



# Federal Register

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**Monday,  
December 10, 2007**

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**Part V**

**Department of  
Defense**

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**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.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Department of Defense's Statement of Regulatory Priorities is included in the Plan.

This agenda updates the report published on April 30, 2007, 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 2008, with the next regulatory plan scheduled to be published in the fall of 2008. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

Beginning with the fall 2007 edition, the Internet will be the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov) in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

- (1) rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and
- (2) any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is in the Unified Agenda available online. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including the Department of Defense's regulatory plan.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-696-5282, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail: [robert.cushing@whs.mil](mailto:robert.cushing@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. Edward Burbol, telephone 703-696-2503, or write to Directives Division, Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC

20301-1155, or e-mail: [edward.burbol@whs.mil](mailto:edward.burbol@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](mailto:michele.peterson@osd.mil).

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703-428-6422, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AHRC-PDD-RP, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, VA 22315-3860, or e-mail: [brenda.bowen@rmda.belvoir.army.mil](mailto:brenda.bowen@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](mailto:chip.smith@hqda.army.mil).

For general information on Department of the Navy regulations, contact LT Tanya Cruz, telephone 703-604-8216, 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: [tanya.cruz@navy.mil](mailto:tanya.cruz@navy.mil).

For general information on Department of the Air Force regulations, contact LTC John Richard, telephone 703-696-6279, or write to Department of the Air Force, SAF/XCPPA, 1401 N. Wilson Boulevard, Suite 600, Arlington, VA 22209-2133, or e-mail: [john.richard@pentagon.af.mil](mailto:john.richard@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

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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.

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:

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. 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 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:** August 24, 2007.

**Michael L. Rhodes,**  
*Deputy Director, Administration and Management.*

**Office of Assistant Secretary for Health Affairs—Completed Actions**

Sequence Number	Title	Regulation Identifier Number
308	TRICARE Outpatient Prospective Payment System (OPPS) .....	0720-AB03
309	TRICARE; Outpatient Hospital Prospective Payment System (OPPS) .....	0720-AB16

**Department of Defense (DOD)**

**Completed Actions**

**Office of Assistant Secretary for Health Affairs (DODOASHA)**

**308. TRICARE OUTPATIENT PROSPECTIVE PAYMENT SYSTEM (OPPS)**

**Legal Authority:** 10 USC ch 55; 5 USC 301; 10 USC 1079(j)(2)

**Abstract:** The interim final rule implements a prospective payment system for hospital outpatient services similar to that furnished to Medicare beneficiaries, as set forth in section 1833(t) of the Social Security Act. The rule also recognizes applicable statutory requirements and changes arising from Medicare's continuing experience with its system, including certain related provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. While TRICARE intends to remain as true as possible to Medicare's basic OPPS methodology (i.e., adoption and updating of the Medicare data elements used in calculating the prospective payment amounts), there will be some significant

deviations required to accommodate the uniqueness of the TRICARE program. These deviations have been designed to accommodate existing TRICARE benefit structure and claims processing procedures implemented under the TRICARE Next Generation Contracts (T-NEX) while at the same time eliminating any undue financial burden to TRICARE Prime, Extra and Standard beneficiary populations.

**Timetable:**

Action	Date	FR Cite
Withdrawn	08/20/07	

**Regulatory Flexibility Analysis Required: Yes**

**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-AB03

**309. • TRICARE; OUTPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM (OPPS)**

**Legal Authority:** 5 USC 301; 10 USC ch 55

**Abstract:** This proposed rule implements a prospective payment system for hospital outpatient services similar to that furnished to Medicare beneficiaries, as set forth in section 1833(t) of the Social Security Act. It recognizes applicable statutory requirements and changes arising from Medicare's continuing experience with this system including certain related provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

DOD—DODOASHA

Completed Actions

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	08/14/07	72 FR 45359
Interim Final Rule Effective	09/13/07	
Interim Final Rule Comment Period End	10/15/07	
Withdrawn	08/17/07	72 FR 46144

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0720-AB16

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