

Department of Defense Retrospective Review Plan Report
January 9, 2012

Agency/ Sub- agency	RIN/ OMB Control Number	Title Of Initiative/ Rule/ICR	Brief Description	Actual or Target Completion Date	Anticipated savings in costs &/or burdens, & anticipated changes in benefits	Progress updates and anticipated accomplishments	Notes
DoD/ COE	0710- AA71	2012 Nationwide Permits Reissuance	Section 404(e) of the Clean Water Act authorizes USACE to develop general permits, including nationwide permits (NWP), for minor activities in waters of the U.S. for a period of five years. Accordingly, every five years, USACE undergoes a reauthorization process for the NWP Program and includes a public notice and provides an opportunity for public hearing. Comments for the NWP Program are submitted during the reauthorization process. Therefore, USACE periodically reviews this significant rule. We also solicit comments on additional ways in which the NWP reauthorization process may be improved.	January 2012 and then every five years.	Nationwide permits (NWP) help relieve regulatory burdens on applicants who need to obtain DA permits; an expedited form of authorization, as long as the project proponent meets all terms and conditions of the NWP. The costs for obtaining coverage under an NWP are low compared to the standard permit. The administrative costs for USACE range from \$1,800 to \$3,275 for an NWP and \$4,400 to \$22,240 for a standard permit; and the costs for the applicant range from \$13,100 to \$22,079 for an NWP and \$31,400 to \$57,180 for a standard permit.	On target for January 2012 publication.	
DoD/ COE	0710- AA60	Nationwide Permit Program	The Corps proposes to revise its Nationwide Permit Program regulations at 33 CFR part 330 to address changes in regulatory procedures and policy that have occurred since those regulations were last revised in 1991. The	End of 2012.	The effort will reduce burdens on permittees by clarifying that only one NWP verification is needed every five years. Also provides simplicity and clarity to the	Proposed rule published in 2004. Draft Final rule submitted to DoD Regulatory Policy Officer	

Department of Defense Retrospective Review Plan Report
January 9, 2012

			Corps proposes to revise the regulation to increase the pre-construction notification review period to 45 days, to be consistent with the current nationwide permits. The Corps also proposes to amend the regulation to allow district engineers to issue verification letters that can have the same expiration date as the nationwide permit.		regulated public.	for approval in November 2011.	
DoD/ COE		Defining the Term "Waters of the United States"	The rule is expected to establish categories of waters and wetlands that are jurisdictional by rule; other categories of waters and wetlands will require a case-specific analysis and finding of Clean Water Act jurisdiction. By declaring certain categories of waters and wetlands to be jurisdictional by rule, there will be more certainty as to which activities require Department of Army permits. There will also be reduced delays for activities affecting those categories of waters and wetlands, since it will no longer be necessary to provide detailed case-specific documentation to determine Clean Water Act jurisdiction.	Ongoing effort; this is a joint rule with EPA. EPA is the lead agency for the effort and, as such, will decide when to submit to OMB.	Some anticipated costs will increase and some are anticipated to result in cost savings. The numbers of complex jurisdictional determinations should decrease resulting in a savings; however, more jurisdictional waters are anticipated which may result in an increase in permit applications and a cost increase. Overall, however, the clarity provided will improve the regulated public's understanding of which waters are regulated under the Clean Water Act.	Unknown; USEPA is the lead agency for the effort.	
DoD/ COE		Regulations Review	In accordance with the E.O., the USACE plan is to solicit comments on its Regulations to	Federal Register soliciting comments	The comments received in response to retrospective review	Federal Register soliciting comments	

Department of Defense Retrospective Review Plan Report
January 9, 2012

			<p>make the Regulatory Program more effective and less burdensome. The USACE Regulatory Program's regulations are found at 33 CFR parts 320–332 and 334. The current Regulations were published in the Federal Register on November 13, 1986 (51 FR 41206). These Regulations describe the fundamental procedures, policies, authorities, and guidelines of the U.S. Army Corps of Engineer's Regulatory Program. Since the 1986 Regulations were issued, parts of these Regulations have been modified and these are to be incorporated into one codified set of Regulations.</p>	<p>published on November 16, 2011 with closing date of January 17, 2012. Priorities identified in Summer 2012. Implementation will be ongoing.</p>	<p>may identify improvements to the Regulations to reduce the burden on the regulated public and make them easier to utilize.</p>	<p>published on November 16, 2011 with closing date of January 17, 2012. Publish Federal Register Notice summarizing comments received and identifying priorities published by Summer 2012. Implementation and status updates of identified priorities will be ongoing.</p>	
DoD/ DARS	0750- AH21	<p>Definition of "Qualifying Country End Product" DFARS Case 2011-D028</p>	<p>This rule amended the definition of "qualifying country end product" by eliminating the component test for qualifying country end products that are commercially available off-the-shelf items (COTS). DoD changed this definition as a matter of policy, to waive the component test for qualifying country end products that are COTS items, so it is not necessary to try to track the origin of components of COTS</p>	<p>10/04/2011</p>	<p>The rule affects manufacturers of COTS items in qualifying countries, removing an administrative burden for the qualifying country manufacturer and the Government personnel acquiring the items.</p>	<p>Final rule published at 76 FR 61282.</p>	<p>No domestic entities will be impacted by this rule.</p>

Department of Defense Retrospective Review Plan Report
January 9, 2012

			<p>items that are manufactured in a qualifying country, in order to determine that an end product is a qualifying country end product. DoD has determined that this rule is not excessively burdensome to the public, and is consistent with a determination signed by the Administrator for Federal Procurement Policy on February 14, 2008, regarding laws applicable to the acquisition of COTS items. The rule only affects manufacturers of COTS items in qualifying countries, removing an administrative burden for the qualifying country manufacturer and the Government personnel acquiring the items. The Regulatory Flexibility Act is intended to protect small entities in the United States, not foreign entities, regardless of size. The comparable change has already been enacted for the benefit of U.S. manufacturers of COTS items.</p>				
DoD/ DARS	0750- AH23	Inclusion of Option Amounts in Limitations on Authority of the Dept	<p>This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 826 of the National Defense Authorization Act for Fiscal Year 2011.</p>	06/08/2011	None.	Final rule published at 76 FR 33170.	This rule was administrative in nature clarifying that the \$50M threshold limit

Department of Defense Retrospective Review Plan Report
January 9, 2012

		of Defense to Carry Out Certain Prototype Projects DFARS Case 2011-D024	Section 826 amended the DoD pilot program for transition to follow-on contracting after use of other transaction authority. It increases Small Business participation.				for contracts and subcontracts includes the dollar value of all options.
DoD/DARS	0750-AH11	Only One Offer DFARS Case 2011-D013	This rule amends the Defense Federal Acquisition Regulation Supplement to address acquisitions in which only one offer is received. If less than 30 days was allowed for receipt of proposals, the contracting officer must re-solicit for an additional 30 days. If the solicitation allowed at least 30 days for receipt of proposals, then the contracting officer must conduct negotiations. Both of these requirements can be waived by the head of the contracting activity, without power of re-delegation. This rule was initiated to implement the initiative on promoting real competition that was presented by the Under Secretary of Defense for Acquisition, Technology & Logistics in a memorandum dated November 3, 2010. In support of this initiative, DoD is proposing to amend DFARS subparts 215.3 and 215.4. The rule affects only	June 2012	Some savings should accrue to the Government in achieving better prices.	Public comment period closed 10/07/2011; public comments being reviewed for consideration in drafting the final report and rule.	

Department of Defense Retrospective Review Plan Report
January 9, 2012

			those small entities that respond to a Federal competitive solicitation and no other offer is received. Any impact of this rule on small business is expected to be predominantly positive, by allowing more opportunity for competition.				
DoD/ DARS	0750- AH19	Accelerated Payments to Small Business DFARS Case 2011- D008	This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to accelerate payments to all small business concerns. Currently, DoD assists small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before normal payment due dates established in the contract. This rule proposes removal of the term "disadvantaged" from the language at DFARS 232.903 and DFARS 232.906(a)(ii) extending this assistance to all small business concerns. This will align the DFARS with the statutory language at 5 CFR 1315.5 and FAR 32.903, which allows agencies to authorize accelerated payment procedures for small businesses. Because the rule proposes to extend accelerated payment assistance to all small business concerns, a	11/18/2011	This rule is expected to have a positive economic impact on small entities by improving their cash flow.	Final rule published at 76 FR 71468.	

Department of Defense Retrospective Review Plan Report
January 9, 2012

			positive economic impact on small business is expected.				
DoD/ DARS	0750- AG62	Patents, Data, and Copyrights. DFARS Case 2010- D001	This rule revises the Defense Federal Acquisition Regulation Supplement (DFARS) part 227 to update and streamline the regulations relating to patents, data, and copyrights. This is a follow-on case to DFARS Case 2003-D049, Patents, Data, and Copyrights. The rule removes text and clauses that are obsolete or unnecessary; relocates and integrates the coverage for computer software and computer software documentation with the coverage for technical data to eliminate redundant coverage for these subjects while retaining the necessary distinctions; eliminates or combines the clauses associated with technical data and computer software, consistent with the revised and streamlined regulatory coverage; relocates, reorganizes, and clarifies the coverage for rights in works; and relocates to the DFARS companion resource, Procedures, Guidance, and Information (PGI), text that is not regulatory in nature and does not impact the public.	August 2012	None.	Public comment period closed 11/26/2010; public comments under review for consideration in drafting the final report and rule.	This case entails significant effort to rewrite DFARS Part 227.

Department of Defense Retrospective Review Plan Report
January 9, 2012

			Because the rule updates and clarifies DFARS text, but makes no significant change to DoD policy regarding patents, data, and copyrights, any economic impact is expected to be minimal.				
DoD/ DARS	0750- AH20	Electronic Ordering Procedures DFARS Case 2009- D037	This rule addresses electronic business procedures for placing orders. This rule adds a new clause in the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify this process and standardize issuance of orders via electronic means DoD currently has the capability to distribute orders electronically on a routine basis, and can post to a website that any contractor can access. In order to make this possible, the DFARS needs to provide language that will make those procedures a routine part of contract issuance. This will enable DoD to further the goals of the E-Government Act of 2002 (Pub. L. 107-347). The benefit of this rule to small business is that it will make electronic distribution procedures a routine part of order issuance. This change will ultimately help improve the management and promotion of electronic Government services	05/05/2011	Some savings will accrue from using standardized procedures for electronic distribution of documents.	Final rule published at 76 FR 25566.	

Department of Defense Retrospective Review Plan Report
January 9, 2012

			and processes, and will establish a framework to improve public access to Government information, and services.				
DoD/ DARS	0750- AG79	Multiyear Contracting DFARS Case 2009- D026	This rule updated and clarified the requirements of Defense Federal Acquisition Regulation Supplement (DFARS) subpart 217.1 relating to multiyear contracting. This Defense FAR Supplement case was initiated by DoD based on an internal DoD policy decision to perform a comprehensive review of DFARS subpart 217.1, Multiyear Contracting. This effort includes reorganizing existing coverage for multiyear acquisitions. Citations to the United States Code, relevant DoD regulations, and the Federal Acquisition Regulation, have been updated. No changes to existing DoD policy, including implementation of any statutorily mandated acquisition-related thresholds, were made in this rule. Because the rule did not change the existing requirements of subpart 217.1 and because these requirements are primarily internal procedures for DoD, any economic impact is expected to be minimal.	09/20/2011	None.	Final rule published at 76 FR 58152.	

Department of Defense Retrospective Review Plan Report
January 9, 2012

DoD/ OSD	0790- A177	Provision Of Early Intervention And Special Education Services To Eligible DoD Dependents	<p>This part implements policy, assigns responsibilities, and prescribes procedures for the:</p> <p>(1) Provision of early intervention services (EIS) to infants and toddlers with disabilities (birth through 2 years, inclusive) and their families, and special education and related services (hereafter referred to as “special services”) to children with disabilities (ages 3 through 21 years, inclusive) entitled to receive special services from the Department of Defense.</p> <p>(2) Implementation of a comprehensive, multidisciplinary program of EIS for infants and toddlers (birth through 2 years, inclusive) with disabilities, and their families.</p> <p>(3) Provision of a free, appropriate public education (FAPE) including special education and related services for children with disabilities enrolled in the DoD school systems, as specified in their Individualized Educational Programs (IEP).</p> <p>(4) Monitoring of DoD programs providing EIS, special education, and related services for compliance with</p>	May 2012	Undetermined at this time.	Revised rule has started the coordination process within the Department	
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Department of Defense Retrospective Review Plan Report
January 9, 2012

			<p>this part. (5) Establishment of a DoD Advisory Panel (DoD-AP) on Early Intervention, Special Education, and Related Services and a DoD Coordinating Committee (DoD-CC) on Early Intervention, Special Education, and Related Services.</p>				
DoD/ OSD	0790- AI84	National Defense Science And Engineering Graduate (NDSEG) Fellowships	<p>This part establishes guidelines for the award of National Defense Science and Engineering Graduate (NDSEG) Fellowships, as required by 10 U.S.C. 2191.</p>	End of 2012	Undetermined at this time	Revised rule has started the coordination process within the Department.	
DoD/ OSD	0790- AI85	Shelter For The Homeless Program	<p>This part implements 10 U.S.C. 2546 by establishing Department of Defense policy for the Department of Defense Shelter for the Homeless Program. The Secretary of a Military Department, or designee, may make military installations under his or her jurisdiction available for the furnishing of shelter to persons without adequate shelter in accordance with 10 U.S.C. 2546 and this part if he or she, or designee, determines that such shelter will not interfere with military preparedness or ongoing military functions.</p>	End of 2012	Undetermined at this time.	Amendment rule has started the coordination process within the Department.	
DoD/	0790-	Presentation	This part amplifies policy,	June 2012	Undetermined at this	Revised rule	

Department of Defense Retrospective Review Plan Report
January 9, 2012

OSD	AI75	Of DoD-Related Scientific And Technical Papers At Meetings	<p>assigns responsibilities, prescribes procedures, and provides guidance for consideration of national security concerns in the dissemination of scientific and technical information in the possession or under the control of the Department of Defense at conferences and meetings. It supports current policies regarding classified meetings and requirements for review of scientific and technical papers; provides guidance for reviewing and presenting papers containing export controlled DoD technical data; establishes procedures for containing DoD advice on independently produced scientific and technical papers; and provides criteria for identifying fundamental research activities performed under contract or grant that are excluded from review requirements.</p>		time.	has started the coordination process within the Department.	
DoD/ OSD	0790- AI73	Withholding Of Unclassified Technical Data From Public Disclosure	<p>This part establishes policy, prescribes procedures, and assigns responsibilities for the dissemination and withholding of technical data. In accordance with 10 U.S.C. 140c, the Secretary of Defense may withhold from public</p>	June 2012	Undetermined at this time.	Revised rule has started the coordination process within the Department.	

Department of Defense Retrospective Review Plan Report
January 9, 2012

			disclosure, notwithstanding any other provision of law, any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully without an approval, authorization, or license under E.O. 12470 or the Arms Export Control Act. However, technical data may not be withheld under this section if regulations promulgated under either the Order or Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.				
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