



# Federal Register

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**Tuesday,  
May 27, 2003**

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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 agenda updates the report published on December 9, 2002, and includes regulations expected to be issued and under review over the next 12 months. The next agenda and regulatory plan are scheduled to be published in the fall of 2003. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-604-6269, or write to Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, Suite 1204, Arlington,

Virginia 22202-4302, or e-mail: [cushingr@dior.whs.mil](mailto:cushingr@dior.whs.mil).

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

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

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

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

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

For general information on Department of the Navy regulations, contact Lieutenant Commander Jason Baltimore, telephone 703-604-8208, 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: [baltimore.jason@hq.navy.mil](mailto:baltimore.jason@hq.navy.mil).

For general information on Department of the Air Force regulations, contact Mrs. Pamela D. Fitzgerald, telephone 703-601-4042, or write to Department of the Air Force, AF-CIO/P,

1155 Air Force Pentagon, Washington, DC 20330-1155, or e-mail: [pamela.fitzgerald@pentagon.af.mil](mailto:pamela.fitzgerald@pentagon.af.mil).

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

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

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

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

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

- 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

**DOD**

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

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary

environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its

overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

**Dated:** March 18, 2003.  
**Howard G. Becker,**  
*Deputy Director, Administration and Management.*

**Office of the Secretary—Proposed Rule Stage**

Sequence Number	Title	Regulation Identification Number
573	Stars and Stripes (S&S) Newspaper .....	0790-AG84
574	Department of Defense Newspapers, Magazines, and Civilian Enterprise Publications .....	0790-AG85
575	Development of a Munitions Response Site Prioritization Protocol .....	0790-AG94
576	Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects .....	0790-AG97
577	Defense Contract Management Agency Freedom of Information Act (FOIA) Program .....	0790-AH00

**Office of the Secretary—Final Rule Stage**

Sequence Number	Title	Regulation Identification Number
578	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5) ..	0790-AF59
579	Restoration Advisory Boards (RABs) .....	0790-AG31
580	Settling Personnel and General Claims and Processing Advance Decision Requests .....	0790-AG47
581	Personnel Security Policies for Granting Access to Classified Information .....	0790-AG54
582	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity .....	0790-AG55
583	National Policy on Technical Surveillance Countermeasures .....	0790-AG56
584	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations .....	0790-AG76
585	Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, and Age in Programs and Activities Receiving Federal Financial Assistance .....	0790-AG83
586	DoD Grant and Agreement Regulations .....	0790-AG87
587	Procedures for Settling Personnel and General Claims and Processing Advance Decision Requests .....	0790-AG89
588	Waiver of Debts Resulting From Erroneous Payments of Pay and Allowances (DoD Directive 1340.21) .....	0790-AG90
589	Waiver Procedures for Debts Resulting From Erroneous Payments of Pay and Allowances (DoD Instruction 1340.23) .....	0790-AG91
590	Voluntary State Tax Withholding From Retired Pay .....	0790-AG93
591	National Security Agency/Central Security Service (NSA/CSS) Freedom of Information Act Program .....	0790-AG96
592	Review of the Manual for Courts-Martial (DoD Directive 5500.17) .....	0790-AG99
593	Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects .....	0790-AH01
594	Implementation of Section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and Section 1051 of the National Defense Authorization Act for Fiscal Year 2003 .....	0790-AH02

**Office of the Secretary—Long-Term Actions**

Sequence Number	Title	Regulation Identification Number
595	Former Spouse Payments From Retired Pay; Amendment (DoD Directive 1340.16 and DoD 7000.14-R, Vol 7, Part B) .....	0790-AG22
596	Closed, Transferred, and Transferring Ranges Containing Military Munitions .....	0790-AG46
597	Governmentwide Debarment and Suspension (Non-Procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) .....	0790-AG86

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## Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identification Number
598	Teacher and Teacher's Aide Placement Assistance Program (Troops to Teachers) (DoD Instruction 1404.13) .....	0790-AF71
599	Implementation of Wildfire Suppression Aircraft Transfer Act of 1996 .....	0790-AG95
600	DoD Freedom of Information Act (FOIA) Program (DoD Directive 5400.7) .....	0790-AG98
601	Deputy Secretary of Defense .....	0790-AH03

## Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
602	Efficiency Savings (DFARS Case 2002-D022) .....	0750-AD80
603	Information Assurance (DFARS Case 2002-D020) .....	0750-AD86
604	Follow-On Production Contracts Prototype Projects (DFARS Case 2002-D023) .....	0750-AD88
605	Contracting With Federal Prison Industries (DFARS Case 2002-D040) .....	0750-AD95

## Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
606	Incremental Funding, Fixed-Price Contracts (DFARS Case 90-037) .....	0750-AA07
607	Applicability of Competition Requirements to Purchases From a Required Source (DFARS Case 2002-D003) .....	0750-AD57
608	Electronic Submission and Processing of Payment Requests (DFARS Case 2002-D001) .....	0750-AD70
609	Rewrite of DFARS Part 225 and Associated Text and Clauses (DFARS Case 2002-D009) .....	0750-AD73
610	The Indian Incentive Clause—Contract Types (DFARS Case 2002-D013) .....	0750-AD78
611	Waiver for Payment Bonds on Cost-Reimbursement Contracts (DFARS Case 2002-D030) .....	0750-AD79
612	Approval of Service Contracts and Task Orders (DFARS Case 2002-D024) .....	0750-AD81
613	Contractor Performance of Security-Guard Functions (DFARS Case 2002-D042) .....	0750-AD82
614	Provisional Award-Fee Payments (DFARS Case 2001-D013) .....	0750-AD83
615	Liability for Loss Under Vessel Repair and Alteration Contracts (DFARS Case 2002-D016) .....	0750-AD84
616	Payment Withholding (DFARS Case 2002-D017) .....	0750-AD85
617	Purchase Card Internal Controls (DFARS Case 2002-D025) .....	0750-AD87
618	Transportation of Supplies by Sea—Commercial Items (DFARS Case 2002-D019) .....	0750-AD89
619	Fish, Shellfish, or Seafood Products (DFARS Case 2002-D034) .....	0750-AD91
620	Extension of Contract Goal for Small Disadvantaged Businesses and Certain Institutions of Higher Education (DFARS Case 2002-D038) .....	0750-AD96
621	Indian Incentive Program—Commercial Items (DFARS Case 2002-D033) .....	0750-AD97

## Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
622	Patent Rights—Ownership by the Contractor (Large Business) (DFARS Case 2001-D015) .....	0750-AD72
623	Codification and Modification of Provision of Law Known as the "Berry Amendment" (DFARS Case 2002-D002) ...	0750-AD76

## Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identification Number
624	Performance-Based Service Contracts Using Part 12 Procedures (DFARS Case 2000-D306) .....	0750-AD35
625	Enterprise Software Agreements (DFARS Case 2000-D023) .....	0750-AD37
626	Performance of Security Functions (DFARS Case 2001-D018) .....	0750-AD58
627	Competition Requirements for Purchase of Services Under Multiple Award Contracts (DFARS Case 2001-D017) ...	0750-AD71

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## Defense Acquisition Regulations Council—Completed Actions (Continued)

Sequence Number	Title	Regulation Identification Number
628	Exception for Acquisition of U.S.-Made End Products in Acquisitions Subject to the Trade Agreements Act (DFARS Case 2002-D008) .....	0750-AD74
629	Foreign Military Sales Customer Involvement (DFARS Case 2002-D005) .....	0750-AD75
630	Acquisition Workforce Qualifications (DFARS Case 2002-D021) .....	0750-AD77
631	Emergency Acquisitions in Regions Subject to Economic Sanctions (DFARS Case 2002-D031) .....	0750-AD90
632	Extension of Mentor-Protege Program (DFARS Case 2002-D029) .....	0750-AD92
633	Caribbean Basin Country—Honduras (DFARS Case 2002-D028) .....	0750-AD94

## Defense Acquisition Regulations Council—Discontinued Entries

Regulation Identification Number	Title	Date	Comments
0750-AD47	Restriction on Contingent Fees for Foreign Military Sales—Commercial Items (DFARS Case 2000-D029)	10/11/2002	Withdrawn

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

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

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

Sequence Number	Title	Regulation Identification Number
637	Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers .....	0710-AA47
638	Programmatic Regulations for the Comprehensive Everglades Restoration Plan .....	0710-AA49

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

Sequence Number	Title	Regulation Identification Number
639	Regulatory Programs of the Corps of Engineers .....	0710-AA30
640	Regulatory Programs of the Corps of Engineers—Wetland Delineator Certification Program .....	0710-AA38
641	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis .....	0710-AA43
642	Cost-Sharing Requirements Under the Ability To Pay Provisions .....	0710-AA44

## Department of the Navy—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
643	Use of Department of the Navy Aviation Facilities by Other Than United States Department of Defense Aircraft .....	0703-AA48
644	Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy .....	0703-AA51

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## Department of the Navy—Long-Term Actions

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

## Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identification Number
646	Professional Conduct of Attorneys Practicing Under the Supervision of the Judge Advocate General .....	0703-AA70
647	United State Navy Regulations .....	0703-AA71

## Department of the Air Force—Completed Actions

Sequence Number	Title	Regulation Identification Number
648	Department of Defense Commercial Air Transportation Quality and Safety Review Program .....	0701-AA67

## Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
649	TRICARE Program; Inclusion of Anesthesiologist's Assistants as Authorized Providers; Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabilitation Facilities .....	0720-AA76
650	TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02) and a Technical Correction Included in the NDAA-03 .....	0720-AA77

## Office of Assistant Secretary for Health Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
651	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care (DoD 6010.8-R) .....	0720-AA20
652	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions .....	0720-AA41
653	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prosthetic Devices .....	0720-AA49
654	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Double Coverage .....	0720-AA50
655	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of an Appeals Process for TRICARE Claimcheck Denials .....	0720-AA56
656	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Methodology for Coverage of NIH-Sponsored Clinical Trials .....	0720-AA57
657	CHAMPUS/TRICARE; Implementation of the Pharmacy Benefits Program .....	0720-AA63
658	Civilian Health and Medical Program of the Uniformed Services; Individual Case Management Program for Persons With Extraordinary Conditions (ICMP-PEC) .....	0720-AA65
659	TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Eligibility and Payment Procedures for CHAMPUS Beneficiaries Age 65 and Over .....	0720-AA66
660	TRICARE; Prime Remote for Active Duty Family Members .....	0720-AA68
661	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Voluntary Disenrollment From the TRICARE Retiree Dental Program (TRDP) .....	0720-AA69
662	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enuretic Devices, Breast Reconstructive Surgery, PFPWD Valid Authorization Period, Early Intervention Services .....	0720-AA70
663	TRICARE; Waiver of Certain TRICARE Deductibles; Clarification of the TRICARE Prime Enrollment Period .....	0720-AA72
664	TRICARE; Sub-Acute Care Program; Uniform Skilled Nursing Facility Benefit; Home Health Care Benefit; Adopting Medicare Payment Methods for Skilled Nursing Facilities and Home Health Care Providers .....	0720-AA73

DOD

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

Sequence Number	Title	Regulation Identification Number
665	TRICARE; CHAMPUS; Appeals and Hearings Procedures, Formal Review .....	0720-AA74
666	TRICARE Program; Special Supplemental Food Program for Women, Infants, and Children Overseas .....	0720-AA75

Office of Assistant Secretary for Health Affairs—Completed Actions

Sequence Number	Title	Regulation Identification Number
667	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Program; Double Coverage; Third-Party Recoveries .....	0720-AA52

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

Proposed Rule Stage

**573. STARS AND STRIPES (S&S) NEWSPAPER**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 113

**CFR Citation:** 32 CFR 246

**Legal Deadline:** None

**Abstract:** This rule establishes policies and assigns responsibilities for the Stars and Stripes (S&S) newspaper operations. It designates the Secretary of the Army as the DoD Executive Agent for nonappropriated fund support to S&S and designates the successor-in-interest to S&S.

**Timetable:**

Action	Date
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** R. Oleszewski, Department of Defense, Office of the Secretary  
Phone: 703 428-0629

**RIN:** 0790-AG84

**574. DEPARTMENT OF DEFENSE NEWSPAPERS, MAGAZINES, AND CIVILIAN ENTERPRISE PUBLICATIONS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 113

**CFR Citation:** 32 CFR 247

**Legal Deadline:** None

**Abstract:** This rule establishes policy, assigns responsibilities, and prescribes procedures concerning authorized DoD Appropriated Funded (APF) newspapers and magazines, and Civilian Enterprise (CE) newspapers, magazines, guides, and installation maps (hereafter referred to as DoD publications) in support of the DoD Internal Information Program.

**Timetable:**

Action	Date
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** R. Oleszewski, Department of Defense, Office of the Secretary  
Phone: 703 428-0629

**RIN:** 0790-AG85

**575. DEVELOPMENT OF A MUNITIONS RESPONSE SITE PRIORITIZATION PROTOCOL**

**Priority:** Other Significant

**Legal Authority:** 10 USC 2710

**CFR Citation:** 32 CFR 179

**Legal Deadline:** None

**Abstract:** In response to section 311 of the Fiscal Year 2002 National Defense

Authorization Act, the Office of the Deputy Under Secretary of Defense (Installations & Environment), U.S. Department of Defense (DoD), proposes to develop a site prioritization protocol for assigning to each defense site (hereinafter, munitions response site) a relative priority for response activities related to unexploded ordnance, discarded military munitions, and munitions constituents. Section 311 lists specific factors to be included in the protocol. DoD is requesting input from interested parties on: (a) These factors; (b) any additional factors to consider in developing a site prioritization protocol; (c) how the proposed protocol should incorporate such factors as they relate to safety and environmental hazards; and (d) recommendations on any existing prioritization methods, models, or tools that should be evaluated.

**Timetable:**

Action	Date
ANPRM	03/20/02 67 FR 12937
ANPRM Comment Period End	05/20/02
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

DOD—OS

Proposed Rule Stage

**Agency Contact:** Patricia Ferrebee,  
Department of Defense, Office of the  
Secretary

Phone: 703 695-6107

**RIN:** 0790-AG94

**576. • TRANSACTIONS OTHER THAN  
CONTRACTS, GRANTS, OR  
COOPERATIVE AGREEMENTS FOR  
PROTOTYPE PROJECTS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 103-160

**CFR Citation:** 32 CFR 3

**Legal Deadline:** None

**Abstract:** This rule implements section 822 of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107. Section 822 provides for award of a follow-on production contract to traditional Defense contractors, without further competition, when the Other Transaction agreement for the prototype project provided for at least one-third non-Federal cost-share, consistent with law, and the Other Transaction

agreement for the prototype project satisfies certain additional conditions of law.

**Timetable:**

Action	Date
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** David Boyd,  
Department of Defense, Office of the  
Secretary

Phone: 703 697-6710

**RIN:** 0790-AG97

**577. • DEFENSE CONTRACT  
MANAGEMENT AGENCY FREEDOM  
OF INFORMATION ACT (FOIA)  
PROGRAM**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 552

**CFR Citation:** 32 CFR 289

**Legal Deadline:** None

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

**Timetable:**

Action	Date
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Cathy Alphin,  
Department of Defense, Office of the  
Secretary

Phone: 703 428-1453

**RIN:** 0790-AH00

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

Final Rule Stage

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 20 USC 1141(a)

**CFR Citation:** 32 CFR 206

**Legal Deadline:** Final, Statutory, April 5, 1994.

**Abstract:** The National Security Education Act provided for the National Security Education Program, the National Security Education Board, and a trust fund in the U.S. Treasury to provide all resources for the program. Under the Act, the Secretary is directed to carry out a program to award undergraduate scholarships, graduate fellowships, and grants to institutions of higher education. This rule is to inform those concerned with institutional grants to be offered under the 1994-1995 pilot grants program of the preliminary guidelines.

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Organizations

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Steve Door,  
Department of Defense, Office of the  
Secretary

Phone: 703 696-1991

Email: nsep@nsep.policy.osd.mil

**RIN:** 0790-AF59

**579. RESTORATION ADVISORY  
BOARDS (RABS)**

**Priority:** Other Significant

**Legal Authority:** 5 USC 551 et seq; 10 USC 2705

**CFR Citation:** 32 CFR 202

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

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

DOD—OS

Final Rule Stage

**Timetable:**

Action	Date
NPRM	08/06/96 61 FR 40764
NPRM Comment Period End	11/04/96 61 FR 40765
NPRM Extension of Comment Period	11/19/96 61 FR 58803
NPRM Comment Period End	01/20/97
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Federalism:** Undetermined**Agency Contact:** Patricia Ferrebee, Department of Defense, Office of the Secretary

Phone: 703 695-6107

**RIN:** 0790-AG31**580. SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS****Priority:** Other Significant**Legal Authority:** 10 USC 2575; 10 USC 2771; 10 USC 4712; 10 USC 9712; 24 USC 420; 31 USC 3529; 31 USC 3702; 32 USC 714; 37 USC 554; ...**CFR Citation:** 32 CFR 281**Legal Deadline:** None

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

delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

**Timetable:**

Action	Date
NPRM	11/14/02 67 FR 68956
NPRM Comment Period End	01/13/03
Final Action	05/00/03
Final Action Effective	07/00/03

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

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

**Agency Contact:** Michael Hipple, Department of Defense, Office of the Secretary  
Phone: 703 696-8510**Related RIN:** Related To 0790-AG89, Related To 0790-AG90, Related To 0790-AG91**RIN:** 0790-AG47**581. PERSONNEL SECURITY POLICIES FOR GRANTING ACCESS TO CLASSIFIED INFORMATION****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12968**CFR Citation:** 32 CFR 147**Legal Deadline:** None

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

**Timetable:**

Action	Date
Interim Final Rule	01/30/98 63 FR 4572
Interim Final Rule Effective	03/24/98
Interim Final Rule Comment Period End	03/31/98
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Terence Thompson, Department of Defense, Office of the Secretary

Phone: 703 602-9969

**RIN:** 0790-AG54**582. NATIONAL POLICY ON RECIPROCITY OF FACILITIES AND GUIDELINES FOR IMPLEMENTATION OF RECIPROCITY****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12968**CFR Citation:** 32 CFR 148**Legal Deadline:** None

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

**Timetable:**

Action	Date
Interim Final Rule Effective	09/16/97 63 FR 4580
Interim Final Rule	01/30/98 63 FR 4580
Interim Final Rule Comment Period End	03/31/98
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Terence Thompson, Department of Defense, Office of the Secretary

Phone: 703 602-9969

**RIN:** 0790-AG55

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**583. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12968**CFR Citation:** 32 CFR 149**Legal Deadline:** None**Abstract:** This rule is published to limit the use of technical surveillance countermeasures within the boundaries of the U.S. to cases where there is a reasonable showing of threat.**Timetable:**

Action	Date	
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule Effective	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	05/00/03	
Final Action Effective	07/00/03	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Terence Thompson, Department of Defense, Office of the Secretary  
Phone: 703 602-9969**RIN:** 0790-AG56**584. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC 113**CFR Citation:** 32 CFR 22; 32 CFR 32**Legal Deadline:** None**Abstract:** This rulemaking is the Department of Defense portion of a multiple-agency action. The agencies are amending their rules implementing Office of Management and Budget (OMB) Circular A-110 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations." The amendments to the rules incorporate updated language in Circular A-110 requiring Federal awarding agencies to ensure that all data produced under

awards subject to the Circular are made available to the public through the procedures established under the Freedom of Information Act (FOIA). OMB updated the Circular language in this way in October 1999, in response to a provision in Public Law 105-277. With this rule amendment to 32 CFR parts 22 and 32, the Department of Defense therefore will maintain policies on access to data produced under awards subject to Circular A-110 that are consistent with the policies of other executive departments and agencies.

**Timetable:**

Action	Date	
Interim Final Rule Effective	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Action	05/00/03	
Final Action Effective	07/00/03	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Mark Herbst, Department of Defense, Office of the Secretary  
Phone: 703 696-0372

Email: herbstm@acq.osd.mil

**RIN:** 0790-AG76**585. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, HANDICAP, AND AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE****Priority:** Substantive, Nonsignificant**Legal Authority:** 42 USC 794; 42 USC 2000d to 2000d-7; 42 USC 6101 to 6107; EO 12250**CFR Citation:** Not Yet Determined**Legal Deadline:** None**Abstract:** The Department of Defense proposes to make amendments to its regulations implementing title VI of the Civil Rights Act of 1964 (title VI), section 504 of the Rehabilitation Act of 1972 (section 504), and the Age Discrimination Act of 1975 (Age Discrimination Act). Together, these statutes prohibit discrimination on the basis of race, color, national origin, disability, and age in programs or activities that receive Federal financial

assistance. In 1988, the Civil Rights Restoration Act (CRRRA) added definitions of "program or activity" and "program" to title VI and added a definition of "program or activity" to section 504 and the Age Discrimination Act. The added definitions were designed to clarify the broad scope of coverage of recipients' programs or activities under these statutes. The promulgation of this proposed regulation explicitly incorporates the CRRRA's definition of "program or activity" and "program" into the Department of Defense's title VI, section 504, and Age Discrimination Act regulations. The Department of Defense's proposed regulation will be published as part of a joint notice of proposed rulemaking involving up to 24 Federal agencies.

**Timetable:**

Action	Date	
NPRM	12/06/00	65 FR 76460
NPRM Comment Period End	01/05/01	
Final Action	09/00/03	
Final Action Effective	10/00/03	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Jerry Anderson, Department of Defense, Office of the Secretary  
Phone: 703 695-0105**RIN:** 0790-AG83**586. DOD GRANT AND AGREEMENT REGULATIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC 113**CFR Citation:** 32 CFR 21; 32 CFR 22; 32 CFR 32; 32 CFR 34; 32 CFR 37**Legal Deadline:** None**Abstract:** The Department of Defense (DoD) proposes to add a new part 37 to the DoD Grant and Agreement Regulations (DoDGARs) to incorporate policies and procedures for the award and administration of Technology Investment Agreements (TIAs). TIAs are a relatively new class of assistance instruments. DoD components use TIAs to support or stimulate defense research projects involving for-profit firms, especially commercial firms that do business primarily in the commercial

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marketplace. The new part 37 therefore gives DoD agreements officers greater flexibility to negotiate award provisions in areas that can present barriers to those commercial firms (e.g., intellectual property, audits, and cost principles). This rule also proposes revisions to parts 21, 22, 32, and 34 of the DoDGARs to conform the rest of the DoDGARs with the proposed part 37.

**Timetable:**

Action	Date
NPRM	04/30/02 67 FR 21486
NPRM Comment Period End	07/01/02
Final Action	05/00/03
Final Action Effective	07/00/03

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

Phone: 703 696-0372

Email: herbstm@acq.osd.mil

**RIN:** 0790-AG87**587. PROCEDURES FOR SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS****Priority:** Other Significant**Legal Authority:** 5 USC 552a; 10 USC 2575; 10 USC 2771; 10 USC 4712; 10 USC 9712; 24 USC 420; 31 USC 3529; 31 USC 3702; 32 USC 714; 37 USC 554; ...**CFR Citation:** 32 CFR 282**Legal Deadline:** None

**Abstract:** This rule proposes policy and prescribes procedures for processing and settling personnel and general claims and for processing requests for an advance decision. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to

waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignments of the Comptroller General's former duties within the Department of Defense with little impact on the public.

**Timetable:**

Action	Date
NPRM	11/14/02 67 FR 68957
NPRM Comment Period End	01/13/03 67 FR 68958
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Michael Hipple, Department of Defense, Office of the Secretary  
Phone: 703 696-8510**Related RIN:** Related To 0790-AG47, Related To 0790-AG90, Related To 0790-AG91**RIN:** 0790-AG89**588. WAIVER OF DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES (DOD DIRECTIVE 1340.21)****Priority:** Other Significant**Legal Authority:** 5 USC 5584; 10 USC 2774; 32 USC 716**CFR Citation:** 32 CFR 283**Legal Deadline:** None

**Abstract:** This rule proposes policy and assigns responsibilities for considering applications for the waiver of debts resulting from erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services and civilian DoD employees. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated

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

**Timetable:**

Action	Date
NPRM	11/14/02 67 FR 68963
NPRM Comment Period End	01/13/03
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Michael Hipple, Department of Defense, Office of the Secretary

Phone: 703 696-8510

**Related RIN:** Related To 0790-AG47, Related To 0790-AG89, Related To 0790-AG91**RIN:** 0790-AG90**589. WAIVER PROCEDURES FOR DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES (DOD INSTRUCTION 1340.23)****Priority:** Other Significant**Legal Authority:** 5 USC 552a; 5 USC 2104; 5 USC 2105; 5 USC 5584; 10 USC 2774; 32 USC 716; ...**CFR Citation:** 32 CFR 284**Legal Deadline:** None

**Abstract:** This rule proposes policy and prescribes procedures for considering waiver applications. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office

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

**Timetable:**

Action	Date
NPRM	11/14/02 67 FR 68965
NPRM Comment Period End	01/13/03
Final Action	05/00/03
Final Action Effective	07/00/03

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

**Agency Contact:** Michael Hipple, Department of Defense, Office of the Secretary  
Phone: 703 696-8510

**Related RIN:** Related To 0790-AG47, Related To 0790-AG89, Related To 0790-AG90

**RIN:** 0790-AG91**590. VOLUNTARY STATE TAX WITHHOLDING FROM RETIRED PAY****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 1045**CFR Citation:** 32 CFR 78**Legal Deadline:** None

**Abstract:** This rule amends 32 CFR part 78, Voluntary State Tax Withholding From Retired Pay, to comply with the Treasury Financial Manual, Volume 1, section 5060f.

**Timetable:**

Action	Date
Final Rule	05/00/03
Final Rule Effective	05/00/03
Final Rule Comment Period End	07/00/03

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

**Agency Contact:** Peter Dragon, Department of Defense, Office of the Secretary  
Phone: 703 604-6350

**RIN:** 0790-AG93**591. NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE (NSA/CSS) FREEDOM OF INFORMATION ACT PROGRAM****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 552**CFR Citation:** 32 CFR 299**Legal Deadline:** None

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

**Timetable:**

Action	Date
Interim Final Rule Effective	08/05/02
Interim Final Rule	05/00/03
Interim Final Rule Comment Period End	07/00/03

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

**Agency Contact:** Pamela Phillips, Department of Defense, Office of the Secretary  
Phone: 301 688-6527

**RIN:** 0790-AG96**592. • REVIEW OF THE MANUAL FOR COURTS-MARTIAL (DOD DIRECTIVE 5500.17)****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12473; 10 USC 47**CFR Citation:** 32 CFR 152**Legal Deadline:** None

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

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

**Timetable:**

Action	Date
Interim Final Rule	05/00/03
Interim Final Rule Effective	05/00/03
Interim Final Rule Comment Period End	07/00/03

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

**Agency Contact:** Robert E. Reed, Department of Defense, Office of the Secretary

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Phone: 703 695-1055

RIN: 0790-AG99

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

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

Section 845 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103-160, as amended, authorizes the Secretary of a Military Department, the Director of Defense Advanced Research Projects Agency, and any other official designated by the Secretary of Defense, to enter into transactions other than contracts, grants, or cooperative agreements in certain situations for prototype projects that are directly relevant to weapons or weapon systems proposed to be acquired or developed by the Department of Defense. Such transactions are commonly referred to as "other transaction" agreements for prototype projects. To the extent that a particular statute or regulation is limited in its applicability to the use of a procurement contract, it would generally not apply to "other transactions" for prototype projects.

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

**Timetable:**

Action	Date	
NPRM	11/21/01	66 FR 58422
NPRM Comment Period End	01/22/02	
Public Meeting	03/27/02	67 FR 9632
Final Action	05/00/03	
Final Action Effective	07/00/03	

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

**Agency Contact:** David Boyd, Department of Defense, Office of the Secretary  
Phone: 703 697-6710

**Related RIN:** Split From 0790-AG92**RIN:** 0790-AH01**594. • IMPLEMENTATION OF SECTION 740 OF THE WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY AND SECTION 1051 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 106-181; PL 107-314**CFR Citation:** 32 CFR 207**Legal Deadline:** None

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

**Timetable:**

Action	Date
Interim Final Rule	05/00/03
Interim Final Rule Effective	05/00/03
Interim Final Rule Comment Period End	07/00/03

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

**Agency Contact:** Debra Bennett, Department of Defense, Office of the Secretary  
Phone: 703 604-0098

**Related RIN:** Related To 0790-AG95**RIN:** 0790-AH02

Department of Defense (DOD)

Office of the Secretary (OS)

Long-Term Actions

**595. FORMER SPOUSE PAYMENTS FROM RETIRED PAY; AMENDMENT (DOD DIRECTIVE 1340.16 AND DOD 7000.14-R, VOL 7, PART B)****Priority:** Substantive, Nonsignificant**CFR Citation:** 32 CFR 63**Timetable:**

Action	Date
NPRM	04/06/95 60 FR 17507

Action	Date
NPRM Comment Period End	06/06/95
Final Action	To Be Determined

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

**Agency Contact:** Fiti Malufau  
Phone: 703 607-5061  
Email: [malufauf@cleveland.dfas.mil](mailto:malufauf@cleveland.dfas.mil)

**RIN:** 0790-AG22**596. CLOSED, TRANSFERRED, AND TRANSFERRING RANGES CONTAINING MILITARY MUNITIONS****Priority:** Other Significant**CFR Citation:** 32 CFR 178**Timetable:**

Action	Date
NPRM	09/26/97 62 FR 50796
Public Meetings Begin	10/22/97
Public Meetings End	12/10/97

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Long-Term Actions

**Action**  
NPRM Comment  
Period End  
Final Action  
**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** Undetermined  
**Agency Contact:** John Selstrom  
Phone: 703 697-5372  
**RIN:** 0790-AG46

**Date**  
12/26/97

To Be Determined

**597. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)**  
**Priority:** Substantive, Nonsignificant  
**CFR Citation:** 32 CFR 25; 32 CFR 26  
**Timetable:**

Action	Date
NPRM	01/23/02 67 FR 3265

**Action**  
NPRM Comment  
Period End  
Next Action Undetermined  
**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** None  
**Agency Contact:** Mark Herbst  
Phone: 703 696-0372  
Email: herbstm@acq.osd.mil  
**RIN:** 0790-AG86

**Date**  
03/25/02 67 FR 3267

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

Completed Actions

**598. TEACHER AND TEACHER'S AIDE PLACEMENT ASSISTANCE PROGRAM (TROOPS TO TEACHERS) (DOD INSTRUCTION 1404.13)**  
**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 10 USC 1151; 10 USC 1598; 10 USC 2410c  
**CFR Citation:** 32 CFR 254  
**Legal Deadline:** None

**Action**  
Interim Final Rule  
Amendment  
Comment Period  
End  
Final Action  
Final Action Effective  
**Regulatory Flexibility Analysis Required:** No  
**Small Entities Affected:** No  
**Government Levels Affected:** None  
**Agency Contact:** Otto Thomas,  
Department of Defense, Office of the Secretary  
Phone: 703 614-4074  
Email: thomaso@pr.osd.mil  
**RIN:** 0790-AF71

**Date**  
08/07/95 60 FR 30188

02/06/03 68 FR 6082  
02/06/03

**Abstract:** This program provides stipends to service members and eligible individuals losing Defense jobs and provides grants to local educational agencies who hire separated military members, terminated Department of Defense and Department of Energy employees, and displaced Defense contractor scientists and engineers as teachers and teacher aides. The intent of this program is to relieve shortages of elementary and secondary school teachers and teacher's aides through placement of qualified separating military, Department of Defense, and Department of Energy employees and displaced contractor employees in schools that serve a concentration of children from low-income families.

**Timetable:**

Action	Date
Interim Final Rule	02/15/94 59 FR 7213
Interim Final Rule Effective	02/22/94
Interim Final Rule Comment Period End	04/18/94
Interim Final Rule Amendment Effective	11/25/94 60 FR 30188
Interim Final Rule Amendment	06/08/95 60 FR 30188

**599. IMPLEMENTATION OF WILDFIRE SUPPRESSION AIRCRAFT TRANSFER ACT OF 1996**  
**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 10 USC 2576 note  
**CFR Citation:** 32 CFR 171  
**Legal Deadline:** None  
**Abstract:** This rule adds regulations on the Implementation of Wildfire Suppression Aircraft Transfer Act of 1996 back into the Code of Federal Regulations. This rule was published as an Interim Final Rule on June 1, 1999 (64 FR 29227), and was inadvertently removed on October 25, 2001 (66 FR 53957). The Wildfire Suppression Aircraft Transfer Act of 1996 authorized the Department of Defense (DoD), during the period October 1, 1996, through September 30, 2000, to sell aircraft and aircraft parts to entities that contract with the Federal Government for the delivery of fire retardant by air in order to suppress

wildfire. Public Law 106-398 (114 Stat. 1654A-89) extended the expiration date from September 30, 2000, to September 30, 2005.

**Timetable:**

Action	Date
Interim Final Rule	06/01/99 64 FR 29227
Interim Final Rule Comment Period End	06/01/99
Interim Final Rule Effective	08/02/99
Final Action Effective	08/01/02 68 FR 8822
Final Action	02/26/03 68 FR 8822

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Debra Bennett,  
Department of Defense, Office of the Secretary  
Phone: 703 604-0098

**Related RIN:** Related To 0790-AG60

**RIN:** 0790-AG95

**600. • DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM (DOD DIRECTIVE 5400.7)**

**Priority:** Info./Admin./Other

**Legal Authority:** 5 USC 552

**CFR Citation:** 32 CFR 285

**Legal Deadline:** None

**Abstract:** This rule reflects administrative changes as a result of DoD reorganization. The rule also provides guidance to DoD on implementation of the amended law.

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## Completed Actions

**Timetable:**

Action	Date
Final Action Effective	06/17/02 68 FR 8825
Final Action	02/26/03 68 FR 8825

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** David Maier,  
Department of Defense, Office of the  
Secretary  
Phone: 703 697-1160

RIN: 0790-AG98

**601. • DEPUTY SECRETARY OF DEFENSE**

Priority: Info./Admin./Other

Legal Authority: 10 USC 301

CFR Citation: 32 CFR 341

Legal Deadline: None

**Abstract:** This rule announces the authority of the Deputy Secretary of Defense, Dr. Paul Wolfowitz, to act for the Secretary of Defense and to exercise the powers of the Secretary of Defense upon any and all matters concerning which the Secretary of Defense is authorized to act pursuant to law. It further permits the Deputy Secretary to make specific delegations of this authority in appropriate cases.

**Timetable:**

Action	Date
Final Action Effective	01/26/01 67 FR 42722
Final Action	06/25/02 67 FR 42722

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Mark Munson,  
Department of Defense, Office of the  
Secretary  
Phone: 703 697-1143

RIN: 0790-AH03

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

## Proposed Rule Stage

**602. • EFFICIENCY SAVINGS (DFARS CASE 2002-D022)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 242.76

Legal Deadline: None

**Abstract:** Modifies the Defense FAR Supplement to add policies and procedures for the negotiation of advance agreements to permit DoD to share efficiency savings with contractors.

**Timetable:**

Action	Date
Case Opened	07/23/02
NPRM	05/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: Businesses

Government Levels Affected: Federal

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

RIN: 0750-AD80

**603. • INFORMATION ASSURANCE (DFARS CASE 2002-D020)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 239.71; 48 CFR 252.239-7000

Legal Deadline: None

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

**Timetable:**

Action	Date
Case Opened	06/25/02
NPRM	06/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**Agency Contact:** Noranzie (Gail) Cruz,  
Department of Defense, Defense  
Acquisition Regulations Council, Attn:  
IMD 3C132, OUSD AT&L, 3062 Defense  
Pentagon, Washington, DC 20301-3062  
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RIN: 0750-AD86

**604. • FOLLOW-ON PRODUCTION CONTRACTS PROTOTYPE PROJECTS (DFARS CASE 2002-D023)**

Priority: Substantive, Nonsignificant

Legal Authority: PL 107-107, sec 822

CFR Citation: 48 CFR 206.3

Legal Deadline: None

**Abstract:** Modifies the Defense FAR Supplement to implement section 822

of the Fiscal Year 2002 National Defense Authorization Act. Section 822 specifies that a prototype project "other transaction" may provide for award of a follow-on production contract for a specific number of units at specific target prices.

**Timetable:**

Action	Date
Case Opened	07/24/02
NPRM	05/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**Agency Contact:** Noranzie (Gail) Cruz,  
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Email: gail.cruz@osd.mil

RIN: 0750-AD88

**605. • CONTRACTING WITH FEDERAL PRISON INDUSTRIES (DFARS CASE 2002-D040)**

Priority: Substantive, Nonsignificant

Legal Authority: PL 107-314, sec 819

CFR Citation: 48 CFR 208.6

Legal Deadline: NPRM, Statutory, March 2, 2003.

Statutory, March 2, 2003, for NPRM; May 31, 2003, for final action.

## DOD—DARC

## Proposed Rule Stage

**Abstract:** Modifies the Defense FAR Supplement to implement section 819 of the Fiscal Year 2003 National Defense Authorization Act. Section 819 clarifies policy pertaining to the acquisition of products from Federal Prison Industries.

**Timetable:**

Action	Date
Case Opened	12/05/02
NPRM	06/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Federalism:** Undetermined

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750—AD95

## Department of Defense (DOD)

## Final Rule Stage

## Defense Acquisition Regulations Council (DARC)

**606. INCREMENTAL FUNDING, FIXED-PRICE CONTRACTS (DFARS CASE 90-037)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 232.7; 48 CFR 252.232

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to permit the use of incremental funding of fixed-price contracts under certain situations.

**Timetable:**

Action	Date
Case Opened	09/26/90
Interim Final Rule	09/01/93 58 FR 46091
Final Action	05/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Additional Information:** This rulemaking was previously reported as RIN 0790-AE42.

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

**RIN:** 0750—AA07

**607. APPLICABILITY OF COMPETITION REQUIREMENTS TO PURCHASES FROM A REQUIRED SOURCE (DFARS CASE 2002-D003)**

**Priority:** Other Significant

**Legal Authority:** PL 107-107, sec 811

**CFR Citation:** 48 CFR 208.6; 48 CFR 210.0

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to require market research before purchasing any product from Federal Prison Industries (FPI) to determine whether the FPI product is comparable in price, quality, and time of delivery to products available from the private sector.

**Timetable:**

Action	Date
Case Opened	01/08/02
Interim Final Rule	04/26/02 67 FR 20687
Interim Final Rule	06/25/02
Comment Period	End
Final Action	05/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
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**RIN:** 0750—AD57

**608. ELECTRONIC SUBMISSION AND PROCESSING OF PAYMENT REQUESTS (DFARS CASE 2002-D001)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 106-398, sec 1008

**CFR Citation:** 48 CFR 232.70; 48 CFR 252.212-7001; 48 CFR 252.232

**Legal Deadline:** Final, Statutory, October 1, 2002, Implementation can be

either an Interim Final Rule or a Final Rule.

**Abstract:** Modifies the Defense FAR Supplement to implement section 1008 of the Fiscal Year 2001 National Defense Authorization Act, which requires that any claim for payment be submitted and processed electronically.

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750—AD70

**609. REWRITE OF DFARS PART 225 AND ASSOCIATED TEXT AND CLAUSES (DFARS CASE 2002-D009)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 206.303; 48 CFR 208.7203; 48 CFR 225; 48 CFR 242.302; 48 CFR 252.212; 48 CFR 212.301; 48 CFR 252.225

**Legal Deadline:** None

## DOD—DARC

## Final Rule Stage

**Abstract:** Modifies the Defense FAR Supplement to rewrite part 225 to improve clarity and make procedures less complex, particularly for evaluation of foreign offers and customs duty.

**Timetable:**

Action	Date
Case Opened	03/22/02
NPRM	10/07/02 67 FR 62590
NPRM Comment Period End	12/06/02
Final Action	05/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750-AD73

**610. • THE INDIAN INCENTIVE CLAUSE—CONTRACT TYPES (DFARS CASE 2002-D013)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 252.226-7001

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to ensure that the Indian subcontracting incentives can be applied to all contract types.

**Timetable:**

Action	Date
Case Opened	06/11/02
NPRM	11/22/02 67 FR 70389
NPRM Comment Period End	01/21/03
Final Action	05/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750-AD78

**611. • WAIVER FOR PAYMENT BONDS ON COST-REIMBURSEMENT CONTRACTS (DFARS CASE 2002-D030)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 228.102

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to permit the use of alternative payment protections for fixed-price construction subcontracts between \$25,000 and \$100,000 issued under cost-reimbursement contracts.

**Timetable:**

Action	Date
Case Opened	10/03/02
NPRM	02/14/03 68 FR 7490
NPRM Comment Period End	04/15/03
Final Action	06/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Federalism:** Undetermined

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

**RIN:** 0750-AD79

**612. • APPROVAL OF SERVICE CONTRACTS AND TASK ORDERS (DFARS CASE 2002-D024)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-107, sec 801(b)

**CFR Citation:** 48 CFR 237.170

**Legal Deadline:** None

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

**Timetable:**

Action	Date
Case Opened	08/02/02
Interim Final Rule	06/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

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

**RIN:** 0750-AD81

**613. • CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS (DFARS CASE 2002-D042)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-314, sec 332

**CFR Citation:** 48 CFR 237.1

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to implement section 332 of the Fiscal Year 2003 National Defense Authorization Act. Section 332 provides temporary authority for contractor performance of security-guard functions at military installations or facilities to meet increased requirements since September 11, 2001.

**Timetable:**

Action	Date
Case Opened	12/12/02
Interim Final Rule	02/14/03 68 FR 7443
Interim Final Rule Comment Period End	04/15/03
Final Action	06/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750-AD82

## DOD—DARC

## Final Rule Stage

**614. • PROVISIONAL AWARD-FEE PAYMENTS (DFARS CASE 2001-D013)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 216.405-2**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to provide overall guidance for the payment of provisional award fees under cost-plus-award-fee contracts.**Timetable:**

Action	Date
Case Opened	08/29/01
NPRM	11/22/02 67 FR 70388
NPRM Comment Period End	01/21/03
Final Rule	06/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
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Email: gail.cruz@osd.mil**RIN:** 0750-AD83**615. • LIABILITY FOR LOSS UNDER VESSEL REPAIR AND ALTERATION CONTRACTS (DFARS CASE 2002-D016)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 252.217-7012**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to increase a contractor's liability for loss or damage under vessel repair and alteration contracts from \$5,000 to \$50,000 per incident.**Timetable:**

Action	Date
Case Opened	06/17/02
NPRM	02/14/03 68 FR 7491
NPRM Comment Period End	04/15/03
Final Action	06/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
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Email: gail.cruz@osd.mil**RIN:** 0750-AD84**616. • PAYMENT WITHHOLDING (DFARS CASE 2002-D017)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 232.111; 48 CFR 252.232**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to remove the requirement for a contracting officer to routinely withhold 5 percent of payments due under a time-and-materials or labor-hour contract.**Timetable:**

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

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
Fax: 703 602-0350  
Email: gail.cruz@osd.mil**RIN:** 0750-AD85**617. • PURCHASE CARD INTERNAL CONTROLS (DFARS CASE 2002-D025)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 213.3**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to add policy on internal controls for proper use of the Governmentwide commercial purchase card.**Timetable:**

Action	Date
Case Opened	08/02/02
NPRM	12/20/02 67 FR 77955
NPRM Comment Period End	02/18/03
Final Action	07/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
Fax: 703 602-0350  
Email: gail.cruz@osd.mil**RIN:** 0750-AD87**618. • TRANSPORTATION OF SUPPLIES BY SEA—COMMERCIAL ITEMS (DFARS CASE 2002-D019)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 252.212-7001(b)**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to add an alternate version of a clause, pertaining to the transportation of supplies by sea, for use in contracts for commercial items at or below the simplified acquisition threshold.**Timetable:**

Action	Date
Case Opened	06/24/02
NPRM	10/25/02 67 FR 65528
NPRM Comment Period End	12/24/02
Final Action	05/00/03

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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Email: gail.cruz@osd.mil**RIN:** 0750-AD89

## DOD—DARC

## Final Rule Stage

**619. • FISH, SHELLFISH, OR SEAFOOD PRODUCTS (DFARS CASE 2002-D034)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-248, sec 8136**CFR Citation:** 48 CFR 225.7002-2; 48 CFR 252.212-7001; 48 CFR 252.225-7012**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to implement section 8136 of the Fiscal Year 2003 Defense Appropriations Act. Section 8136 requires the acquisition of domestic fish, shellfish, and seafood.**Timetable:**

Action	Date
Case Opened	10/28/02
Interim Final Rule	02/14/03 68 FR 7441
Interim Final Rule	04/15/03
Comment Period End	
Final Action	06/00/03

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
Fax: 703 602-0350  
Email: gail.cruz@osd.mil**RIN:** 0750-AD91**620. • EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION (DFARS CASE 2002-D038)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-314, sec 816**CFR Citation:** 48 CFR 219.0; 48 CFR 226.70**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to implement section 816 of the Fiscal Year 2003 National Defense Authorization Act. Section 816 extends, through September 30, 2006, the 5 percent goal for contract awards to small disadvantaged businesses, historically black colleges and universities, and minority institutions.**Timetable:**

Action	Date
Case Opened	12/05/02
Final Rule	05/00/03

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
Fax: 703 602-0350  
Email: gail.cruz@osd.mil**RIN:** 0750-AD96**621. • INDIAN INCENTIVE PROGRAM—COMMERCIAL ITEMS (DFARS CASE 2002-D033)****Priority:** Substantive, Nonsignificant**Legal Authority:** 107-248, sec 8021**CFR Citation:** 48 CFR 226.1; 48 CFR 252.226-7001**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to implement section 8021 of the Fiscal Year 2003 Defense Appropriations Act. Section 8021 expands the applicability of the Indian Incentive Program to contracts for commercial items.**Timetable:**

Action	Date
Case Opened	10/25/02
Interim Final Rule	06/00/03

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
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Email: gail.cruz@osd.mil**RIN:** 0750-AD97

## Department of Defense (DOD)

## Long-Term Actions

## Defense Acquisition Regulations Council (DARC)

**622. PATENT RIGHTS—OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS) (DFARS CASE 2001-D015)****Priority:** Substantive, Nonsignificant**CFR Citation:** 48 CFR 227.3; 48 CFR 252.227**Timetable:**

Action	Date
Case Opened	10/09/01
NPRM	To Be Determined

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) CruzPhone: 703 602-0131  
Fax: 703 602-0350  
Email: gail.cruz@osd.mil**RIN:** 0750-AD72**623. CODIFICATION AND MODIFICATION OF PROVISION OF LAW KNOWN AS THE "BERRY AMENDMENT" (DFARS CASE 2002-D002)****Priority:** Substantive, Nonsignificant**CFR Citation:** 48 CFR 225.7002; 48 CFR 252.212-7001; 48 CFR 252.225-7012**Timetable:**

Action	Date
Case Opened	01/08/02
Interim Final Rule	04/26/02 67 FR 20697
Interim Final Rule	06/25/02
Comment Period End	
Final Action	To Be Determined

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz  
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## DOD—DARC

## Long-Term Actions

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RIN: 0750—AD76

## Department of Defense (DOD)

## Completed Actions

## Defense Acquisition Regulations Council (DARC)

**624. PERFORMANCE-BASED SERVICE CONTRACTS USING PART 12 PROCEDURES (DFARS CASE 2000-D306)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 106-398, sec 821(b)**CFR Citation:** 48 CFR 212.102; 48 CFR 237.601**Legal Deadline:** Final, Statutory, April 27, 2001, Implementation can be either an Interim Final Rule or a Final Rule.**Abstract:** Modifies the Defense FAR Supplement to implement section 821(b) of the Fiscal Year 2001 National Defense Authorization Act, which authorizes the Department of Defense to treat performance-based service contracts/task orders valued at \$5 million or less as contracts for commercial items if certain conditions are met.**Timetable:**

Action	Date
Case Opened	11/08/00
Interim Final Rule	12/06/01 66 FR 63335
Interim Final Rule	02/04/02
Comment Period End	
Final Action	10/25/02 67 FR 65512

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

RIN: 0750—AD35

**625. ENTERPRISE SOFTWARE AGREEMENTS (DFARS CASE 2000-D023)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 208.001; 48 CFR 208.74; 48 CFR 239.101; 48 CFR 251.102; 48 CFR 252.251**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to add guidance on acquiring commercially available software. These revisions implement the Department of Defense Chief Information Officer Guidance and Policy Memorandum Number 12-8430, dated July 26, 2000, entitled "Acquiring Commercially Available Software."**Timetable:**

Action	Date
Case Opened	10/03/00
NPRM	01/29/02 67 FR 4231
NPRM Comment Period End	04/01/02
Final Action	10/25/02 67 FR 65509

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

RIN: 0750—AD37

**626. PERFORMANCE OF SECURITY FUNCTIONS (DFARS CASE 2001-D018)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-56, sec 1010**CFR Citation:** 48 CFR 237.1**Legal Deadline:** None**Abstract:** Modifies the Defense FAR Supplement to implement section 1010 of the USA Patriot Act. Section 1010 permits DoD to contract for security functions at military installations.**Timetable:**

Action	Date
Case Opened	12/04/01
Interim Final Rule	03/14/02 67 FR 11438

Action	Date
Interim Final Rule	05/13/02
Comment Period End	
Final Action	08/30/02 67 FR 55730

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
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RIN: 0750—AD58

**627. COMPETITION REQUIREMENTS FOR PURCHASE OF SERVICES UNDER MULTIPLE AWARD CONTRACTS (DFARS CASE 2001-D017)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-107, sec 803**CFR Citation:** 48 CFR 208.4; 48 CFR 216.5**Legal Deadline:** Final, Statutory, June 26, 2002, Implementation can be either an Interim Final Rule or a Final Rule.**Abstract:** Modifies the Defense FAR Supplement to implement section 803 of the Fiscal Year 2002 National Defense Authorization Act, which requires competition in the purchase of services under multiple award contracts.**Timetable:**

Action	Date
Case Opened	11/16/01
NPRM	04/01/02 67 FR 15351
NPRM Comment Period End	05/06/02
Final Action	10/25/02 67 FR 65505

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

## DOD—DARC

## Completed Actions

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0131  
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**RIN:** 0750—AD71

**628. EXCEPTION FOR ACQUISITION OF U.S.-MADE END PRODUCTS IN ACQUISITIONS SUBJECT TO THE TRADE AGREEMENTS ACT (DFARS CASE 2002-D008)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 225.001; 48 CFR 225.003; 48 CFR 225.103; 48 CFR 225.402; 48 CFR 225.502; 48 CFR 225.504; 48 CFR 225.1101; 48 CFR 225.7501; 48 CFR 252.225

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to implement the determination of USD (AT&L) that, for procurements subject to the Trade Agreements Act, it would be inconsistent with the public interest to apply the Buy American Act to U.S.-made end products that are substantially transformed in the United States.

**Timetable:**

Action	Date
Case Opened	03/22/02
NPRM	07/30/02 67 FR 49278
NPRM Comment Period End	09/30/02
Final Action	12/20/02 67 FR 77937

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750—AD74

**629. FOREIGN MILITARY SALES CUSTOMER INVOLVEMENT (DFARS CASE 2002-D005)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 225.7304

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to add policy regarding the participation of foreign military sales customers in the development of contracts that DoD awards on their behalf.

**Timetable:**

Action	Date
Case Opened	01/18/02
NPRM	04/26/02 67 FR 20713
NPRM Comment Period End	06/25/02
Final Action	11/22/02 67 FR 70323

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

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

**RIN:** 0750—AD75

**630. ACQUISITION WORKFORCE QUALIFICATIONS (DFARS CASE 2002-D021)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-107, sec 824

**CFR Citation:** 48 CFR 201.603-2

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to implement section 824 of the Fiscal Year 2002 National Defense Authorization Act, which contains qualification requirements for contracting professionals.

**Timetable:**

Action	Date
Case Opened	06/26/02
Final Action	10/25/02 67 FR 65509

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750—AD77

**631. • EMERGENCY ACQUISITIONS IN REGIONS SUBJECT TO ECONOMIC SANCTIONS (DFARS CASE 2002-D031)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 225.701-70

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to implement a license from the Department of the Treasury that authorizes DoD personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions.

**Timetable:**

Action	Date
Case Opened	10/16/02
Final Rule	02/14/03 68 FR 7441

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750—AD90

**632. • EXTENSION OF MENTOR-PROTEGE PROGRAM (DFARS CASE 2002-D029)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-107, sec 812

**CFR Citation:** 48 CFR 219.7104

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to implement section 812 of the Fiscal Year 2002 National

DOD—DARC

Completed Actions

Defense Authorization Act, which extends the DoD Pilot Mentor-Protege Program to September 30, 2005.

**Timetable:**

Action	Date
Case Opened	09/23/02
Final Action	12/20/02 67 FR 77936

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750-AD92

**633. • CARIBBEAN BASIN COUNTRY—HONDURAS (DFARS CASE 2002-D028)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 252.225-7007; 48 CFR 252.225-7021

**Legal Deadline:** None

**Abstract:** Modifies the Defense FAR Supplement to add Honduras to the list of Caribbean Basin countries in accordance with a determination of the U.S. Trade Representative.

**Timetable:**

Action	Date
Case Opened	08/27/02
Final Action	10/25/02 67 FR 65514

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Noranzie (Gail) Cruz, Department of Defense, Defense Acquisition Regulations Council, Attn: IMD 3C132, OUSD AT&L, 3062 Defense Pentagon, Washington, DC 20301-3062  
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**RIN:** 0750-AD94

Department of Defense (DOD)

U.S. Army Corps of Engineers (COE)

Proposed Rule Stage

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

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 33 CFR 230

**Legal Deadline:** None

**Abstract:** The purpose of this regulatory revision is to clarify and provide additional guidance for Corps NEPA requirements for activities at Federal water resource development projects and lands.

**Timetable:**

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

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Forrester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-PC), 441 G Street NW, Washington, DC 20314-1000  
Phone: 202 761-4589

**RIN:** 0710-AA42

**635. • CLEAN WATER ACT REGULATORY DEFINITION OF “WATERS OF THE UNITED STATES”**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 33 USC 1361 CWA sec 501; 33 USC 1362 CWA sec 502

**CFR Citation:** 33 CFR 328; 40 CFR 110, 112, 116, 117, 122, 230, 232; 40 CFR 257, 300, 401

**Legal Deadline:** None

**Abstract:** An Advance Notice of Proposed Rulemaking on the Clean Water Act Regulatory Definition of “Waters of the United States” was published jointly by USEPA and the Department of the Army on January 15, 2003, to solicit public input pertaining to “isolated, intrastate, non-navigable waters and wetlands” and their jurisdictional status under the Clean Water Act (CWA). The existing regulations contain language asserting jurisdiction over such waters, however, on January 9, 2001, for the Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC) case, the U.S. Supreme Court held that the scope of “waters of the United States” protected under the CWA did not extend to these waters and wetlands based solely on the use or potential use by migratory birds. While SWANCC did not actually invalidate existing regulations under the CWA, the decision does establish limitations on their use. Rulemaking is

necessary to address the Court’s decision, clarify the jurisdictional status of waters and wetlands, improve the definitions of tributaries and adjacency, address the jurisdictional status of man-made conveyances, and provide more specificity regarding CWA jurisdiction for entities (e.g., industrial, commercial, governmental) that discharge pollutants, including dredged or fill material, to isolated intrastate surface waters or wetlands. Small entities or State/local/Tribal governments might be affected by a change in the regulatory definition of “waters of the United States” if they are regulated under or help administer CWA programs affecting such waters; e.g., sections 402, 404, and 311. Significant impacts on such entities or governments are not anticipated, as the proposed regulatory revisions would be consistent with the Supreme Court ruling.

**Timetable:**

Action	Date
ANPRM	01/15/03 68 FR 1991
ANPRM Comment Period End	03/03/03
NPRM	10/00/03
NPRM Comment Period End	12/00/03
Final Action	06/00/04
Final Action Effective	09/00/04

**Regulatory Flexibility Analysis**

**Required:** No

## DOD—COE

## Proposed Rule Stage

**Government Levels Affected:**

Undetermined

**Agency Contact:** Thaddeus J. Rugiel, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-OR (3G65), 441 G Street NW, Washington, DC 20314-1000

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RIN: 0710-AA50

### 636. • REGULATORY PROGRAM OF THE ARMY CORPS OF ENGINEERS AND HISTORIC PROPERTIES

**Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 401; 33 USC 403; 33 USC 1344; 33 USC 1413**CFR Citation:** 33 CFR 325**Legal Deadline:** None

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

**Timetable:**

Action	Date
NPRM	09/00/03

Action	Date
NPRM Comment Period End	11/00/03
Final Action	06/00/04
Final Action Effective	08/00/04

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

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

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RIN: 0710-AA51

## Department of Defense (DOD)

## U.S. Army Corps of Engineers (COE)

## Final Rule Stage

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

**Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 701**CFR Citation:** 33 CFR 203**Legal Deadline:** None

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

**Timetable:**

Action	Date
NPRM	02/26/02 67 FR 8748

Action	Date
NPRM Comment Period End	04/29/02
Final Action	11/00/03

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** Undetermined

**Agency Contact:** George Gilmore, Program Manager, Public Law 84-99, Department of Defense, U.S. Army Corps of Engineers, CECW-OE (3F68), 441 G Street NW, Washington, DC 20314-1000

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RIN: 0710-AA47

### 638. PROGRAMMATIC REGULATIONS FOR THE COMPREHENSIVE EVERGLADES RESTORATION PLAN

**Priority:** Other Significant**Legal Authority:** PL 106-541**CFR Citation:** 33 CFR 385**Legal Deadline:** Final, Statutory, December 11, 2002.

**Abstract:** The U.S. Army Corps of Engineers was directed by Congress in section 601 of the Water Resources Development Act of 2000 (Pub. L. 106-541, 114 Stat. 2680) to develop a Comprehensive Everglades Restoration

Plan (Plan) to restore and preserve south Florida's natural ecosystem, while enhancing water supplies and maintaining flood protection. To guide the development of the Plan, Congress also directed the Secretary of the Army, after notice and opportunity for public comment, to develop and implement Programmatic Regulations within 2 years (NLT December 11, 2002). The Programmatic Regulations will establish a process for developing project implementation reports, project cooperation agreements, and project operating manuals that will ensure the goals and the objectives of the Plan are achieved. The regulations also will establish procedures developing and using any new information resulting from ecosystem changes or unforeseen circumstances in accordance with the principles of adaptive management contained in the Plan. Finally, the Programmatic Regulations will facilitate the re-establishment and protection of the natural system consistent with the interim and final goals of the Plan while providing thorough evaluation points during the 30-year project implementation schedule.

**Timetable:**

Action	Date
NPRM	08/02/02 67 FR 50540

## DOD—COE

## Final Rule Stage

Action	Date
NPRM Comment Period End	10/01/02
Final Action	05/00/03

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal, State, Tribal, Local

**Agency Contact:** Chip Smith, Assistant for Environmental, Tribal, and Regulatory Affairs, Department of

Defense, U.S. Army Corps of Engineers, 108 Army Pentagon 3E427, Washington, DC 20310-0108  
 Phone: 703 693-3655  
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**RIN:** 0710-AA49

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

## Long-Term Actions

**639. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS**

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 33 CFR 320 to 331

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Thaddeus J. Rugiel  
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**RIN:** 0710-AA30

**Timetable:**

Action	Date
NPRM	03/14/95 60 FR 13654
NPRM Comment Period End	04/13/95
Next Action	Undetermined

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

**Agency Contact:** Thaddeus J. Rugiel  
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**RIN:** 0710-AA38

**Government Levels Affected:** None

**Federalism:** Undetermined

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**RIN:** 0710-AA43

**642. COST-SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISIONS**

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 33 CFR 241

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Federalism:** Undetermined

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**RIN:** 0710-AA44

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

**Priority:** Substantive, Nonsignificant

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

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

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 33 CFR 325

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis Required:** No

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

## Final Rule Stage

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 49 USC 1507

**CFR Citation:** 32 CFR 766

**Legal Deadline:** None

**Abstract:** This part establishes the policy and procedures for the use of Navy and Marine Corps aviation

facilities by aircraft other than United States Department of Defense aircraft.

**Timetable:**

Action	Date
NPRM	12/01/94 59 FR 61561
NPRM Comment Period End	01/03/95
Final Action	07/00/03

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Agency Contact:** Dan Bartlett, Department of Defense, Department of

the Navy, N885F, Office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, DC 20350-2000  
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 Fax: 703 604-6969

**RIN:** 0703-AA48

## DOD—NAVY

## Final Rule Stage

**644. POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY****Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 44502**CFR Citation:** 32 CFR 775 (Revision)**Legal Deadline:** None**Abstract:** The Department of the Navy is revising its regulations, which establish the responsibilities and procedures for complying with the

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

**Timetable:**

Action	Date
NPRM	07/09/99 64 FR 37069
NPRM Comment Period End	09/07/99
Final Action	06/00/03

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** None**Agency Contact:** Tom Egeland, Department of Defense, Department of the Navy, Office of the Assistant Secretary of the Navy (Installations and Environment), 2000 Navy Pentagon, Washington, DC 20350-2000  
Phone: 703 588-6671**RIN:** 0703-AA51**Department of Defense (DOD)  
Department of the Navy (NAVY)**

## Long-Term Actions

**645. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS****Priority:** Substantive, Nonsignificant**CFR Citation:** 48 CFR 5231 (New)**Timetable:**

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

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

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** None**Agency Contact:** Clarence Belton  
Phone: 703 602-2807  
Email: belton.clarence@hq.navy.mil**RIN:** 0703-AA50**Department of Defense (DOD)  
Department of the Navy (NAVY)**

## Completed Actions

**646. • PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE SUPERVISION OF THE JUDGE ADVOCATE GENERAL****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 6011**CFR Citation:** 32 CFR 776**Legal Deadline:** None**Abstract:** This final rule amends regulations concerning the professional conduct of attorneys practicing law under the cognizance and supervision of the Judge Advocate General of the Navy by incorporating several changes and revising the regulations. This revision will ensure the professional supervision of judge advocates, military trial and appellate military judges, and other lawyers who practice in the Department of the Navy proceedings and other legal programs.**Timetable:**

Action	Date
Final Action	11/21/02 67 FR 70164

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** LCDR Jason Terry  
Baltimore, DON Alternate Federal Register Liaison Officer, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 1322 Patterson Avenue SE, Washington Navy Yard, DC 20374-5066  
Phone: 703 604-8208  
Fax: 703 604-6955  
Email: baltimore.jason@hq.navy.mil**RIN:** 0703-AA70**647. • UNITED STATE NAVY REGULATIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 6011**CFR Citation:** 32 CFR 700**Legal Deadline:** None**Abstract:** The Department of Navy is amending the Navy Regulations,

incorporating new subparts and modifying some existing subparts. This revision will allow the published Navy Regulations to comport with the 1990 Navy Regulations currently in use.

**Timetable:**

Action	Date
Final Action	01/21/03 68 FR 2697

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** LCDR Jason Terry  
Baltimore, DON Alternate Federal Register Liaison Officer, Department of Defense, Department of the Navy, Office of the Judge Advocate General, 1322 Patterson Avenue SE, Washington Navy Yard, DC 20374-5066  
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Email: baltimore.jason@hq.navy.mil**RIN:** 0703-AA71

**Department of Defense (DOD)**  
**Department of the Air Force (AF)**

**Completed Actions**

**648. DEPARTMENT OF DEFENSE  
 COMMERCIAL AIR TRANSPORTATION  
 QUALITY AND SAFETY REVIEW  
 PROGRAM**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 8013; 10 USC 2640

**CFR Citation:** 32 CFR 861

**Legal Deadline:** None

**Abstract:** The Department of Air Force proposes to revise the Department of Defense (DoD) Commercial Transportation Quality and Safety Review Program. The current version of the program is being updated to reflect current and anticipated policies. Department of Defense Directive 4500.53, DoD Commercial Air Transportation Quality and Safety

Review Program, charges the Commander-in-Chief (CINC), United States Transportation Command (USTRANSCOM), with ensuring the establishment of safety requirements and criteria for evaluating civil air carriers and operators providing air transportation and operational support services to DoD. It also charges the CINC with ensuring the establishment of a Commercial Airlift Review Board (CARB) and providing policy guidance and direction for its operation. Part 861 establishes DoD quality and safety criteria for air carriers providing or seeking to provide air transportation and, at the discretion of the CARB or higher authority, operational support services to DoD.

**Timetable:**

Action	Date
NPRM	09/05/02 67 FR 56777
NPRM Comment Period End	09/20/02
Final Action	10/28/02 67 FR 65698

**Regulatory Flexibility Analysis  
 Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**Agency Contact:** Merlin Lyman, Department of Defense, Department of the Air Force, HQ, AMC/DOB, Air Mobility Command, 402 Scott Drive, Scott AFB, IL 62225-5302  
 Phone: 618 229-4801

**RIN:** 0701-AA67

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

**Proposed Rule Stage**

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

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

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

**Timetable:**

Action	Date
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis  
 Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs  
 Phone: 303 676-3572  
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**RIN:** 0720-AA76

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

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

**Abstract:** This rule proposes several changes to the TRICARE program that were enacted by Congress in the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02), Public Law 107-107 (December 28, 2001). Specifically, (1) revisions to the definition of durable medical equipment (DME); (2) adoption of the same pricing methods for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) as are in effect for the Medicare program; (3) clarification that rehabilitative therapy is a TRICARE benefit; (4)

addition of augmentative communication devices (ACD)/speech generating devices (SGD) as a TRICARE benefit; (5) addition of hearing aids for family members of active duty members as a TRICARE benefit; (6) revisions to the definition of prosthetics; (7) permanent authority for transitional health care for certain members separated from active duty; and (8) revisions to the time period of eligibility for transitional health care. This rule also addresses a technical correction found in section 706 of the National Defense Authorization Act for Fiscal Year 2003 (NDAA-03), Public Law 107-62, relating to transitional health care for dependents of certain members separated from active duty.

**Timetable:**

Action	Date
NPRM	05/00/03
NPRM Comment Period End	07/00/03

**Regulatory Flexibility Analysis  
 Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Ann N. Fazzini, Department of Defense, Office of Assistant Secretary for Health Affairs  
 Phone: 303 676-3803

**RIN:** 0720-AA77

## Department of Defense (DOD)

Final Rule Stage

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

**651. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); HOSPITAL PAYMENT FOR AMBULATORY CARE (DOD 6010.8-R)****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date
NPRM	01/20/94 59 FR 3046
NPRM Comment Period End	03/21/94
Final Action	05/00/03
Final Action Effective	07/00/03

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

**Agency Contact:** Steve Lillie, Department of Defense, Office of Assistant Secretary for Health Affairs  
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**RIN:** 0720-AA20**652. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** Currently, any individual who is a civilian employee of the United States Government cannot be authorized by CHAMPUS as a provider of medical services. We propose to provide an exception to this prohibition to permit these individuals to be authorized CHAMPUS providers if they meet three conditions. First, they must be employed by the Government agency on a part-time basis, that is, less than

20 hours per week. Second, the Agency must certify that unique or special circumstances detrimental to the delivery of quality health care exist that can be overcome only by employing part-time, non-Government physicians. Third, the Agency and the physician must certify that they understand and have taken appropriate measures to avoid violation of Standards of Conduct, dual compensation, and conflict of interest requirements including protection against referral of patients to the employee's private practice.

**Timetable:**

Action	Date
NPRM	08/26/97 62 FR 45196
NPRM Comment Period End	10/27/97
Final Action	05/00/03
Final Action Effective	07/00/03

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

**Agency Contact:** Stephen Isaacson, Department of Defense, Office of Assistant Secretary for Health Affairs  
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**RIN:** 0720-AA41**653. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROSTHETIC DEVICES****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date
Interim Final Rule Effective	05/20/99 64 FR 45453
Interim Final Rule	08/20/99 64 FR 45453
Interim Final Rule Comment Period End	10/19/99
Final Action	05/00/03
Final Action Effective	07/00/03

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

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**RIN:** 0720-AA49**654. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); DOUBLE COVERAGE****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date
NPRM	06/17/99 64 FR 32451
NPRM Comment Period End	08/16/99
Final Action	05/00/03
Final Action Effective	07/00/03

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**Regulatory Flexibility Analysis**

Required: No

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

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**RIN:** 0720-AA50

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

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

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

**Timetable:**

Action	Date	
NPRM	01/13/00	65 FR 2085
NPRM Comment Period End	03/13/00	
Final Action	05/00/03	
Final Action Effective	07/00/03	

**Regulatory Flexibility Analysis**

Required: No

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

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**RIN:** 0720-AA56

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

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

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

**Timetable:**

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

**Regulatory Flexibility Analysis**

Required: No

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

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**RIN:** 0720-AA57

**657. CHAMPUS/TRICARE; IMPLEMENTATION OF THE PHARMACY BENEFITS PROGRAM**

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

**Abstract:** This rule is designed to implement section 701 of the National Defense Authorization Act for Fiscal Year 2000. This rule establishes procedures for the inclusion of pharmaceutical agents on a Uniform

Formulary based upon relative clinical effectiveness and cost effectiveness; establishes cost-sharing requirements, including a tiered co-payment structure, for generic, formulary and non-formulary pharmaceutical agents; establishes procedures to assure the availability of pharmaceutical agents not included on the Uniform Formulary to eligible beneficiaries at the non-formulary cost-share tier; establishes procedures to receive pharmaceutical agents not included on the Uniform Formulary, but considered clinically necessary, under the same terms and conditions as an agent on the Uniform Formulary; establishes procedures to assure the availability of clinically appropriate non-formulary pharmaceutical agents to members of the Uniformed Services; establishes procedures for prior authorization when required; and establishes a Department of Defense Pharmacy and Therapeutics Committee (DoD P&T Committee) and a Uniform Formulary Beneficiary Advisory Panel. Other administrative amendments are also made to clarify specific policies that relate to the program.

**Timetable:**

Action	Date	
NPRM	04/12/02	67 FR 17948
NPRM Comment Period End	06/11/02	
Final Action	05/00/03	
Final Action Effective	07/00/03	

**Regulatory Flexibility Analysis**

Required: No

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

**Agency Contact:** Mike Kottyan,  
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**RIN:** 0720-AA63

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

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

**Abstract:** The Department of Defense proposes to amend its regulations of the

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

**Timetable:**

Action	Date
NPRM	08/01/01 66 FR 39699
NPRM Comment Period End	10/01/01
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Mary Stockdale, Department of Defense, Office of Assistant Secretary for Health Affairs Phone: 703 681-0039

RIN: 0720-AA65

### 659. TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ELIGIBILITY AND PAYMENT PROCEDURES FOR CHAMPUS BENEFICIARIES AGE 65 AND OVER

**Priority:** Economically Significant. Major under 5 USC 801.

**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199

**Legal Deadline:** Final, Statutory, October 1, 2001, Implements section 712 of FY 2001 NDAA.

**Abstract:** This rule implements section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Section 712 extends TRICARE eligibility to persons age 65 and over who would otherwise have lost their TRICARE eligibility due to attainment of entitlement to hospital insurance benefits under Part A of Medicare. In order for these individuals to retain their TRICARE eligibility, they must be enrolled in the supplementary medical insurance program under Part B of Medicare. In general, in the case of medical or dental care provided to

these individuals for which payment may be made under both Medicare and TRICARE, Medicare is the primary payer and TRICARE will normally pay the actual out-of-pocket costs incurred by the person. This rule prescribes TRICARE payment procedures and makes revisions to TRICARE rules to accommodate Medicare-eligible CHAMPUS beneficiaries. The Department is publishing this rule as an interim final rule in order to meet the statutorily required effective date.

**Timetable:**

Action	Date
Interim Final Rule	08/03/01 66 FR 40601
Interim Final Rule Effective	10/01/01
Interim Final Rule Comment Period End	10/02/01
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

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RIN: 0720-AA66

### 660. TRICARE; PRIME REMOTE FOR ACTIVE DUTY FAMILY MEMBERS

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

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

**Timetable:**

Action	Date
Interim Final Rule	02/06/02 67 FR 5477
Interim Final Rule Comment Period End	04/08/02
Interim Final Rule Effective	04/08/02
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** LCDR Robert Styron, Department of Defense, Office of Assistant Secretary for Health Affairs Phone: 703 681-0064

RIN: 0720-AA68

### 661. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); VOLUNTARY DISENROLLMENT FROM THE TRICARE RETIREE DENTAL PROGRAM (TRDP)

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

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

**Timetable:**

Action	Date
NPRM	01/30/02 67 FR 4375
NPRM Comment Period End	04/01/02
Final Action	05/00/03
Final Action Effective	07/00/03

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Linda Winter, Department of Defense, Office of Assistant Secretary for Health Affairs Phone: 303 676-3682

RIN: 0720-AA69

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

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

**Timetable:**

Action	Date
NPRM	11/15/00 65 FR 68957
NPRM Comment Period End	01/16/01
Final Action	05/00/03
Final Action Effective	07/00/03

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

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**RIN:** 0720-AA70**663. TRICARE; WAIVER OF CERTAIN TRICARE DEDUCTIBLES; CLARIFICATION OF THE TRICARE PRIME ENROLLMENT PERIOD****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This rule implements section 714 of the National Defense Authorization Act for Fiscal Year 2000, which authorizes the Secretary of Defense to waive the TRICARE deductible in certain cases for care provided to a dependent of a member of a Reserve Component or the National Guard who is called to active duty for more than 30 days but less than one year. In implementing this rule, we are limiting this to Reserve Component and National Guard members called to active duty in support of contingency operations. The term "contingency operations" is defined at 10 U.S.C. 101(a)(13). This rule also establishes circumstances under which eligible beneficiaries may enroll in TRICARE Prime for a period of less than 1 year.

**Timetable:**

Action	Date
NPRM	04/18/02 67 FR 19141
NPRM Comment Period End	06/17/02
Final Action	05/00/03
Final Action Effective	07/00/03

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

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**RIN:** 0720-AA72**664. TRICARE; SUB-ACUTE CARE PROGRAM; UNIFORM SKILLED NURSING FACILITY BENEFIT; HOME HEALTH CARE BENEFIT; ADOPTING MEDICARE PAYMENT METHODS FOR SKILLED NURSING FACILITIES AND HOME HEALTH CARE PROVIDERS****Priority:** Other Significant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This rule partially implements the TRICARE "sub-acute and long-term care program reform" enacted by Congress in the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, specifically: (1) Establishment of "an effective, efficient, and integrated sub-acute care benefits program," with skilled nursing facility and home health

care benefits modeled after those of the Medicare Program; (2) adoption of Medicare payment methods for skilled nursing facility, home health care, and certain other institutional health care providers; (3) adoption of Medicare rules on balance billing of beneficiaries, prohibiting it by institutional providers and limiting it by non-institutional providers; and (4) change in the statutory exclusion of coverage for custodial and domiciliary care.

**Timetable:**

Action	Date
Interim Final Rule	06/13/02 67 FR 40597
Interim Final Rule Comment Period End	08/12/02
Interim Final Rule Effective	08/12/02
Final Action	05/00/03
Final Action Effective	07/00/03

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

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**RIN:** 0720-AA73**665. • TRICARE; CHAMPUS; APPEALS AND HEARINGS PROCEDURES, FORMAL REVIEW****Priority:** Info./Admin./Other**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This rule makes administrative corrections to 32 CFR part 199, section 199.10, "Appeal and Hearing Procedures." These corrections include revising section 199.10, adding paragraphs (c)(1) through (c)(5), and making other minor editorial changes. Paragraphs (c)(1) through (c)(5) were inadvertently omitted when the July 1,

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1991, edition of title 32 of the CFR was published. The discovery that the formal review process was missing from section 199.10 occurred at the time TRICARE was tasked to promulgate an appeal process for TRICARE Claimcheck denials. This correction to section 199.10 is necessary to provide the required procedures to any party to an initial determination or reconsideration made by the CHAMPUS contractor and who may want to request formal review.

**Timetable:**

Action	Date
Interim Final Rule Effective	05/01/83 49 FR 10309
Interim Final Rule	03/13/03 68 FR 11973
Interim Final Rule Comment Period End	05/12/03
Final Action	07/00/03
Final Action Effective	09/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 0720-AA74

**666. • TRICARE PROGRAM; SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN OVERSEAS**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

**Abstract:** In the National Defense Authorization Act for Fiscal Year 2000, Congress mandated that the Department establish and fund a program to provide a special supplemental food and nutrition education program to eligible low-income families overseas

whose members have been determined to be at nutritional risk. This program is known as the Women, Infants, and Children Overseas (WIC Overseas) program. This interim final rule implements section 674 of this act.

**Timetable:**

Action	Date
Interim Final Rule	05/00/03
Interim Final Rule Effective	05/00/03
Interim Final Rule Comment Period End	07/00/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 0720-AA75

## Department of Defense (DOD)

## Completed Actions

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

**667. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); TRICARE PROGRAM; DOUBLE COVERAGE; THIRD-PARTY RECOVERIES**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

**Abstract:** This rule implements section 711 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, as amended by section 716(c)(2) of the National Defense Authorization Act for Fiscal Year 2000,

which allows the Secretary of Defense to authorize certain CHAMPUS/TRICARE claims to be paid, even though other health insurance may be the primary payer, with authority to collect from the other health insurance (third-party payer) the CHAMPUS/TRICARE costs incurred on behalf of the beneficiary.

**Timetable:**

Action	Date
NPRM	10/19/99 64 FR 56283
NPRM Comment Period End	12/20/99
Final Action	02/10/03 68 FR 6617
Final Action Effective	03/12/03

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 0720-AA52

[FR Doc. 03-7435 Filed 05/16/03; 8:45 am]

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