Department of Defense (DoD)

Preliminary Plan for Retrospective Analysis of Existing Rules

May 18, 2011

I. Executive Summary of Preliminary Plan and Compliance with Executive Order 13563

Executive Order 13563 recognizes the importance of maintaining a consistent culture of retrospective review and analysis throughout the executive branch. Before a rule has been tested, it is difficult to be certain of its consequences, including its costs and benefits. The Department of Defense's plan is designed to create a defined method and schedule for identifying certain significant rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Its review processes are intended to facilitate the identification of rules that warrant repeal or modification, or strengthening, complementing, or modernizing rules where necessary or appropriate.

The Department of Defense is committed to the principles of retrospective analysis in order to improve the effectiveness of the implementation of its regulations, improve transparency in the regulatory process through public participation, and to provide transparent documentation of its analysis.

The mission of the Department of Defense is to provide the military forces needed to deter war and to protect the security of our country. It is the largest Federal Department consisting of: three Military Departments (Army, Navy, and Air Force; the Marine Corps is part of the Department of the Navy); ten Unified Combatant Commands; and, over 1.4 million men and women on active duty, and over 700,000 civilian personnel. Another 1.1 million serve in the National Guard and Reserve forces.

The Department of Defense is not fundamentally a public regulatory agency. Because of its nature, composition, and size, DoD is affected by the regulations issued by other agencies, such as the Departments of Energy, Homeland Security, Health and Human Services, Veterans Affairs, and the Environmental Protection Agency. In turn, DoD's regulations frequently have at least an indirect effect on other agencies, the general public, and the national economy. Its regulations address: personnel policy and benefits; the military health care program for active duty and retired members and others entitled by law to DoD medical care; environmental and navigation activities of the Army Corps of Engineers; and, acquisition policy and guidance to facilitate the acquisition workforce in acquiring the equipment and services to support the warfighter and DoD's mission worldwide. DoD's regulations appear in the Code of Federal Regulations (CFR) under: title 32, National Defense; title 33, Navigation and Navigable Waters; title 36,

Parks, Forests, and Public Property, Chapter III; and title 48, Federal Acquisition Regulations System, Chapter II.

II. Scope of Plan

a. Subagencies within the Department which are included in this plan:

This plan applies to the Office of the Secretary (OSD), the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

The mission of the Department of Defense (DoD) is to ensure the security of the United States and areas of vital interest and to uphold and advance national policies and interests of the United States. The Department of Defense is not fundamentally a regulatory agency and it is not an agency having broad regulatory compliance and administrative enforcement responsibilities. DoD occasionally issues regulations that affect the public, but reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission, according to the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866, *Regulatory Planning and Review*.

The Department issues regulatory actions addressing statutory mandates affecting DoD policy and implementing issuances resulting from our national security mission, the Military Health System, the acquisition system, environmental protection, and the activities of the U. S. Army Corps of Engineers. The Department codifies its final rules in the code of Federal Regulations (CFR) under: title 32, National Defense; title 33, Navigation and Navigable Waters; title 36, Parks, Forests, and Public Property, Chapter III; and, title 48, Federal Acquisition Regulations System, Chapter II. The Department does not issue many economically significant regulations.

The majority of the Department's regulatory actions codified in title 32 of the CFR, result from DoD issuances originating within the Office of the Secretary (OSD), the principal staff used by the Secretary of Defense to exercise authority, direction, and control over the Department. Issuances range from DoD Directives, reflecting departmental policy that direct and limit DoD actions in

pursuit of its objectives, operations, and plans, to instructions and manuals that provide detailed procedures for implementing policy. [DoD Instruction 5025.01, *DoD Directives Program*[1], describes the issuance types and their purposes.] All types of issuances may result in a regulatory action. An issuance is required to be reviewed and published as a rulemaking as defined in DoD Administrative Instruction 102, *Office of the Secretary of Defense Federal Register System*[2]. For example, a rule is required if the issuance: grants a right or privilege to the public; requires a course of conduct that must be followed; imposes an obligation on the general public; or, describes procedures by which a DoD Component conducts its business with the public. These parameters uniformly do not result in economically significant regulations.

b. Check all the types of documents covered under this plan:

__X_ Existing regulations

____Significant guidance documents

____Existing information collections

____ Unfinished proposed rules

____ Other (Specify_____)

III. Public Access and Participation

On January 18, 2011, President Obama issued Executive Order (E.O.) 13563, "Improving Regulation and Regulatory Review" (76 *Federal Register* 3821). In response to the Executive Order and the resultant implementation guidance from the Office of Information and Regulatory Affairs, the Department of Defense (hereafter referred to as "the Department") engaged in the development of a preliminary plan for the retrospective analysis of regulations. On Friday, March 25, 2011 (76 *Federal Register* 16700)[3], the Department published a request for suggestions on how it might change, streamline, or

[1] Available online at: http://www.dtic.mil/whs/directives/corres/pdf/502501p.pdf

[2] Available online at: http://www.dtic.mil/whs/directives/corres/pdf/a102p.pdf

[3] Available online at: http://frwebgate2.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=RnMqC0/0/2/0&WAISaction=retrieve

repeal its regulations. Two comments were received in response to the request for information. The first— an internal comment regarding the consolidation of Departmental procurement guidance—was forwarded to the Defense Acquisition Regulations Directorate for consideration. The commenter recommended integrating the Defense Federal Acquisition Regulation Supplement (DFARS) and its companion resource, Procedures, Guidance, and Information (PGI), in order to increase visibility of current PGI information and requirements, and simplify and streamline use of the regulations.

The second submission came from the Institute for Policy Integrity, New York University School of Law, a self-described "non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy." The organization offered several recommendations for the Department to consider in developing procedural and substantive policies for conducting restrospective regulatory reviews:

- Retrospect reviews should avoid both deregulatory and pro-regulatory biases and should instead calibrate regulatory programs for improved efficiency and effectiveness.
- Agencies should use retrospective analysis to improve the quality of their prospective regulatory reviews.
- Agencies should adopt clear and publicly available guidelines for selecting rules to review.
- Retrospective analysis should include a thorough and balanced review of a rule's impacts, such as costs and benefits, distributional consequences, and other empirical effects.
- Agencies should design rules ex-ante so that they can be easily and effectively monitored and evaluated.
- Retrospective review should be transparent and actively seek public participation.
- Agencies should foster independent and ubiased retrospective analysis of existing rules by appointing a review team of personnel separate from the authors of the initial rule.

The Department accepts the broad suggestions on how to approach regulatory review and maximize its benefits. Included is the recommendation that retrospective reviews be conducted free of both deregulatory and pro-regulatory biases. This will ensure that the review is not centered on a binary determination of whether or not the regulation should be in place, and that a full-range of options will be considered including the adaptation of regulations to meet statutory obligations in cost-effective,

unitrusive ways. Other general recommendations include building accounting mechanisms into new regulations to facilitate retrospective review and using the empirical data gleaned from these reviews to more accurately conduct prospective regulatory reviews in the future.

Specific recommendations made by the Institute for Policy Integrity will be adopted by the Department as it implements its restrospective review program. Rather than create a fixed timetable mandating the review of certain regulations, the Department will establish guidelines for identifying and prioritizing regulations for which retrospective analysis would be most valuable. The criteria used in the discretionary approach to review will be communicated to stakeholders in order to increase transparency and allow for anticipation of future reviews. They will include identifying regulations that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Also, parts that warrant strengthening, complementing, or modernizing will be candidates for retrospective review.

The Department's restrospective review plan will provide for both quantitative and qualitative assessments of the regulation. In addition to a traditional cost-benefit analysis, the Department will consider the distributional impact of the regulation in order to better understand how the regulation functions in its broader environment and improve upon that relationship. In order for these conclusions to be unbiased, the teams conducting the retrospective analyses shall be insulated from political pressures. They shall also be separate from those who initially promulgated the rule. This will eliminate the potential for a subjective review in favor of the regulation as it was originally written.

Stakeholders will also be notified when the Department is considering a rule for restrospective review and if/when that review is initiated. The notification will take place through the regulatory docket as it appears on Regulations.gov. For a period following the initiation of the review, the public will be invited to comment on the existing regulation and its application. Upon completion of the review, the Department will post its evaluations to the docket in order to foster transparency and enhance the credibility of the review process.

The Department will continue to seek public input on the retrospective regulatory review process by publishing similar solicitations for comment in the *Federal Register*. These requests will publish concurrently with the annual Spring Unified Agenda of Federal Regulatory and Deregulatory Actions. The Department will invite the public to recommend changes to the review process and will seek consultation about existing rules. A minimum of 60 days will be used for the comment period. All suggestions will be considered and improvements shall be implemented when possible. The Department will

also continue to work with the public and business community to determine how its regulations can increase efficiency, transparency, and provide accountability.

The Department did not employ other means to reach out to the public for this initial effort. In the future we will use the E.O. 13563 Exchange on Regulations.gov to post information and seek comment, as well as DoD's Open Government Webpage.

IV. Current Agency Efforts Already Underway Independent of E.O. 13563

a. Summary of pre-existing agency efforts (independent of E.O. 13563).

In accordance with E.O. 12866, *Regulatory Planning and Review*, the Department developed a plan for the periodic review of its economically significant rules. The chronological parameters for the review were as follows:

1. Existing significant regulations would be reviewed at the rate of three per quarter, beginning with the second quarter in Fiscal Year 1994, and until such time as all existing significant regulations were reviewed;

2. Existing significant regulations having been initially reviewed in accordance with the plan would be subsequently reviewed at three year intervals thereafter; and,

3. Subsequently published significant regulations would be reviewed three years after their publication date and at three year intervals thereafter.

The review criteria used mirrored elements contained in Section 1 (b) of E.O. 12866. After the initial review the Department's regulatory entities scheduled reviews on an ad hoc basis consistent with program priorities.

b. Specific rules under consideration for retrospective analysis.

A list of specific rules subject to retrospective analysis will be developed with input from the DoD Components. Currently, the title 32 regulations coupled to DoD issuances that will be reviewed are identified in Attachment 1. The attached list of the Department's regulatory actions codified in title 32 of the CFR, result from DoD issuances originating within the Office of the Secretary (OSD), the principal staff used by the Secretary of Defense to exercise authority, direction, and control over the Department. Issuances range from DoD

Directives, reflecting departmental policy that direct and limit DoD actions in pursuit of its objectives, operations, and plans, to instructions and manuals that provide detailed procedures for implementing policy. An issuance is required to be reviewed and published as a rulemaking as defined in DoD Administrative Instruction 102, *Office of the Secretary of Defense Federal Register System*. For example, a rule is required if the issuance: grants a right or privilege to the public; requires a course of conduct that must be followed; imposes an obligation on the general public; or, describes procedures by which a DoD Component conducts its business with the public.

The review of these parts of title 32 will mirror the established schedule of the DoD Directives Program. An issuance is considered current when stated policies and information is current with Administration policy and has been revised or certified as current by the Head of the DoD Component within five years of the publication date. The parts identified in Attachment 1 fall outside of the established timeframe and must be reviewed. The issuance review is a special focus of interest from the Director, Administration and Management and the Office of the Secretary.

Rules already under consideration for retrospective analysis in title 48, Federal Acquisition Regulations System, Chapter II, are identified in Attachment 2. The criteria used to select regulations for review identify rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Parts that that warrant strengthening, complementing, or modernizing are also slated for review. Particular attention is paid as to whether these rules create barriers to entry or drive up the length or cost of the contracting process.

c. Regulatory burden reduction.

In an effort to reduce the burden on entities regulated under title 48, Federal Acquisition Regulations System, Chapter II, the following rules are either forthcoming or have recently been implemented:

1. DFARS Case 2011-D028, "Definition of 'Qualifying Country End Product'" - This rule will remove component test for COTS items that are qualifying country end products. It will require only the determination of country of origin of the COTS item, not the origin and value components of the COTS item. The Government-unique requirement to track where components are being manufactured imposes a severe administrative burden, especially on small business. It requires contractors to establish and maintain costly and labor intensive management systems. Tracking

the place of manufacture and component value is not necessary for the general origin labeling requirements generally applicable in the commercial marketplace. Tracking components adds complexity and cost to the delivery of goods to the Government.

2. DFARS Case 2011-D008, "Accelerate Small Business Payments"[4] - Currently, DoD assists small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before the normal payment due dates established in the contract. This rule removes the term "disadvantaged" from the language at DFARS 232.903 and DFARS 232.906(a)(ii), thereby extending this payment policy uniformly to all small business concerns, not just small disadvantaged businesses. Accelerating payments to all small businesses improves their cash flow and removes some of the burden of obtaining extra financing to maintain cash flow until payment is received from the Government. DoD estimates that approximately 60,000 small businesses will be positively affected by the use of accelerated payment procedures.

3. DFARS Case 2009-D037, "Electronic Ordering Procedures"[5] - This rule makes electronic distribution procedures a routine part of order issuance and establish a standard method for issuance of orders by electronic means. DoD currently has the capability to distribute orders electronically on a routine basis, and can post those orders centrally to a site any contractor can access. This rule enables DoD to further the goals of the E-Government Act of 2002, and make it easier for offerors/contractors to receive electronic orders. The benefit of this rule to small business is that it makes electronic distribution procedures a routine part of order issuance. This change will ultimately help improve the management and promotion of electronic Government services and processes and establish a framework to improve public access to Government information and services.

V. Elements of Preliminary Plan/Compliance with E.O. 13563

a. How does the agency plan to develop a strong, ongoing culture of retrospective analysis?

[4] Interim Final Rule published on April 27, 2011 (76 FR 23505) with an immediate effective date and is available online at: http://frwebgate3.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=yX3ch2/0/2/0&WAISaction=retrieve

[5] Direct Final Rule published on May 5, 2011 (76 FR 25566) with an immediate effective date and is available online at: http://frwebgate1.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=z7MIi0/0/2/0&WAISaction=retrieve

A new Department of Defense Instruction establishing policies and procedures addressing regulatory review and approval will be issued by September 30, 2011. This issuance will incorporate the principles of E.O. 13653 and guidance from the Office of Information and Regulatory Affairs. As the proponent for this issuance, the Director, Administration and Management, will encourage the use of retrospective analysis to improve the effectiveness of the Department's regulatory program and the efficacy of its regulatory actions. The Director hosts a senior administrative forum that provides a structured environment to coordinate and integrate OSD-wide administrative and management issues. The purpose of the forum is to improve the quality, effectiveness, and efficiency in common operational practices and areas of shared interest to the senior OSD staff, such as the regulatory process.

Retrospective analysis represents a collaborative effort of individuals and organizations within the Department of Defense. To that end, the Department's regulatory focal points will be tasked to appoint a senior analyst to participate in a working group responsible for coordinating their Component's retrospective analysis. This group will identify and formalize processes and tools to accomplish the analysis, including how best to engage the public in partnering in improving our regulations. A first step for this group, would define a prioritization process to review Departmental regulations that effectively manages resources and ensures independence.

b. Prioritization. What factors and processes will the agency use in setting priorities?

The Department will not use a mandatory timetable for review, but instead utilize a discretionary approach in selection determined by the functional programs issuing regulations. A General Accountability Office report, GAO-07-791, *Reexamining Regulations: Opportunities Exist to Improve Effectiveness and Transparency of Retrospective Reviews,* reported that agencies employing discretionary reviews were more productive and more likely to result in further action. Discretionary reviews are more likely to be responsive to current issues and public interest. The DoD Components will establish their own priorities and guidelines, as appropriate to the functional program and available resources. Component guidelines will be supplemented by guidelines developed from a working group that has yet to be formed. A focus on existing regulations that were considered economically significant at the time they were initially promulgated is one consideration, as are regulations that are of particular interest to the public. Criteria used to select regulations for review will identify rules that

are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Regulations that warrant strengthening, complementing, or modernizing will also be slated for review.

c. Initial list of candidate rules for review over the next two years.

See Attachment 1 for parts identified for review in title 32. See Attachment 2 for parts identified for review in title 48, Federal Acquisition Regulations System, Chapter II.

The Army Corps of Engineers will revise its nationwide permits, a rule that authorizes approximately 35,000 activities annually. Under law, the nationwide permits can be issued for a period of no more than five years, and must be reissued in order to continue to authorize activities with minimal individual and cumulative environmental effects. The Corps is currently working with the U.S. Environmental Protection Agency to revise the agencies' regulations defining the term "waters of the United States," a critical term used to identify activities that require Clean Water Act permits.

d. Structure and Staffing.

The General Counsel of the Department of Defense, as the Regulatory Policy Officer (RPO), is responsible for monitoring regulatory activities within DoD to ensure uniform compliance with the implementation of executive and legislative requirements and priorities, to include the specific requirements of Executive Orders 12866 and 13563. All regulatory actions are approved by the RPO prior to any review by the Office of Management and Budget.

The Director, Administration and Management (DA&M), as the functional proponent for the Regulatory Program and the Plan, manages the operational requirements of the regulatory process. The Chief, Information Management Division, Executive Services Directorate, Washington Headquarters Services, administers the program on behalf of the DA&M.

Name/Position Title: Robert L. Cushing, Jr., Chief, Information Management Division; 703-696-5282; Email address: Robert.Cushing@whs.mil

e. How does the agency plan to ensure that agency's retrospective team and process maintains sufficient independence from the offices responsible for writing and implementing regulations?

The Director, Administration and Management, is responsible for regulatory process compliance. The DoD Components responsible for writing the individual regulatory actions must obtain approval prior to submission for OMB review and publication from the RPO through the DA&M. As such, the Director acts as an independent advocate for the process.

f. Describe agency actions, if any, to strengthen internal review expertise. This could include training staff, regrouping staff, hiring new staff, or other methods.

Staff within the Director, Administration and Management will maintain a close relationship with the DoD Components to ensure retrospective analysis is used. The Director administers the Department's Federal Docket Management System component of the Regulation.gov portal, as well as the functions of the OSD Federal Register Liaison, to ensure public participation in how best to promote retrospective analysis.

g. How will the agency plan for retrospective analysis over the next two years, and beyond?

The Department will institutionalize retrospective analysis within its regulatory program in policies and procedural guidance with publication of a DoD policy instruction and the formation of a working group of senior analysts.

h. How will the agency decide what to do with analysis?

DoD Components Heads will decide to amend existing regulations in order to improve implementation or eliminate the regulation based on the analysis.

i. Plans for revising rules and schedules for periodically revisiting rules.

Rulemaking in the Department of Defense is decentralized to functional programs of the DoD Components.

The majority of the Department's regulatory actions codified in title 32 of the CFR, result from DoD issuances originating within the Office of the Secretary (OSD), the principal staff used by the Secretary of Defense to exercise authority, direction, and control over the Department. The review of these regulatory actions will mirror the established schedule of the DoD Directives Program. The action is considered current when stated policies and information contained is current with Administration policy and has been revised or certified as current by the Head of the DoD Component having cognizance, within five years of the publication date. The issuance review is a special focus of interest from the Director, Administration and Management.

TRICARE comprises the DoD medical and dental programs pursuant to chapter 55 of 10 U.S.C. under which medical and dental services are provided to DoD health care beneficiaries. Health Affairs/TRICARE Management Activity (TMA) keeps Part 199 up-to-date by reviewing legislative changes in the National Defense Authorization Act (NDAA). When the NDAA includes a new benefit, a new reimbursement system, or another provision that TRICARE must implement, Part 199 is amended by writing the proposed and final rules necessary to do so. For all new TRICARE benefits and modifications of existing benefits, TRICARE conducts formal, documented, independent Government cost estimating. These estimates are provided to Senior Health Affairs leaders in conjunction with requests for their decisions concerning whether to implement the new or modified benefits. Upon determination by these decision authorities that the new or modified benefit is cost-effective and should be implemented, TRICARE commences the formal rulemaking process. If after actual implementation occurs and the anticipated effectiveness of the new or modified benefit is not achieved, TRICARE considers whether amendment of the rule is warranted.

The Defense Acquisition Regulations System (DARS) develops and maintains acquisition rules codified in title 48, Chapter II. The DARS accomplishes an on-going regulatory review each time it publishes a proposed or interim Federal Acquisition Regulation (FAR) or Defense Federal Acquisition Regulation Supplement (DFARS) rule, requesting comments on any other regulations in the subpart affected by the rule. In addition, DARS plans to publish a notice every five years, requesting comments on those sections of the DFARS

that were not affected by a proposed or interim rule during the preceding five years.

To comply with E.O. 13563, the Army Corps of Engineers's preliminary plan is to publish in October 2011, a Federal Register notice to solicit comment on which of its regulations should be evaluated for modification, streamlining, expansion, or repeal to make the Regulatory Program more effective or less burdensome. The comment period will be 60 days. To facilitate public comment, the Federal Register notice will include the URL for a website that has all of the Corps Regulatory Program's current regulations, as well as supporting program data and information. To solicit input from as many interested parties as possible, each of the 38 Corps districts will issue local public notices announcing the publication of the Federal Register notice and the request for comments. The Corps will evaluate all comments received to develop its list of review priorities, and will publish a notice in the Federal Register that summarizes the comments received and lists the review priorities. The website will be updated as proposal revisions and final revisions to its regulations occur.

The Corps is in the process of revising its nationwide permits, a rule that authorizes approximately 35,000 activities each year. Under law, the nationwide permits can be issued for a period of no more than five years, and must be reissued in order to continue to authorize activities with minimal individual and cumulative environmental effects. The Corps is also working with the U.S. EPA to revise the agencies' regulations defining the term "waters of the United States," a critical term used to identify activities that require Clean Water Act permits. These two rulemaking activities, in addition to the day-to-day management of the Regulatory Program, will take up most of the Headquarters Regulatory staff time and resources for the next year.

VI. Coordination with other federal agencies.

The Department coordinates its developing rules with other agencies having equity. Additionally, it addresses other agency interests during interagency review under E.O. 12866. The Department will apply this standard during any retrospective review.

VII. Peer review in conducting analyses.

Peer review will be considered based on availability of resources. It will not generally be used since the Department's regulatory actions address Defense policy and

procedures affecting the public, rather than parameters of science and technology applied to regulated parties.

VIII. Components of Retrospective Cost-Benefit Analysis

When appropriate, the Department will assess the potential costs and benefits of its regulatory actions according to guidance found in the Office of Management and Budget Circular A-4, *Regulatory Analysis*, and best practices. The application of cost-benefit analysis retrospectively will update ex-ante information regarding the effectiveness of the regulatory scheme and its current costs and benefits on the regulated parties. Ex-ante data used initially at the proposed stage, when updated, can serve to strengthen ex-ante decisions or form the basis for amendment. Currently, cost-benefit analysis is conducted somewhat independent of the rule writers. For example, TRICARE Management Activity conducts formal, documented, and independent cost estimating when new health benefits are proposed or modifications of existing benefits are required. The Army Corps of Engineers relies on the economists and staff at their Institute for Water Resources whenever an economic analysis is required. Generally, due to the nature of the Department's regulatory actions, the incorporation of experimental design is not warranted.

IX. Publishing the Department of Defense's Plan Online

The Department of Defense, as an eRulemaking partner agency, will use the E.O. 13563 Exchange to publish its retrospective review plan and available data. We will develop an agency information page to post specific E.O. 13563 information and seek comments. The Department is committed to supporting the Open Government Initiative to improve transparency, participation, and collaboration. To further promote public participation, DoD's Plan will be made available online on our Open Government Webpage (http://www.defense.gov/open) for comment and suggestions.

ATTACHMENT 1: List of Initial DoD Regulations for Retrospective Review

The attached list of the Department's regulatory actions codified in title 32 of the CFR, result from DoD issuances originating within the Office of the Secretary (OSD), the principal staff used by the Secretary of Defense to exercise authority, direction, and control over the Department. Issuances range from DoD Directives, reflecting departmental policy that direct and limit DoD actions in pursuit of its objectives, operations, and plans, to instructions and manuals that provide detailed procedures for implementing policy. An issuance is required to be reviewed and published as a rulemaking as defined in DoD Administrative Instruction 102, *Office of the Secretary of Defense Federal Register System*. For example, a rule is required if the issuance: grants a right or privilege to the public; requires a course of conduct that must be followed; imposes an obligation on the general public; or, describes procedures by which a DoD Component conducts its business with the public.

The review of these parts of title 32 will mirror the established schedule of the DoD Directives Program. An issuance is considered current when stated policies and information is current with Administration policy and has been revised or certified as current by the Head of the DoD Component within five years of the publication date. The parts identified in this attachment fall outside of the established timeframe and must be reviewed. The issuance review is a special focus of interest from the Director, Administration and Management and the Office of the Secretary.

32 CFR PART	**SUBJECT OF RULE**
32 CFR 44 64 FR 72027, Dec. 23, 1999	SCREENING THE READY RESERVE

Description: This part updates DoD policy and responsibilities for the screening of Ready Reservists under 10 U.S.C. 1003, 1005, and 1209. Members of the Ready Reserve shall be screened (see the appendix to this part for specific screening guidance) at least annually to meet the provisions of 10 U.S.C. 10149 and to provide a Ready Reserve force composed of members who:
(1) Meet Military Service wartime standards of mental, moral, professional, and physical fitness.
(2) Possess the military qualifications required in the various ranks, ratings, and specialties.
(3) Are available immediately for active duty (AD) during a mobilization or as otherwise required by law.

32 CFR 47 54 FR 39993, Sept. 29, 1989	ACTIVE DUTY SERVICE DETERMINATIONS FOR CIVILIAN OR CONTRACTUAL GROUPS

Description: This part directs the Secretary of the Air Force to determine if an established group of civilian employees or contract workers provided service to the U.S. Armed Forces in a manner considered active military service for Department of Veterans Affairs (VA) benefits. It establishes the DoD Civilian/Military Service Review Board and the Advisory Panel. This part establishes policy, assigns responsibilities, prescribes application procedures for groups and individuals, and clarifies the factors used to determine active duty (AD) service.

32 CFR 50 71 FR 38764, July 10, 2006	PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS

Description: This part implements section 577 of Public Law No. 109–163 (2006) and establishes policy and procedures for personal commercial solicitation on DoD installations. It continues the established annual DoD registration requirement for the sale of insurance and securities on DoD installations overseas. This part identifies prohibited practices that may cause withdrawal of commercial solicitation privileges on DoD installations and establishes notification requirements when privileges are withdrawn. It establishes procedures for persons solicited on DoD installations to evaluate solicitors. This part prescribes procedures for providing financial education programs to military personnel.

32 CFR 53 35 FR 1236, Jan. 30, 1970	WEARING OF THE UNIFORM

Description: This part prescribes limitations on wearing of the uniform by members of the Armed Forces, and establishes policy with respect to wearing of the uniform by former members of the Armed Forces.

32 CFR 56 47 FR 15124, Apr. 8, 1982	NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES ASSISTED OR CONDUCTED BY THE DEPARTMENT OF DEFENSE

Description: This part prohibits discrimination based on handicap in programs and activities receiving Federal financial assistance disbursed by the Department of Defense and in programs and activities conducted by the Department of Defense.

32 CFR 57 69 FR 32662, June 10, 2004	PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES TO ELIGIBLE DOD DEPENDENTS

Description: This part implements policy, assigns responsibilities, and prescribes procedures for the:
(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.
(2) Implementation of a comprehensive, multidisciplinary program of EIS for infants and toddlers (birth through 2 years, inclusive) with disabilities, and their families.
(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).
(4) Monitoring of DoD programs providing EIS, special education, and related services for compliance with 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.

32 CFR 64 71 FR 19828, Apr. 18, 2006	MANAGEMENT AND MOBILIZATION OF REGULAR AND RESERVE RETIRED MILITARY MEMBERS

Description: This part prescribes uniform policy and guidance governing the peacetime management of retired Regular and Reserve military personnel preparing for their use during a mobilization.

32 CFR 67 62 FR 55517, Oct. 27, 1997	EDUCATIONAL REQUIREMENTS FOR APPOINTMENT OF RESERVE COMPONENT OFFICERS TO A GRADE ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE)

Description: This part provides guidance for implementing policy, assigns responsibilities, and prescribes under 10 U.S.C. 12205 for identifying criteria for determining educational institutions that award baccalaureate degrees which satisfy the educational requirement for appointment of officers to a grade above First Lieutenant in the Army Reserve, Air Force Reserve, and Marine Corps Reserve, or Lieutenant (Junior Grade) in the Naval Reserve, or for officers to be federally recognized in a grade level above First Lieutenant as a member of the Army National Guard or Air National Guard.

32 CFR 69 61 FR 60563, Nov. 29, 1996	SCHOOL BOARD FOR DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS

Description: This part prescribes policies and procedures for the establishment and operation of elected School Boards for schools operated by the Department of Defense.

32 CFR 70 47 FR 37785, Aug. 26, 1982	DISCHARGE REVIEW BOARD (DRB) PROCEDURES AND STANDARDS

Description: This part establishes uniform policies, procedures, and standards for the review of discharges or dismissals under 10 U.S.C. 1553. It provides guidelines for discharge review by application or on motion of a DRB, and the conduct of discharge reviews and standards to be applied in such reviews which are designed to ensure historically consistent uniformity in execution of this function, as required under Pub. L. 95–126. This part assigns responsibility for administering the program. It makes provisions for public inspection, copying, and distribution of DRB documents through the Armed Forces Discharge Review/Correction Board Reading Room. This part establishes procedures for the preparation of decisional documents and index entries. It provides guidance for processing complaints concerning decisional documents and index entries.

32 CFR 77 59 FR 40809, Aug. 10, 1994	PROGRAM TO ENCOURAGE PUBLIC AND COMMUNITY SERVICE EMPLOYMENT

Description: This part encourages and assists separating Service members, Service members retiring with 20 or more years of service, DoD civilian personnel leaving the Government, and spouses to enter public and community service employment. It encourages and assists Service members requesting retirement with fewer than 20 years of service to register for public and community service employment.

32 CFR 81 43 FR 15149, Apr. 11, 1978	PATERNITY CLAIMS AND ADOPTION PROCEEDINGS INVOLVING MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES

Description: This part standardizes procedures for the handling of:
(a) Paternity claims against members and former members of the Armed Forces, and
(b) Requests from civilian courts concerning the availability of members and former members of the Armed Forces to appear at an adoption hearing where it is alleged that such member is the father of an illegitimate child.

32 CFR 85 HEALTH PROMOTION AND DISEASE/INJURY PREVENTION
53 FR 33123, Aug. 30, 1988

Description: This part establishes a health promotion policy within the Department of Defense to improve and maintain military readiness and the quality of life of DoD personnel and other beneficiaries. It establishes policy on smoking in DoD occupied buildings and facilities.

32 CFR 88 TRANSITION ASSISTANCE FOR MILITARY PERSONNEL
59 FR 14559, Mar. 29, 1994

Description: This part establishes policy, and assigns responsibilities for transition assistance programs for active duty military personnel and their families.

32 CFR 94 PROCEDURES FOR JOINT PUBLIC AFFAIRS OPERATIONS
35 FR 17540, Nov. 14, 1970

Description: This part prescribes uniform procedures acceptable to the Immigration and Naturalization Service of the Department of Justice, to (a) facilitate the naturalization of aliens who have served honorably in the Armed Forces of the United States and to (b) militarily certify alien dependents seeking naturalization under the provisions of Immigration and Nationality Act of 1952, as amended, sections 319(b) and 323(c) (8 U.S.C. 1430(b) and 1434(c)); and furnishes policy guidance to the Secretaries of the Military Departments governing discharge or release from active duty in the Armed Forces of the United States of permanent-residence aliens who desire to be naturalized as U.S. citizens under the provisions of Act of June 27, 1952, section 328 (66 Stat. 249); 8 U.S.C. 1439

32 CFR 96 ACQUISITION AND USE OF CRIMINAL HISTORY RECORD
49 FR 23042, June 4, 1984 INFORMATION FOR MILITARY RECRUITING PURPOSES

Description: This part establishes policy guidance concerning the acquisition of criminal history record information for use in determining an enlistment applicant's suitability for entry and for participation in special programs that require a determination of trustworthiness (part 156 of this title), assigns responsibilities, and prescribes procedures.

32 CFR 97 RELEASE OF OFFICIAL INFORMATION IN LITIGATION AND
50 FR 32056, Aug. 8, 1985 TESTIMONY BY DOD PERSONNEL AS WITNESSES

Description: This part establishes policy, assigns responsibilities, and prescribes procedures for the release of official DoD information in litigation and for testimony by DoD personnel as witnesses during litigation.

32 CFR 104 CIVILIAN EMPLOYMENT AND REEMPLOYMENT RIGHTS OF
62 FR 3466, Jan. 23, 1998 APPLICANTS FOR, AND SERVICE MEMBERS AND FORMER SERVICE MEMBERS OF THE UNIFORMED SERVICES

Description: This part updates implementation policy, assigns responsibilities, and prescribes procedures for informing Service members who are covered by the provisions of 38 U.S.C chapter 43 and individuals who apply for uniformed service, of their civilian employment and reemployment rights, benefits and obligations. It implements 38 U.S.C. chapter 43, which updated, codified, and strengthened the civilian employment and reemployment rights and benefits of Service members and individuals who apply for uniformed service, and specifies the obligations of Service members and applicants for uniformed service.

32 CFR 113 INDEBTEDNESS PROCESSING PROCEDURES FOR MILITARY
60 FR 1722, Jan. 5, 1995 PERSONNEL

Description: This part implements policy, assigns responsibilities, and prescribes procedures governing delinquent indebtedness of members of the Military Services.

32 CFR 142 COPYRIGHTED SOUND AND VIDEO RECORDINGS
49 FR 49452, Dec. 20, 1984

Description: This part provides policy, prescribes procedures, and assigned responsibilities regarding the use of copyrighted sound and video recordings within the Department of Defense.

32 CFR 143 DOD POLICY ON ORGANIZATIONS THAT SEEK TO REPRESENT
71 FR 76914, Dec. 22, 2006 OR ORGANIZE MEMBERS OF THE ARMED FORCES IN NEGOTIATION OR COLLECTIVE BARGAINING

Description: This part provides DoD policies and procedures for organizations whose objective is to organize or represent members of the Armed Forces of the United States for purposes of negotiating or bargaining about terms or conditions of military service. The policies and procedures set forth herein are designed to promote the readiness of the Armed Forces to defend the United States. This part does not modify or diminish the existing authority of commanders to control access to, or maintain good order and discipline on, military installations; nor does it modify or diminish the obligations of commanders and supervisors under 5 U.S.C. 7101–7135 with respect to organizations representing DoD civilian employees.

32 CFR 144 SERVICE BY MEMBERS OF THE ARMED FORCES ON STATE
71 FR 76917, Dec. 22, 2006 AND LOCAL JURIES

Description: This part implements 10 U.S.C. 982 to establish uniform DoD policies for jury service by members of the Armed Forces on active duty.

32 CFR 145 COOPERATION WITH THE UNITED STATES OFFICE OF
51 FR 17178, May 9, 1986 SPECIAL COUNSEL (OSC)

Description: This part establishes policy, assigns responsibilities, and prescribes procedures for cooperation with the Office of Special Counsel (OSC) of the Merit Systems Protection Board (MSPB) in fulfilling the responsibilities of the Special Counsel under Pub. L. 95–454 and 5 CFR 1201 and 1250 to conduct investigations of alleged prohibited personnel practices and to ensure the investigation of other allegations of improper or illegal conduct referred to the Department of Defense by the OSC. This part provides internal guidance to DoD officials, and does not establish an independent basis for any person or organization to assert a right, benefit, or privilege.

32 CFR 149 TECHNICAL SURVEILLANCE COUNTERMEASURES PROGRAM
63 FR 4583, Jan. 30, 1998

Description: Heads of federal departments and agencies which process, discuss, and/or store classified national security information, restricted data, and sensitive but unclassified information, shall, in response to specific threat data and based on risk management principles, determine the need for Technical Surveillance Countermeasures (TSCM). To obtain maximum effectiveness by the most economical means in the various TSCM programs, departments and agencies shall exchange technical information

freely; coordinate programs; practice reciprocity; and participate in consolidated programs, when appropriate.

32 CFR 151 STATUS OF FORCES POLICIES AND INFORMATION
45 FR 20465, Mar. 28, 1980

Description: This part updates established DoD policy and procedures on trial by foreign courts and treatment in foreign prisons of U.S. military personnel, nationals of the U.S. serving with, employed by, or accompanying the Armed Forces of the United States, and the dependents of both (hereafter referred to as U.S. personnel); and provides uniform reporting on the exercise of foreign criminal jurisdiction

32 CFR 152 ROLE AND RESPONSIBILITIES OF THE JOINT SERVICE
68 FR 36916, June 20, 2003 COMMITTEE (JSC) ON MILITARY JUSTICE

Description: This part implements the requirement established by the President in Executive Order 12473 that the Manual for Courts-Martial (MCM), United States, 1984, and subsequent editions, be reviewed annually. It formalizes the Joint Service Committee (JSC) and defines the roles, responsibilities, and procedures of the JSC in reviewing and proposing changes to the MCM and proposing legislation to amend the Uniform Code of Military Justice (UCMJ) (10 U.S.C., Chapter 47). This part provides for the designation of a Secretary of a Military Department to serve as the Executive Agent for the JSC.

32 CFR 168a NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE
55 FR 29844, July 23, 1990 (NDSEG) FELLOWSHIPS

Description: This part establishes guidelines for the award of National Defense Science and Engineering Graduate (NDSEG) Fellowships, as required by 10 U.S.C. 2191.

32 CFR 169 COMMERCIAL ACTIVITIES PROGRAM
54 FR 13373, Apr. 3, 1989

Description: This part updates DoD policies and assigns responsibilities for commercial activities. DoD Components shall rely on commercially available sources to provide commercial products and services except when required for national defense, when no satisfactory commercial source is available, or when in the best interest of direct patient care. DoD Components shall not consider an in-house new requirement, an expansion of an in-house requirement, conversion to in-house, or otherwise carry on any CAs to provide commercial products or services if the products or services can be procured more economically from commercial sources.

32 CFR 187 ENVIRONMENTAL EFFECTS ABROAD OF MAJOR
44 FR 21786, Apr. 14, 1979 DEPARTMENT OF DEFENSE ACTIONS
Redesignated at
56 FR 64481, Dec. 10, 1991

Description: This part provides policy and procedures to enable Department of Defense (DoD) officials to be informed and take account of environmental considerations when authorizing or approving certain major Federal actions that do significant harm to the environment of places outside the United States. Its sole objective is to establish internal procedures to achieve this purpose, and nothing in it shall be construed to create a cause of action.

32 CFR 191 DOD CIVILIAN EQUAL EMPLOYMENT OPPORTUNITY (EEO)
53 FR 30990, Aug. 17, 1988 PROGRAM

Description: This part establishes the Civilian Equal Employment Opportunity (EEO) Program, to include affirmative action programs, consistent with guidance from the Equal Employment Opportunity Commission (EEOC), Office of Personnel Management (OPM), and the DoD Human Goals Charter.

32 CFR 192 EQUAL OPPORTUNITY IN OFF-BASE HOUSING
55 FR 6248, Feb. 22, 1990
Redesignated at
56 FR 32964, July 18, 1991

Description: This part revises policies and procedures covering off-base housing and fair housing enforcement. It outlines discrimination complaint inquiries or investigative procedures and hearing requirements. This part deletes the requirement for each Military Department to submit a semi-annual housing discrimination report.

32 CFR 205 END USE CERTIFICATES (EUCS)
56 FR 64194, Dec. 9, 1991

Description: This part establishes policies, assigns responsibilities, and prescribes procedures for signing EUCs on foreign defense items. An EUC is a written agreement in connection with the transfer of military equipment or technical data to the United States that restricts the use or transfer of that item by the United States.

32 CFR 206 NATIONAL SECURITY EDUCATION PROGRAM (NSEP) GRANTS
71 FR 28267, May 16, 2006 TO INSTITUTIONS OF HIGHER EDUCATION

Description: The Institutional Grants Program provides support in the form of grants to U.S. institutions of higher education. Grants to institutions will complement NSEP scholarship and fellowship programs. The purpose of the grants is to address weaknesses and gaps in programs and curricula. The grants should be used to strengthen the national capacity in international education. While "operational" support for already existing centers and projects may be a component of a grant, NSEP emphasizes commitment of its limited resources to projects that establish and improve educational programs available to students and teachers.

32 CFR 210 ENFORCEMENT OF STATE TRAFFIC LAWS ON DOD
46 FR 58306, Dec. 1, 1981 INSTALLATIONS

Description: This part establishes policies for the enforcement, on DoD military installations, of those state vehicular and pedestrian traffic laws that cannot be assimilated under Title 18, U.S.C., section 13.

32 CFR 226 SHELTER FOR THE HOMELESS PROGRAM
52 FR 42638, Nov. 6, 1987

Description: 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.

32 CFR 235	SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL ON
71 FR 66459, Nov. 15, 2006	DOD PROPERTY

Description: This part implements 10 U.S.C. 2489a, by providing guidance about restrictions on the sale or rental of sexually explicit materials on property under the jurisdiction of the Department of Defense or by members of the Armed Forces or DoD civilian officers or employees, acting in their official capacities.

32 CFR 242	ADMISSION POLICIES FOR THE UNIFORMED SERVICES
41 FR 5389, Feb. 6, 1976	UNIVERSITY OF THE HEALTH SCIENCES (USUHS)

Description: This part establishes policies and procedures and assigns responsibilities for the selection of entrants to the School of Medicine of the Uniformed Services University of the Health Sciences.

32 CFR 246	STARS AND STRIPES (S&S) NEWSPAPERS AND BUSINESS
59 FR 19137, Apr. 22, 1994	OPERATIONS

Description: This part authorizes the establishment, management, operation, and oversight of the Stars and Stripes, including the resale of commercial publications necessary to support the overall S&S mission, production, distribution authority, and business operations as mission-essential activities of the Department of Defense and the designated Unified Commands.

32 CFR 247	DEPARTMENT OF DEFENSE NEWSPAPERS, MAGAZINES AND
62 FR 42905, Aug. 11, 1997	CIVILIAN ENTERPRISE PUBLICATIONS

Description: This part implements 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 in support of the DoD Internal Information Program.

32 CFR 249	PRESENTATION OFDOD-RELATED SCIENTIFIC AND
52 FR 41708, Oct. 30, 1987	TECHNICAL PAPERS AT MEETINGS

Description: This part amplifies policy, 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.

32 CFR 250	WITHHOLDING OF UNCLASSIFIED TECHNICAL DATA FROM
49 FR 48041, Dec. 10, 1984	PUBLIC DISCLOSURE

Description: 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 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.

32 CFR 253	ASSIGNMENT OF AMERICAN NATIONAL RED CROSS AND
48 FR 35644, Aug. 5, 1983	UNITED SERVICE ORGANIZATIONS, INC., EMPLOYEES TO DUTY WITH THE MILITARY SERVICES

Description: This part updates policy and procedures governing the investigation of American National Red Cross (hereafter "Red Cross") employees and United Service Organizations, Inc. (USO), staff for the purpose of determining the security acceptability of such personnel for assignment to duty with the Military Services.

32 CFR 264	INTERNATIONAL INTERCHANGE OF PATENT RIGHTS AND
25 FR 14456, Dec. 31, 1960	TECHNICAL INFORMATION

Description: The purpose of this part is to restate Department of Defense policy concerning the international interchange for defense purposes of patent rights and technical information. It is the policy of the Department of Defense to encourage and facilitate international interchanges of patent rights and technical information to further the common defense of the United States and friendly nations.

32 CFR 272	ADMINISTRATION AND SUPPORT OF BASIC RESEARCH BY
70 FR 55726, Sept. 23, 2005	THE DEPARTMENT OF DEFENSE

Description: This part implements policy on the support of scientific research and the guiding principles for the government-university research partnership. The Department of Defense shall support high quality basic research done by institutions of higher education, other nonprofit research institutions, laboratories of other Federal agencies, and industrial research laboratories.

32 CFR 275	GUIDANCE ON OBTAINING INFORMATION FROM FINANCIAL
71 FR 26221, May 4, 2006	INSTITUTIONS

Description: This part: updates policies and responsibilities, and prescribes procedures for obtaining access to financial records maintained by financial institutions. It implements 12 U.S.C. Chapter 35 by providing guidance on the requirements and conditions for obtaining financial records.

32 CFR 277	IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL
53 FR 39262, Oct. 6, 1988	REMEDIES ACT

Description: This part establishes uniform policies, assigns responsibilities, and prescribes procedures for implementation of the Program Fraud Civil Remedies Act (Pub. L. 99–509). It is DoD policy to redress fraud in DoD programs and operations through the nonexclusive use of Pub. L. 99–509.

32 CFR 281	SETTLING PERSONNEL AND GENERAL CLAIMS AND
71 FR 57426, Sept. 29, 2006	PROCESSING ADVANCE DECISION REQUESTS

Description: This part establishes policy and assigns responsibilities for settling personnel and general claims and for processing requests for an advance decision. Claims shall be settled and advance decisions

shall be rendered in accordance with pertinent statutes and regulations, and after consideration of other relevant authorities.

32 CFR 282	PROCEDURES FOR SETTLING PERSONNEL AND GENERAL
69 FR 38843, June 29, 2004	CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS

Description: This part establishes policy and assigns responsibilities for settling personnel and general claims and for processing requests for an advance decision. Claims shall be settled and advance decisions shall be rendered in accordance with pertinent statutes and regulations, and after consideration of other relevant authorities. This part applies to certain claim settlement and advance decision functions that, by statute or delegation, are vested in the Department of Defense or the Secretary of Defense.

32 CFR 283	WAIVER OF DEBTS RESULTING FROM ERRONEOUS
71 FR 57427, Sept. 29, 2006	PAYMENTS OF PAY AND ALLOWANCES

Description: This part establishes 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.

32 CFR 284	WAIVER PROCEDURES FOR DEBTS RESULTING FROM
71 FR 59375, Oct. 10, 2006	ERRONEOUS PAY AND ALLOWANCES

Description: This part implements policy and prescribes procedures for considering waiver applications. It is DoD policy that waiver applications for debts resulting from erroneous payments of pay and allowances (hereafter referred to as "waiver applications") be processed according to all pertinent statutes, regulations, and other relevant authorities.

ATTACHMENT 2: List of Initial DFARS Regulations for Retrospective Review

Process used to identify regulations for retrospective review:

- Identify rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive.
- Identify rules that warrant strengthening, complementing, or modernizing.
- Pay particular attention as to whether rules create barriers to entry or drive up the length or cost of the contracting process.

Defense Acquisition Regulations already under consideration for retrospective analysis:

DFARS Case 2011-D028 – Removes component test for COTS items that are qualifying country end products. Require only determination of country of origin of the COTS item, not the components of the COTS item.

DFARS Case 2011-D024 – Increase Small Business Participation.

DFARS Case 2011-D013 – Only One Offer. Motivate effective competition, by driving behavior to allow sufficient time for submission of offers.

DFARS Case 2011-D008 – Accelerate Small Business Payments. Accelerate payments to all small businesses, not just small disadvantaged businesses.

DFARS Case 2011-D018 – Responsibility and Liability for Government Property. Includes fixed-price contracts that are awarded on the basis of adequate competition on the list of contract types whereby contractors are not held liable for loss of Government property.

DFARS Case 2010-D001 – Patents, Data, and Copyrights. Rewrite of DFARS Part 227, Patents, Data, and Copyrights.

DFARS Case 2009-D037 – Electronic Ordering Procedures. Establish a method for electronic issuance of orders.

DFARS Case 2009-D026 – Multiyear Contracting. Comprehensive review of DFARS subpart 217.1 to simplify and clarify the coverage of multiyear acquisition.