), 441 G Street NW, Washington, DC 20314-1000
 Phone: 202 761-4561
 Fax: 202 761-1685
 Email: robert.k.grubbs@usace.army.mil
RIN: 0710-AA47

850. PROGRAMMATIC REGULATIONS FOR THE COMPREHENSIVE EVERGLADES RESTORATION PLAN

Regulatory Plan: This entry is Seq. No. 33 in part II of this issue of the **Federal Register**.

RIN: 0710-AA49

851. • CIVIL MONETARY PENALTY INFLATION ADJUSTMENT RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 33 USC 1319; 33 USC 2104; 28 USC 2461; PL 104-134

CFR Citation: 33 CFR 326.6

Legal Deadline: None

Abstract: The U.S. Army Corps of Engineers (Corps) is proposing to amend its regulations to adjust its Class I civil penalties under the Clean Water Act and the National Fishing Enhancement Act. The adjustment of civil penalties to account for inflation is required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. Since we have not

made any adjustments to our Class I civil penalties, we are proposing to make the initial 10 percent increase under this Act. The proposed adjusted Class I civil penalty under the Clean Water Act will not exceed \$11,000 per violation, with a maximum civil penalty amount of \$27,500. Under the National Fishing Enhancement Act, the proposed adjusted Class I civil penalty will not exceed \$11,000 per violation. Increasing the maximum amounts of the Class I civil penalties to account for inflation will maintain the deterrent effects of those penalties.

Timetable:

Action	Date	FR Cite
NPRM	08/20/03	68 FR 50108
NPRM Comment Period End	10/06/03	
Final Action	03/00/04	
Final Action Effective	04/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information:

www.usace.army.mil/inet/functions/cw/cecwo/reg/

Agency Contact: David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3E76), 441 G Street NW, Washington, DC 20314-1000
 Phone: 202 761-4598
 Fax: 202 761-4150
 Email: david.b.olson@hq02.usace.army.mil
RIN: 0710-AA54

Department of Defense (DOD)
U.S. Army Corps of Engineers (COE)

Long-Term Actions

852. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 325

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thaddeus J. Rugiel

Phone: 202 761-4595
 Fax: 202 761-4150
 Email: thaddeus.j.rugiel@hq02.usace.army.mil
RIN: 0710-AA43

853. COST-SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISIONS

Priority: Substantive, Nonsignificant

CFR Citation: 33 CFR 241

Timetable: Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Harry M. Shoudy
 Phone: 202 761-4612
 Email: harry.m.shoudy@hq02.usace.army.mil
RIN: 0710-AA44

DOD—COE

Long-Term Actions

854. • SPECIAL EVENTS RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 16 USC 460(l)

CFR Citation: 36 CFR 327

Legal Deadline: None

Abstract: The U.S. Army Corps of Engineers (Corps) may propose to amend its special events program regulations at 36 CFR 327.21 to better define the special events program at Corps of Engineers water resources projects. Special events may be held at any Corps of Engineers water resources

project provided a permit is obtained by the sponsor in advance of the event. The proposed rule would define what constitutes a special event and when a permit is required to hold an event at a Corps water resources project. This proposed rule would contain new definitions, outline when a fee may be charged to hold an event, describe permitting procedures, and include a sample permit application, event permit, and permit checklist.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Agency Contact: Ms. Judy Rice, Department of Defense, U.S. Army Corps of Engineers, Natural Resources Branch (CECW-ON), 441 G Street NW, Washington, DC 20314
Phone: 202 761-4751

RIN: 0710-AA53

Department of Defense (DOD)

U.S. Army Corps of Engineers (COE)

Completed Actions

855. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 320 to 331

Legal Deadline: None

Abstract: The Corps of Engineers intends to make numerous clarifications to its existing regulations at 33 CFR 320 to 331 to consolidate all permit regulations into one document and to reorganize 33 CFR 325 for clarity. Since the Corps Regulatory Program final regulations were published in the Federal Register on November 13, 1986 (51 FR 41206), there has been a need to clarify several of those provisions. Since 1986, the Corps has adopted two new appendices at 33 CFR 325, appendices B and C, and the Corps has also adopted revisions to the Nationwide Permit Program (33 CFR 330), Class 1 Administrative Civil Penalties (33 CFR 326), and revisions to the definition of discharge of Dredged Material and Fill Material and prior converted croplands. This rulemaking will consolidate all recent changes in one place.

Timetable:

Action	Date	FR Cite
Withdrawn	09/02/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thaddeus J. Rugiel, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3G65), 441 G Street NW, Washington, DC 20314-1000
Phone: 202 761-4595
Fax: 202 761-4150
Email: thaddeus.j.rugiel@hq02.usace.army.mil

RIN: 0710-AA30

856. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS—WETLAND DELINEATOR CERTIFICATION PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 33 USC 1344

CFR Citation: 33 CFR 320; 33 CFR 323; 33 CFR 325; 33 CFR 328; 33 CFR 333

Legal Deadline: None

Abstract: The regulation establishes the procedures for certification under the Corps of Engineers Wetland Delineator Certification Program developed pursuant to section 307(e) of the Water Resources Development Act of 1990.

Timetable:

Action	Date	FR Cite
NPRM	03/14/95	60 FR 13654
NPRM Comment Period End	04/13/95	
Withdrawn	09/02/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Thaddeus J. Rugiel, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3G65), 441 G Street NW, Washington, DC 20314-1000
Phone: 202 761-4595
Fax: 202 761-4150
Email: thaddeus.j.rugiel@hq02.usace.army.mil

RIN: 0710-AA38

Department of Defense (DOD)
Department of the Navy (NAVY)

Final Rule Stage

857. POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 44502

CFR Citation: 32 CFR 775 (Revision)

Legal Deadline: None

Abstract: The Department of the Navy is revising its regulations, which establish the responsibilities and procedures for complying with the

National Environmental Policy Act (NEPA). This revision clarifies when certain Department of the Navy actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/09/99	64 FR 37069
NPRM Comment Period End	09/07/99	
Final Action	12/00/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Tom Egeland, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Installations and Environment), 2000 Navy Pentagon, Washington, DC 20350
 Phone: 703 614-1173

RIN: 0703-AA51

Department of Defense (DOD)
Department of the Navy (NAVY)

Long-Term Actions

858. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS

Priority: Substantive, Nonsignificant

CFR Citation: 48 CFR 5231 (New)

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/22/97	62 FR 66826

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	12/22/97	
Interim Final Rule Comment Period End	02/20/98	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Clarence Belton
 Phone: 703 693-4006
 Email: belton.clarence@hq.navy.mil

RIN: 0703-AA50

Department of Defense (DOD)
Department of the Navy (NAVY)

Completed Actions

859. USE OF DEPARTMENT OF THE NAVY AVIATION FACILITIES BY OTHER THAN UNITED STATES DEPARTMENT OF DEFENSE AIRCRAFT

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 1507

CFR Citation: 32 CFR 766

Legal Deadline: None

Abstract: This part establishes the policy and procedures for the use of Navy and Marine Corps aviation facilities by aircraft other than United States Department of Defense aircraft.

Timetable:

Action	Date	FR Cite
NPRM	12/01/94	59 FR 61561
NPRM Comment Period End	01/03/95	
Withdrawn	09/03/03	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Dan Bartlett, Department of Defense, Department of the Navy, N885F, Office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350-2000
 Phone: 703 604-7707
 Fax: 703 604-6969

RIN: 0703-AA48

Department of Defense (DOD)
Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

860. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule establishes a new payment method for ambulatory care (other than ambulatory surgery) provided by hospitals to CHAMPUS beneficiaries under which payment amounts would be based on the cost of the service rather than on the billed charge as at present.

Timetable:

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

DOD—DODOASHA

Final Rule Stage

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Lillie,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 703 681-3628

Email: steve.lillie@tma.osd.mil

RIN: 0720-AA20

861. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: Currently, any individual who is a civilian employee of the United States Government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than 20 hours per week. Second, the Agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the Agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

Timetable:

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Stephen Isaacson,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 303 676-3572

Email: stephen.isaacson@tma.osd.mil

RIN: 0720-AA41

862. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROSTHETIC DEVICES

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule implements section 702 of the National Defense Authorization Act for Fiscal Year 1998 (Pub. L. 105-85), which authorizes purchase of prosthetic devices, as determined by the Secretary of Defense, to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease. The Act changes the existing limited provisions for prosthetic devices, expands coverage to include cost sharing of other prostheses; e.g., noses, ears, and fingers.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/20/99	64 FR 45453
Interim Final Rule	08/20/99	64 FR 45453
Interim Final Rule Comment Period End	10/19/99	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Margaret Brown,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 303 676-3581

Fax: 303 676-3579

Email: margaret.brown@tma.osd.mil

RIN: 0720-AA49

863. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); DOUBLE COVERAGE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule clarifies our double coverage policy for non-institutional claims for beneficiaries with primary health insurance. TRICARE network, non-network but participating, and non-participating providers are all reimbursed differently under current procedures. This has had the unintended effect of discouraging TRICARE network participation since non-network but participating providers receive the most favorable treatment with respect to double coverage calculations. The Department proposes to revise double coverage reimbursement calculations by reimbursing all providers up to 100 percent of the CHAMPUS Maximum Allowable Charge after the primary health insurance has paid, or 115 percent for nonparticipating providers.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32451
NPRM Comment Period End	08/16/99	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: LTC Kathleen Larkin,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 703 681-3628

Email: kathleen.larkin@tma.osd.mil

RIN: 0720-AA50

864. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ESTABLISHMENT OF AN APPEALS PROCESS FOR TRICARE CLAIMCHECK DENIALS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

DOD—DODOASHA

Final Rule Stage

CFR Citation: 32 CFR 199**Legal Deadline:** None

Abstract: This rule implements section 714 of the National Defense Authorization Act for FY 1999, which requires the establishment of an appeals process for denials by TRICARE Claimcheck (TCC) or any similar software system. This rule enhances the current appeals process by adding an additional level of appeal conducted at the TRICARE Management Activity (TMA) and by codifying the entire process in this part.

Timetable:

Action	Date	FR Cite
NPRM	01/13/00	65 FR 2085
NPRM Comment Period End	03/13/00	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Donald Wagner, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 303 676-3411

RIN: 0720-AA56

865. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); METHODOLOGY FOR COVERAGE OF NIH-SPONSORED CLINICAL TRIALS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule modifies the general prohibition against CHAMPUS cost-sharing of unproven drugs, devices, and medical treatments or procedures by adding a provision allowing a waiver of the prohibition in connection with clinical trials sponsored by the National Institutes of Health, if it is determined that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.

Timetable:

Action	Date	FR Cite
NPRM	05/31/00	65 FR 34627
NPRM Comment Period End	07/31/00	
Final Rule	01/31/01	66 FR 8365
Final Rule Withdrawn	02/07/01	66 FR 9199
Final Rule Effective	03/02/01	66 FR 8365
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Federalism: Undetermined

Agency Contact: Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 703 681-3628
Email: steve.lillie@tma.osd.mil

RIN: 0720-AA57

866. CHAMPUS/TRICARE; IMPLEMENTATION OF THE PHARMACY BENEFITS PROGRAM

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule is designed to implement section 701 of the National Defense Authorization Act for Fiscal Year 2000. This rule establishes procedures for the inclusion of pharmaceutical agents on a Uniform Formulary based upon relative clinical effectiveness and cost effectiveness; establishes cost-sharing requirements, including a tiered co-payment structure, for generic, formulary and non-formulary pharmaceutical agents; establishes procedures to assure the availability of pharmaceutical agents not included on the Uniform Formulary to eligible beneficiaries at the non-formulary cost-share tier; establishes procedures to receive pharmaceutical agents not included on the Uniform Formulary, but considered clinically necessary, under the same terms and conditions as an agent on the Uniform Formulary; establishes procedures to assure the availability of clinically appropriate non-formulary pharmaceutical agents to members of the Uniformed Services; establishes procedures for prior authorization

when required; and establishes a Department of Defense Pharmacy and Therapeutics Committee (DoD P&T Committee) and a Uniform Formulary Beneficiary Advisory Panel. Other administrative amendments are also made to clarify specific policies that relate to the program.

Timetable:

Action	Date	FR Cite
NPRM	04/12/02	67 FR 17948
NPRM Comment Period End	06/11/02	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Mike Kottyan, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 303 676-3520

RIN: 0720-AA63

867. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES; INDIVIDUAL CASE MANAGEMENT PROGRAM FOR PERSONS WITH EXTRAORDINARY CONDITIONS (ICMP-PEC)

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: The Department of Defense proposes to amend its regulations of the Individual Case Management Program (ICMP) to implement requirements stipulated by section 703 of the Fiscal Year 2000 National Defense Authorization Act, section 8118 of the Fiscal Year 2000 Defense Appropriations Act, section 701 of the Fiscal Year 2001 National Defense Authorization Act, and section 8100 of the Fiscal Year 2001 Defense Appropriations Act. Other administrative amendments are also proposed to clarify specific policies that relate to the program.

Timetable:

Action	Date	FR Cite
NPRM	08/01/01	66 FR 39699
NPRM Comment Period End	10/01/01	

DOD—DODOASHA

Final Rule Stage

Action	Date	FR Cite
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No**Government Levels Affected:** None

Agency Contact: Mary Stockdale, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 703 681-0039

RIN: 0720-AA65

868. TRICARE; PRIME REMOTE FOR ACTIVE DUTY FAMILY MEMBERS**Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule implements 10 U.S.C. 1079(p), as added by section 722(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. This rule provides coverage for medical care for active-duty family members who reside with an active-duty member of the Uniformed Services assigned to remote areas and eligible for the program known as TRICARE Prime Remote. Active-duty family members who enroll in TRICARE Prime Remote for Active-Duty Family Members (TPRADFM) will enjoy benefits generally comparable to TRICARE Prime enrollees including access standards, benefit coverage, and cost-shares.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/06/02	67 FR 5477
Interim Final Rule Comment Period End	04/08/02	
Interim Final Rule Effective	04/08/02	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No**Government Levels Affected:** None

Agency Contact: LCDR Robert Styron, Department of Defense, Office of Assistant Secretary for Health Affairs,

1200 Defense Pentagon, Washington, DC 20301

Phone: 703 681-0064

RIN: 0720-AA68

869. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); VOLUNTARY DISENROLLMENT FROM THE TRICARE RETIREE DENTAL PROGRAM (TRDP)**Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule implements section 726 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, which amended 10 U.S.C. 1076c to allow for voluntary disenrollment from the TRICARE Retiree Dental Program in certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	01/30/02	67 FR 4375
NPRM Comment Period End	04/01/02	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No**Government Levels Affected:** None

Agency Contact: Linda Winter, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 303 676-3682

RIN: 0720-AA69

870. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS): ENURETIC DEVICES, BREAST RECONSTRUCTIVE SURGERY, PFPWD VALID AUTHORIZATION PERIOD, EARLY INTERVENTION SERVICES**Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule removes the exclusion of enuresis alarms, corrects

contradictory language as it relates to breast reconstructive surgery, changes the valid period of an authorization for services and items under the Program for Persons with Disabilities, implements section 640 of Public Law 105-17, which establishes the CHAMPUS payment relationship for IDEA part C and items, and revises a statement to the paragraph at 32 CFR 199.4(g)(15)(i)(D).

Timetable:

Action	Date	FR Cite
NPRM	11/15/00	65 FR 68957
NPRM Comment Period End	01/16/01	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No**Government Levels Affected:** None

Agency Contact: Margaret Brown, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 303 676-3581
Fax: 303 676-3579
Email: margaret.brown@tma.osd.mil

Mike Kottyan, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 303 676-3520

RIN: 0720-AA70

871. TRICARE; WAIVER OF CERTAIN TRICARE DEDUCTIBLES; CLARIFICATION OF THE TRICARE PRIME ENROLLMENT PERIOD**Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule implements section 714 of the National Defense Authorization Act for Fiscal Year 2000, which authorizes the Secretary of Defense to waive the TRICARE deductible in certain cases for care provided to a dependent of a member of a Reserve Component or the National Guard who is called to active duty for more than 30 days but less than 1 year. In implementing this rule, we are limiting this to Reserve Component and National Guard members called to

DOD—DODOASHA

Final Rule Stage

active duty in support of contingency operations. The term “contingency operations” is defined at 10 U.S.C. 101(a)(13). This rule also establishes circumstances under which eligible beneficiaries may enroll in TRICARE Prime for a period of less than 1 year.

Timetable:

Action	Date	FR Cite
NPRM	04/18/02	67 FR 19141
NPRM Comment Period End	06/17/02	
Interim Final Rule	07/31/03	68 FR 44882
Interim Final Rule Effective	09/29/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 303 676-3572

Email: stephen.isaacson@tma.osd.mil

RIN: 0720-AA72

872. TRICARE; SUB-ACUTE CARE PROGRAM; UNIFORM SKILLED NURSING FACILITY BENEFIT; HOME HEALTH CARE BENEFIT; ADOPTING MEDICARE PAYMENT METHODS FOR SKILLED NURSING FACILITIES AND HOME HEALTH CARE PROVIDERS

Priority: Other Significant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule partially implements the TRICARE “sub-acute and long-term care program reform” enacted by Congress in the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, specifically: (1) Establishment of “an effective, efficient, and integrated sub-acute care benefits program,” with skilled nursing facility and home health care benefits modeled after those of the Medicare Program; (2) adoption of Medicare payment methods for skilled nursing facility, home health care, and certain other institutional health care providers; (3) adoption of Medicare rules on balance billing of beneficiaries, prohibiting it by institutional providers

and limiting it by non-institutional providers; and (4) change in the statutory exclusion of coverage for custodial and domiciliary care.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/13/02	67 FR 40597
Interim Final Rule Comment Period End	08/12/02	
Interim Final Rule Effective	08/12/02	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

Agency Contact: David E. Bennett, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 303 676-3494

Email: david.bennett@tma.osd.mil

RIN: 0720-AA73

873. TRICARE; CHAMPUS; APPEALS AND HEARINGS PROCEDURES, FORMAL REVIEW

Priority: Info./Admin./Other

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This rule makes administrative corrections to 32 CFR part 199, section 199.10, “Appeal and Hearing Procedures.” These corrections include revising section 199.10, adding paragraphs (c)(1) through (c)(5), and making other minor editorial changes. Paragraphs (c)(1) through (c)(5) were inadvertently omitted when the July 1, 1991, edition of title 32 of the CFR was published. The discovery that the formal review process was missing from section 199.10 occurred at the time TRICARE was tasked to promulgate an appeal process for TRICARE Claimcheck denials. This correction to section 199.10 is necessary to provide the required procedures to any party to an initial determination or reconsideration made by the CHAMPUS contractor and who may want to request formal review.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective	05/01/83	
Interim Final Rule Effective	05/01/83	
Correction	03/13/03	68 FR 11973
Interim Final Rule	03/13/03	68 FR 11973
Interim Final Rule	03/31/03	68 FR 15372
Interim Final Rule Comment Period End	05/12/03	68 FR 11973
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Gail L. Jones, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 303 676-3401

RIN: 0720-AA74

874. TRICARE PROGRAM; SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN OVERSEAS

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 55; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: In the National Defense Authorization Act for Fiscal Year 2000, Congress mandated that the Department establish and fund a program to provide a special supplemental food and nutrition education program to eligible low-income families overseas whose members have been determined to be at nutritional risk. This program is known as the Women, Infants, and Children Overseas (WIC Overseas) program. This interim final rule implements section 674 of this act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/03	68 FR 43299
Interim Final Rule Comment Period End	09/22/03	
Interim Final Rule Effective	10/01/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis

Required: No

DOD—DODOASHA

Final Rule Stage

Small Entities Affected: No**Government Levels Affected:** None

Agency Contact: Danita Hunter,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301
Phone: 703 681-0039

RIN: 0720-AA75

875. TRICARE PROGRAM; INCLUSION OF ANESTHESIOLOGIST'S ASSISTANTS AS AUTHORIZED PROVIDERS; COVERAGE OF CARDIAC REHABILITATION IN FREESTANDING CARDIAC REHABILITATION FACILITIES

Priority: Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule establishes a new category of provider as an authorized TRICARE provider, and it increases the settings where cardiac rehabilitation can be covered as a TRICARE benefit. It recognizes anesthesiologist's assistants as authorized providers under certain circumstances. It also authorizes cardiac rehabilitation services, which are already a covered TRICARE benefit when provided by hospitals, to be provided in freestanding cardiac rehabilitation facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/03/03	68 FR 16247
NPRM Comment Period End	06/02/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Stephen Isaacson,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301
Phone: 303 676-3572
Email: stephen.isaacson@tma.osd.mil

RIN: 0720-AA76

876. TRICARE; CHANGES INCLUDED IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002 (NDAA-02) AND A TECHNICAL CORRECTION INCLUDED IN THE NDAA-03

Priority: Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule proposes several changes to the TRICARE program that were enacted by Congress in the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02), Public Law 107-107 (December 28, 2001). Specifically, (1) revisions to the definition of durable medical equipment (DME); (2) adoption of the same pricing methods for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) as are in effect for the Medicare program; (3) clarification that rehabilitative therapy is a TRICARE benefit; (4) addition of augmentative communication devices (ACD)/speech generating devices (SGD) as a TRICARE benefit; (5) addition of hearing aids for family members of active duty members as a TRICARE benefit; (6) revisions to the definition of prosthetics; (7) permanent authority for transitional health care for certain members separated from active duty; and (8) revisions to the time period of eligibility for transitional health care. This rule also addresses a technical correction found in section 706 of the National Defense Authorization Act for Fiscal Year 2003 (NDAA-03), Public Law 107-62, relating to transitional health care for dependents of certain members separated from active duty.

Timetable:

Action	Date	FR Cite
NPRM	04/16/03	68 FR 18575
NPRM Comment Period End	06/16/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Ann N. Fazzini,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 303 676-3803

RIN: 0720-AA77

877. • TRICARE: INDIVIDUAL CASE MANAGEMENT: PROGRAM FOR PERSONS WITH DISABILITIES: EXTENDED BENEFITS FOR DISABLED FAMILY MEMBERS OF ACTIVE DUTY SERVICE MEMBERS: CUSTODIAL CARE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 5 USC 301; 10 USC chapter 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: The Department is publishing this rule to implement requirements enacted by Congress in section 701(g) of the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02), Public Law 107-107, which terminates the Individual Case Management Program. The Department withdraws its proposed rule published at 66 FR 39699 to 39705, August 1, 2001, regarding the Individual Case Management Program. This rule also implements section 701(b) of the NDAA-02, which provides additional benefits for certain eligible active duty dependents by amending the TRICARE regulations at 32 CFR 199.5 governing the Program for Persons With Disabilities. The Program for Persons With Disabilities will now be called the Extended Care Health Option. Other administrative amendments are included to clarify specific policies that relate to the Extended Care Health Option, custodial care, and to update related definitions.

Timetable:

Action	Date	FR Cite
NPRM	08/06/03	68 FR 46526
NPRM Comment Period End	10/06/03	
Final Action	11/00/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Mike Kottyan,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

DOD—DODOASHA

Final Rule Stage

Phone: 303 676-3520

RIN: 0720-AA78

878. • TRICARE; ELIMINATION OF NONAVAILABILITY STATEMENT AND REFERRAL AUTHORIZATION REQUIREMENTS AND ELIMINATION OF SPECIALIZED TREATMENT SERVICES PROGRAM**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.**Legal Authority:** 5 USC 301; 10 USC chapter 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: This rule implements section 735 of the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02) (Pub. L. 107-107). It also implements section 728 of the National Defense Authorization Act for Fiscal Year 2001 (NDAA-01) (Pub. L. 106-398). Section 735 of NDAA-02 eliminates the requirement for TRICARE Standard beneficiaries who live within a 40-mile radius of a military medical treatment facility (MTF) to obtain a nonavailability statement (NAS) or preauthorization from an MTF before receiving inpatient care (other than mental health services) or maternity care from a civilian provider in order that TRICARE will cost-share for such services. Further, this section eliminates the NAS requirement for specialized treatment services (STSs) for TRICARE Standard beneficiaries who live outside the 200-

mile radius of a designated STS facility. This rule portrays the Department's decision to eliminate the STS program entirely. Finally, section 728 of NDAA-01 requires that prior authorization before referral to a specialty care provider that is part of the contractor network be eliminated under any new TRICARE contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/03	68 FR 44878
Interim Final Rule Comment Period End	09/29/03	68 FR 44879
Final Action	11/00/03	
Interim Final Rule Effective	12/28/03	
Final Action Effective	01/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Tariq Shahid, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 303 676-3801

RIN: 0720-AA79

879. • TRICARE; CHANGES INCLUDED IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003 (NDAA-03)**Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC chapter 55

Year 2001. Section 712 extends TRICARE eligibility to persons age 65 and over who would otherwise have lost their TRICARE eligibility due to attainment of entitlement to hospital insurance benefits under Part A of Medicare. In order for these individuals to retain their TRICARE eligibility, they must be enrolled in the supplementary medical insurance program under Part B of Medicare. In general, in the case of medical or dental care provided to these individuals for which payment may be made under both Medicare and TRICARE, Medicare is the primary payer and TRICARE will normally pay the actual out-of-pocket costs incurred

CFR Citation: 32 CFR 199**Legal Deadline:** None

Abstract: This interim final rule contains several provisions found in the NDAA-03. Specifically, (1) eliminating the requirement for TRICARE preauthorization of inpatient mental health care for Medicare-eligible beneficiaries where Medicare is primary payer and has already authorized the care; (2) using Medicare certification of individual professional providers as sufficient documentation to also certify individual professional providers under TRICARE; and (3) expanding the TRICARE Dental Program eligibility for dependents of deceased members.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/03	
Interim Final Rule Effective	01/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Ann N. Fazzini, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301
Phone: 303 676-3803

RIN: 0720-AA85

Department of Defense (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Completed Actions

880. TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ELIGIBILITY AND PAYMENT PROCEDURES FOR CHAMPUS BENEFICIARIES AGE 65 AND OVER**Priority:** Economically Significant. Major under 5 USC 801.**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** Final, Statutory, October 1, 2001, Final.

Abstract: This rule implements section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal

by the person. This rule prescribes TRICARE payment procedures and makes revisions to TRICARE rules to accommodate Medicare-eligible CHAMPUS beneficiaries. The Department is publishing this rule as an interim final rule in order to meet the statutorily required effective date.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/03/01	66 FR 40601
Interim Final Rule Effective	10/01/01	
Interim Final Rule Comment Period End	10/02/01	

DOD—DODOASHA

Completed Actions

Action	Date	FR Cite
Final Action	04/30/03	68 FR 23030
Correction	05/30/03	68 FR 32361
Final Action Effective	10/01/03	68 FR 23031

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal

Agency Contact: Stephen Isaacson,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 303 676-3572

Email: stephen.isaacson@tma.osd.mil

RIN: 0720-AA66**881. • TRICARE; COORDINATION OF BENEFITS BETWEEN TRICARE AND THE DEPARTMENT OF VETERANS AFFAIRS****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC chapter 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

Abstract: Under current rules, beneficiaries who are eligible for both TRICARE and the Veterans Administration benefits may use only one program for care but cannot use both at the same time. This rule changes that policy to establish a Veterans Administration benefits as double coverage under TRICARE, so that beneficiaries may use TRICARE benefits to augment or replace services being provided through the Veterans Administration.

Timetable:

Action	Date	FR Cite
NPRM	08/19/03	68 FR 49732
NPRM Comment Period End	10/20/03	
Withdrawn	08/28/03	68 FR 51705

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** No**Government Levels Affected:** None

Agency Contact: Stephen Isaacson,
Department of Defense, Office of
Assistant Secretary for Health Affairs,
1200 Defense Pentagon, Washington,
DC 20301

Phone: 303 676-3572

Email: stephen.isaacson@tma.osd.mil

RIN: 0720-AA86

[FR Doc. 03-25124 Filed 12-19-03; 8:45 am]

BILLING CODE 5001-08-S