



# Federal Register

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**Monday,  
December 13, 2004**

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**Part V**

**Department of  
Defense**

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**Semiannual Regulatory Agenda**

## DEPARTMENT OF DEFENSE (DOD)

## DEPARTMENT OF DEFENSE

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

## 33 CFR Ch. II

## 36 CFR Ch. III

## 48 CFR Ch. II

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

**AGENCY:** Department of Defense (DoD).

**ACTION:** Semiannual regulatory agenda.

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

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

This agenda updates the report published on June 28, 2004, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in the spring of 2005, with the next regulatory plan scheduled to be published in the fall of 2005. 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 Information Management Division, Executive Services and Communications Directorate, Washington Headquarters Services, 1225 South Clark Street, Suite 504, Arlington, Virginia 22202-4326, or e-mail: robert.cushing@whs.mil.

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

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Juanita Irving, telephone 703-601-4722, or write to Directives and Records Division, Executive Services and Communications Directorate, Washington Headquarters Services, 201 12th Street, Suite 501, Arlington, Virginia 22202, or e-mail: juanita.irving@whs.mil.

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

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

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

For general information on Department of the Navy regulations, contact Commander Jonathan H. Wagshul, telephone 703-601-3631, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13),

Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: jon.wagshul@navy.mil.

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

1. Regulatory Flexibility Act;
2. Paperwork Reduction Act of 1995;
3. Unfunded Mandates Reform Act of 1995.

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Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as

defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

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

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

**Dated:** September 28, 2004.  
**Howard G. Becker,**  
*Deputy Director, Administration and Management.*

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

Sequence Number	Title	Regulation Identifier Number
723	Restoration Advisory Boards (RABs) .....	0790-AG31
724	Defense Contract Management Agency Freedom of Information Act (FOIA) Program .....	0790-AH00
725	DoD Contractors' Safety Manual (DoD 4145.26-M) .....	0790-AH76
726	Armed Services Exchange Regulations (ASER) (DoD Instruction 1330.21) .....	0790-AH77
727	Voluntary State Tax Withholding From Retired Pay .....	0790-AH78
728	Emergency Security Control Of Air Traffic (ESCAT) Plan .....	0790-AH81

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

Sequence Number	Title	Regulation Identifier Number
729	National Security Education Program (NSEP) Grants to Institutions of Higher Education (DoD Instruction 1025.5) .....	0790-AF59
730	Settling Personnel and General Claims and Processing Advance Decision Requests .....	0790-AG47
731	Personnel Security Policies for Granting Access to Classified Information .....	0790-AG54
732	National Policy on Reciprocity of Facilities and Guidelines for Implementation of Reciprocity .....	0790-AG55
733	National Policy on Technical Surveillance Countermeasures .....	0790-AG56
734	Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations .....	0790-AG76
735	Waiver of Debts Resulting From Erroneous Payments of Pay and Allowances (DoD Directive 1340.21) .....	0790-AG90
736	Waiver Procedures for Debts Resulting From Erroneous Payments of Pay and Allowances (DoD Instruction 1340.23) .....	0790-AG91
737	Development of a Munitions Response Site Prioritization Protocol .....	0790-AG94
738	Review of the Manual for Courts-Martial (DoD Directive 5500.17) .....	0790-AG99
739	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
740	Provision of Early Intervention and Special Education Services to Eligible DoD Dependents .....	0790-AH70
741	Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Service Members, and Former Service Members .....	0790-AH73
742	Supplemental Standards of Ethical Conduct for Employees of the Department of Defense .....	0790-AH74
743	DoD Grant and Agreement Regulations .....	0790-AH75
744	Federal Policy for the Protection of Human Subjects .....	0790-AH79

**Office of the Secretary—Completed Actions**

Sequence Number	Title	Regulation Identifier Number
745	Procedures for Settling Personnel and General Claims and Processing Advance Decision Requests .....	0790-AG89
746	Vending Facility Program for the Blind on Federal Property (DoD Directive 1125.3) .....	0790-AH80

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## Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
747	Patent Rights—Ownership by the Contractor (Large Business) (DFARS Case 2001-D015) .....	0750-AD72
748	Protests, Disputes, and Appeals (DFARS Case 2003-D010) .....	0750-AE01
749	Cost Accounting Standards (DFARS Case 2003-D015) .....	0750-AE10
750	Geographic Use of the Term “United States” (DFARS Case 2001-D003) .....	0750-AE12

## Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
751	Incremental Funding, Fixed-Price Contracts (DFARS Case 1990-037) .....	0750-AA07
752	Codification and Modification of Berry Amendment (DFARS Case 2002-D002) .....	0750-AD76
753	Approval of Service Contracts and Task Orders (DFARS Case 2002-D024) .....	0750-AD81
754	Purchase Card Internal Controls (DFARS Case 2002-D025) .....	0750-AD87
755	Improper Business Practices, Organizational Conflicts of Interest, and Debarment (DFARS Case 2003-D012) .....	0750-AE02
756	Protection of Privacy and Freedom of Information (DFARS Case 2003-D038) .....	0750-AE03
757	Contractor Qualifications Relating to Contract Placement (DFARS Case 2003-D011) .....	0750-AE06
758	Government Source Inspection Requirements (DFARS Case 2002-D032) .....	0750-AE08
759	Unique Item Identification and Property Valuation (DFARS Case 2003-D081) .....	0750-AE09
760	Central Contractor Registration (DFARS Case 2003-D040) .....	0750-AE11
761	Laws Inapplicable to Commercial Subcontracts (DFARS Case 2003-D018) .....	0750-AE14
762	Tax Procedures for Overseas Contracts (DFARS Case 2003-D031) .....	0750-AE18
763	Resolving Tax Problems (DFARS Case 2003-D032) .....	0750-AE19
764	Architect-Engineer Services (DFARS Case 2003-D035) .....	0750-AE20
765	Contracting for Architect-Engineer Services (DFARS Case 2003-D105) .....	0750-AE21
766	Publicizing Contract Actions (DFARS Case 2003-D016) .....	0750-AE22
767	Competition Requirements (DFARS Case 2003-D017) .....	0750-AE23
768	Sealed Bidding (DFARS Case 2003-D076) .....	0750-AE24
769	Contract Period for Task and Delivery Order Contracts (DFARS Case 2003-D097) .....	0750-AE25
770	Firefighting Services Contracts (DFARS Case 2003-D107) .....	0750-AE26
771	Contractor Use of Government Supply Sources (DFARS Case 2003-D045) .....	0750-AE28
772	DoD Pilot Mentor-Protégé Program (DFARS Case 2003-D013) .....	0750-AE29
773	Threshold for Small Business Specialist Review (DFARS Case 2003-D060) .....	0750-AE30
774	Small Business Competitiveness Demonstration Program (DFARS Case 2003-D063) .....	0750-AE31
775	Acquisition of Commercial Items (DFARS Case 2003-D074) .....	0750-AE32
776	Small Disadvantaged Businesses and Leader Company Contracting (DFARS Case 2003-D092) .....	0750-AE33
777	Payment and Billing Instructions (DFARS Case 2003-D009) .....	0750-AE34
778	Major Systems Acquisition (DFARS Case 2003-D030) .....	0750-AE35
779	Bonds (DFARS Case 2003-D033) .....	0750-AE36
780	Cost Principles and Procedures (DFARS Case 2003-D036) .....	0750-AE37
781	Insurance (DFARS Case 2003-D037) .....	0750-AE38
782	Removal of Obsolete Research and Development Contracting Procedures (DFARS Case 2003-D058) .....	0750-AE39
783	Research and Development Contracting (DFARS Case 2003-D067) .....	0750-AE40
784	Procedures, Guidance, and Information (DFARS Case 2003-D090) .....	0750-AE41
785	Contractors Accompanying a Force Deployed (DFARS Case 2003-D087) .....	0750-AE42
786	Free Trade Agreements—Chile and Singapore (DFARS Case 2003-D088) .....	0750-AE43
787	Written Assurance of Technical Data Conformity (DFARS Case 2003-D104) .....	0750-AE45
788	Reporting Contract Performance Outside the United States (DFARS Case 2004-D001) .....	0750-AE46
789	Consolidation of Contract Requirements (DFARS Case 2003-D109) .....	0750-AE48
790	Transition of Weapons-Related Prototype Projects to Follow-On Contracts (DFARS Case 2003-D106) .....	0750-AE49
791	Personal Services Contracts (DFARS Case 2003-D103) .....	0750-AE50
792	Quality Control of Aviation Critical Safety Items and Related Services (DFARS Case 2003-D101) .....	0750-AE51
793	Polyacrylonitrile (PAN) Carbon Fiber—Restriction to Domestic Sources (DFARS Case 2004-D002) .....	0750-AE52
794	Extension of Partnership Agreement Under the 8(a) Program (DFARS Case 2004-D015) .....	0750-AE56
795	Purchases From Federal Prison Industries—Deletion of Duplicative Text (DFARS Case 2004-D005) .....	0750-AE57

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## Defense Acquisition Regulations Council—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
796	Radio Frequency Identification (DFARS Case 2004-D011) .....	0750-AE55

## Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
797	Information Assurance (DFARS Case 2002-D020) .....	0750-AD86
798	Follow-On Production Contracts for Products Developed Pursuant to Prototype Projects (DFARS Case 2002-D023) .....	0750-AD88
799	Fish, Shellfish, or Seafood Products (DFARS Case 2002-D034) .....	0750-AD91
800	Indian Incentive Program—Commercial Items (DFARS Case 2002-D033) .....	0750-AD97
801	Multiyear Procurement Authority for Environmental Services for Military Installations (DFARS Case 2003-D004) ...	0750-AD99
802	Production Surveillance and Reporting (DFARS Case 2002-D015) .....	0750-AE07
803	Use of FAR Part 12 for Performance-Based Contracting for Services (DFARS Case 2003-D111) .....	0750-AE27
804	Berry Amendment Changes (DFARS Case 2003-D099) .....	0750-AE44
805	Acquisition Plans—Corrosion Prevention and Mitigation (DFARS Case 2004-D004) .....	0750-AE53
806	Definition of Terrorist Country (DFARS Case 2003-D098) .....	0750-AE54

## Department of the Army—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
807	Decorations, Medals, Ribbons, and Similar Devices .....	0702-AA41
808	Law Enforcement Reporting .....	0702-AA42

## Department of the Army—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
809	Foreign Acquisition .....	0702-AA38
810	Solicitation Provisions and Contract Clauses .....	0702-AA39

## Department of the Army—Completed Actions

Sequence Number	Title	Regulation Identifier Number
811	Publication of Rules Affecting the Public .....	0702-AA40

## U.S. Army Corps of Engineers—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
812	Regulatory Program of the Army Corps of Engineers and Historic Properties .....	0710-AA51

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

Sequence Number	Title	Regulation Identifier Number
813	Environmental Quality; Procedures for Implementing the National Environmental Policy Act (NEPA) .....	0710-AA42
814	Compensatory Mitigation for Losses of Aquatic Resources .....	0710-AA55
815	Nationwide Permit Program Regulations .....	0710-AA60

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

Sequence Number	Title	Regulation Identifier Number
816	United States Coast Guard Restricted Area, Coast Guard Base Mobile, Mobile, Alabama .....	0710-AA56
817	United States Marine Corps Restricted Area and Danger Zone, Brickyard Creek and Tributaries and the Broad River, Marine Corps Air Station, Beaufort, South Carolina .....	0710-AA57
818	United States Army Danger Zone; Salt River, Rolling Fork River, and Otter Creek; U.S. Army Garrison, Fort Knox Military Reservation; Fort Knox, Kentucky .....	0710-AA58
819	Department of the Army, Fort Richardson Alaska, Small Arms Complex, Fort Wainwright, Alaska .....	0710-AA59

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

Sequence Number	Title	Regulation Identifier Number
820	Regulatory Programs of the Corps of Engineers, Endangered Species Act; Scope of Analysis .....	0710-AA43
821	Cost-Sharing Requirements Under the Ability To Pay Provisions .....	0710-AA44
822	Special Events Rule .....	0710-AA53

## U.S. Army Corps of Engineers—Completed Actions

Sequence Number	Title	Regulation Identifier Number
823	Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers .....	0710-AA47
824	Clean Water Act Regulatory Definition of "Waters of the United States" .....	0710-AA50
825	Civil Monetary Penalty Inflation Adjustment Rule .....	0710-AA54

## Department of the Navy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
826	Shipbuilding Capability Preservation Agreements .....	0703-AA50

## Department of the Navy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
827	Release of Official Information for Litigation Purposes and Testimony by the Department of the Navy Personnel ...	0703-AA74

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

Sequence Number	Title	Regulation Identifier Number
828	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Hospital Payment for Ambulatory Care .....	0720-AA20
829	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Exception to the CHAMPUS Dual Compensation/Conflict of Interest Provisions .....	0720-AA41
830	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Prosthetic Devices .....	0720-AA49
831	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Double Coverage .....	0720-AA50
832	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of an Appeals Process for TRICARE Claimcheck Denials .....	0720-AA56
833	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Methodology for Coverage of NIH-Sponsored Clinical Trials .....	0720-AA57
834	Civilian Health and Medical Program of the Uniformed Services; Individual Case Management Program for Persons With Extraordinary Conditions (ICMP-PEC) .....	0720-AA65
835	TRICARE; Prime Remote for Active Duty Family Members .....	0720-AA68
836	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Voluntary Disenrollment From the TRICARE Retiree Dental Program (TRDP) .....	0720-AA69
837	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enuretic Devices, Breast Reconstructive Surgery, PFPWD Valid Authorization Period, Early Intervention Services .....	0720-AA70
838	TRICARE; Waiver of Certain TRICARE Deductibles; Clarification of the TRICARE Prime Enrollment Period .....	0720-AA72
839	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
840	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
841	TRICARE; Elimination of Nonavailability Statement and Referral Authorization Requirements and Elimination of Specialized Treatment Services Program .....	0720-AA79
842	TRICARE; Changes Included in the National Defense Authorization Act for Fiscal Year 2003 (NDAA-03) .....	0720-AA85
843	TRICARE; Coordination of Benefits Between TRICARE and The Department of Veterans Affairs .....	0720-AA87
844	TRICARE Program; Rare Diseases Definition and Partial List of Examples of Unproven Drugs, Devices, Medical Treatments, or Procedures .....	0720-AA88
845	TRICARE; Changes to NDAA FY02 and Technical Correction to NDAA FY03 .....	0720-AA89

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

Sequence Number	Title	Regulation Identifier Number
846	TRICARE; CHAMPUS; Appeals and Hearings Procedures, Formal Review .....	0720-AA74
847	TRICARE Program; Inclusion of Anesthesiologist's Assistants as Authorized Providers; Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabilitation Facilities .....	0720-AA76
848	TRICARE: Individual Case Management: Program for Persons With Disabilities: Extended Benefits for Disabled Family Members of Active Duty Service Members: Custodial Care .....	0720-AA78

**Department of Defense (DOD)**  
**Office of the Secretary (OS)**
**Proposed Rule Stage****723. 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 that have environmental restoration programs for cleanup of contaminated sites. The purpose of the RAB is to facilitate public participation

in restoration activities at operating and closing installations. The proposed rule is based on DoD's current policies for RABs, as well as DoD's experience in establishing and operating RABs over the past 2 years.

**Timetable:**

Action	Date	FR Cite
NPRM	08/06/96	61 FR 40764

## DOD—OS

## Proposed Rule Stage

Action	Date	FR Cite
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	
Second NPRM	11/00/04	
Second NPRM Comment Period End	01/00/05	
Final Action	03/00/05	
Final Action Effective	05/00/05	

**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, Defense Pentagon, Washington, DC 20301  
Phone: 703 695-6107

RIN: 0790-AG31

**724. 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	FR Cite
NPRM	11/00/04	
NPRM Comment Period End	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Cathy Alphin, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 428-1453

RIN: 0790-AH00

**725. DOD CONTRACTORS' SAFETY MANUAL (DOD 4145.26-M)**

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 184

Legal Deadline: None

**Abstract:** This rule provides guidelines to contractors that are engaged in ammunition and explosives operations. This rule is necessary to minimize the potential for mishaps that should interrupt DoD operations, delay project completion dates, adversely impact DoD production base or capability, damage or destroy DoD-owned material/equipment, cause injury to DoD personnel, or endanger the general public.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	
NPRM Comment Period End	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Dr Josephine Covino, Department of Defense, Office of the Secretary, 2461 Eisenhower Avenue, Alexandria, VA 22331  
Phone: 703 325-8625  
Fax: 703 325-6227  
Email: josephine.covino@ddesb.osd.mil

RIN: 0790-AH76

**726. ARMED SERVICES EXCHANGE REGULATIONS (ASER) (DOD INSTRUCTION 1330.21)**

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 301

CFR Citation: 32 CFR 50

Legal Deadline: None

**Abstract:** This rule prescribes procedures and assigns responsibilities for operating the Armed Services exchanges.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	
NPRM Comment Period End	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** George McNamara, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 602-4601

RIN: 0790-AH77

**727. 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 provides implementing guidance for voluntary State tax withholding from the retired pay of uniformed Service members.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	
NPRM Comment Period End	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

**Agency Contact:** Jacqueline Jenkins, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 697-8282

RIN: 0790-AH78

**728. • EMERGENCY SECURITY CONTROL OF AIR TRAFFIC (ESCAT) PLAN**

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates: Undetermined

Legal Authority: Not Yet Determined

CFR Citation: 32 CFR 245

Legal Deadline: None

**Abstract:** This rule incorporates provisions and actions for the newly formed Department of Homeland Security and the Transportation Security Administration in addition to the Department of Transportation and the Federal Aviation Administration.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	
NPRM Comment Period End	01/00/05	

## DOD—OS

## Proposed Rule Stage

**Regulatory Flexibility Analysis Required:** Undetermined**Government Levels Affected:** Undetermined**Federalism:** Undetermined**Agency Contact:** William Whalen, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 416-3016

William Mahony, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301

Phone: 703 697-6554

**RIN:** 0790-AH81**Department of Defense (DOD)  
Office of the Secretary (OS)****Final Rule Stage****729. 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	FR Cite
Interim Final Rule	05/19/94	59 FR 26116
Interim Final Rule Comment Period End	07/18/94	
Interim Final Rule Effective	05/05/94	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**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, Defense Pentagon, Washington, DC 20301  
Phone: 703 696-1991  
Email: nsep@nsep.policy.osd.mil**RIN:** 0790-AF59**730. SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS****Priority:** Other Significant**Legal Authority:** 10 USC 2575; 10 USC 2771; 10 USC 4712; 10 USC 9712; 24 USC 420; 31 USC 3529; 31 USC 3702; 32 USC 714; 37 USC 554; ...**CFR Citation:** 32 CFR 281**Legal Deadline:** None

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

**Timetable:**

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

Action	Date	FR Cite
Final Action	11/00/04	
Final Action Effective	01/00/05	

**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, Defense Pentagon, Washington, DC 20301  
Phone: 703 696-8510**Related RIN:** Related to 0790-AG89, Related to 0790-AG90, Related to 0790-AG91**RIN:** 0790-AG47**731. 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.

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**Timetable:**

Action	Date	FR Cite
Interim Final Rule	01/30/98	63 FR 4572
Interim Final Rule Effective	03/24/98	
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** Terence Thompson, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 602-9969

**RIN:** 0790-AG54**732. 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	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4580
Interim Final Rule	01/30/98	63 FR 4580
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** Terence Thompson, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 602-9969

**RIN:** 0790-AG55**733. NATIONAL POLICY ON TECHNICAL SURVEILLANCE COUNTERMEASURES****Priority:** Substantive, Nonsignificant**Legal Authority:** EO 12968**CFR Citation:** 32 CFR 149**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule Effective	09/16/97	63 FR 4582
Interim Final Rule	01/30/98	63 FR 4582
Interim Final Rule Comment Period End	03/31/98	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** Terence Thompson, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 602-9969

**RIN:** 0790-AG56**734. 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	FR Cite
Interim Final Rule	03/16/00	65 FR 14405
Interim Final Rule Effective	04/17/00	
Interim Final Rule Comment Period End	05/15/00	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** Mark Herbst, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 696-0372  
Email: herbstm@acq.osd.mil

**RIN:** 0790-AG76**735. 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

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68963
NPRM Comment Period End	01/13/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

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

**Related RIN:** Related to 0790-AG47, Related to 0790-AG89, Related to 0790-AG91

RIN: 0790-AG90

### 736. WAIVER PROCEDURES FOR DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES (DOD INSTRUCTION 1340.23)

Priority: Other Significant

**Legal Authority:** 5 USC 552a; 5 USC 2104; 5 USC 2105; 5 USC 5584; 10 USC 2774; 32 USC 716; ...

CFR Citation: 32 CFR 284

Legal Deadline: None

**Abstract:** This rule proposes policy and prescribes procedures for considering waiver applications. The Legislative

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68965
NPRM Comment Period End	01/13/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

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

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

RIN: 0790-AG91

### 737. DEVELOPMENT OF A MUNITIONS RESPONSE SITE PRIORITIZATION PROTOCOL

Priority: Other Significant

Legal Authority: 10 USC 2710

CFR Citation: 32 CFR 179

Legal Deadline: None

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

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

**Timetable:**

Action	Date	FR Cite
ANPRM	03/20/02	67 FR 12937
ANPRM Comment Period End	05/20/02	
NPRM	08/22/03	68 FR 50900
NPRM; Correction	09/11/03	68 FR 53532
NPRM Comment Period End	11/20/03	68 FR 50900
Final Action	01/00/05	
Final Action Effective	03/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Undetermined

Federalism: Undetermined

**Agency Contact:** Patricia Ferrebee, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 695-6107

RIN: 0790-AG94

### 738. 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

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

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

**Timetable:**

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

**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, Defense Pentagon, Washington, DC 20301  
Phone: 703 695-1055

**RIN:** 0790-AG99

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

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Debra Bennett, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 604-0098

**Related RIN:** Related to 0790-AG95

**RIN:** 0790-AH02

**740. PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES TO ELIGIBLE DOD DEPENDENTS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 301

**CFR Citation:** 32 CFR 57

**Legal Deadline:** None

**Abstract:** This rule implements the Individuals with Disabilities Education Act, as amended in 1997. The rule integrates into one policy both 32 CFR part 57 (which concerned provision of early intervention and special education to eligible DoD dependents in overseas areas) and 32 CFR part 80 (which concerned provision of early intervention and special education services in domestic Department of Defense schools).

**Timetable:**

Action	Date	FR Cite
Interim Final Rule Effective	06/10/04	69 FR 32662
Interim Final Rule Effective	06/10/04	
Interim Final Rule Comment Period End	08/09/04	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** R. Posante, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 696-4493

**RIN:** 0790-AH70

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

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

**Legal Authority:** 18 USC 3261

**CFR Citation:** 32 CFR 153

**Legal Deadline:** None

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

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specifically defined in section 3267 of MEJA).

**Timetable:**

Action	Date	FR Cite
NPRM	02/02/04	69 FR 4890
NPRM Comment Period End	04/02/04	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Undetermined

**Federalism:** Undetermined

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

**RIN:** 0790-AH73

**742. SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE**

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

**Legal Authority:** 5 USC 301; 5 USC 7301; 5 USC 7351; 5 USC 7353; EO 12674; EO 12731; 5 CFR 2635.105; 5 CFR 2635.203(a); 5 CFR 2635.204(k); 5 CFR 2635.803

**CFR Citation:** 5 CFR 3601

**Legal Deadline:** None

**Abstract:** The Department of Defense, with the concurrence of the Office of Government Ethics (OGE), is amending the Supplemental Standards of Ethical Conduct for Employees of the Department of Defense to reflect certain administrative changes as a result of DoD reorganizations, as well as to add a Component.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule; Amendments	11/18/03	68 FR 64979
Interim Final Rule Effective; Amendments	11/18/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Gail Mason, Standards of Conduct Office, General Counsel, Department of Defense, Office of the Secretary, 1600 Defense Pentagon, Washington, DC 20301-1600  
Phone: 703 697-5305

**RIN:** 0790-AH74

**743. DOD GRANT AND AGREEMENT REGULATIONS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 301; 10 USC 113; 31 USC 6101 note; EO 12549; EO 12689

**CFR Citation:** 32 CFR 21; 32 CFR 22; 32 CFR 25; 32 CFR 32; 32 CFR 33; 32 CFR 34; 32 CFR 37

**Legal Deadline:** None

**Abstract:** The Department of Defense (DoD) proposes to amend parts 21, 22, 25, 32, 33, 34, and 37 of the DoD Grant and Agreement Regulations (DoDGARS) to implement four Office of Management and Budget (OMB) policy directives, to conform the DoDGARS with several statutory and regulatory revisions, and to make other administrative changes. The four OMB directives that are being implemented: Require Federal agencies to use a new standard format for announcements of funding opportunities; require Federal agencies to electronically post synopses of those announcements at a Governmentwide Internet site; require Governmentwide use of the Data Universal Numbering System (DUNS) number as the universal identifier for recipient organizations; and amend OMB Circular A-133 to raise the threshold of Federal funding at which recipients must obtain single audits. The statutory and regulatory changes with which the DoDGARS are being conformed concern matters such as nonprocurement debarment and suspension, drug-free workplace requirements for grants, and campus access for military recruiters and Reserve Officer Training Corps.

**Timetable:**

Action	Date	FR Cite
NPRM	07/28/04	69 FR 44990
NPRM Comment Period End	09/27/04	

Action	Date	FR Cite
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Mark Herbst, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 696-0372  
Email: herbstm@acq.osd.mil

**RIN:** 0790-AH75

**744. FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 301; 42 USC 289; 42 USC 300v-1(b)

**CFR Citation:** 32 CFR 219

**Legal Deadline:** None

**Abstract:** The agencies listed in this rule are amending the common rule concerning the Federal Policy for the Protection of Human Subjects, which was published in the Federal Register on June 18, 1991 (56 FR 28003), to change all references to the Office for Protection from Research Risks (OPRR) to the Office for Human Research Protections (OHRP); revise a footnote by deleting references to research involving fetuses, pregnant women, or human in vitro fertilization; and revise subpart B of 45 CFR part 46.

**Timetable:**

Action	Date	FR Cite
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Agency Contact:** Patty Decot, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301  
Phone: 703 588-7402  
Fax: 703-588-7560  
Email: patty.decot@osd.mil

**RIN:** 0790-AH79

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/14/02	67 FR 68957
NPRM Comment Period End	01/13/03	67 FR 68958
Final Action	06/29/04	69 FR 38843
Final Action Effective	05/12/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Related RIN:** Related to 0790-AG47, Related to 0790-AG90, Related to 0790-AG91

**RIN:** 0790-AG89

**746. • VENDING FACILITY PROGRAM FOR THE BLIND ON FEDERAL PROPERTY (DOD DIRECTIVE 1125.3)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 20 USC 107

**CFR Citation:** 32 CFR 260

**Legal Deadline:** None

**Abstract:** This rule establishes within the Department of Defense: Uniform policies for application of priority accorded the blind to operate vending facilities; requirements for satisfactory vending facility sites in DoD component-owned or occupied buildings; and vending machine income-sharing requirements on property under the jurisdiction of a DoD component.

**Timetable:**

Action	Date	FR Cite
Withdrawn	07/14/04	69 FR 42114

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** The rule codified at 32 CFR part 260 was removed from the Code of Federal Regulations. The rule has served the purpose for which it was intended in the Code of Federal Regulations and is no longer necessary. The corresponding Department of Defense Directive 1125.3 is available at <http://www.dtic.mil/whs/directives/>.

**Agency Contact:** John Albanese, Department of Defense, Office of the Secretary, 1155 Defense Pentagon, Washington, DC 20301-1155  
Phone: 703 693-7374  
Fax: 703-697-1068

**RIN:** 0790-AH80

**Department of Defense (DOD)**  
**Defense Acquisition Regulations Council (DARC)**
**Proposed Rule Stage**
**747. PATENT RIGHTS—OWNERSHIP BY THE CONTRACTOR (LARGE BUSINESS) (DFARS CASE 2001-D015)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 227.3; 48 CFR 252.227

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:** [www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0311

**RIN:** 0750-AD72

**748. PROTESTS, DISPUTES, AND APPEALS (DFARS CASE 2003-D010)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 233

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/04	

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**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson,  
Department of Defense, Defense  
Acquisition Regulations Council, 3062  
Defense Pentagon, Washington, DC  
20301-3062

Phone: 703 602-0311

Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)**RIN:** 0750-AE01
**749. COST ACCOUNTING  
STANDARDS (DFARS CASE  
2003-D015)**
**Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 230**Legal Deadline:** None

**Abstract:** Amends the Defense FAR  
Supplement (DFARS) to implement  
recommendations resulting from the

DFARS Transformation Initiative that  
pertain to Cost Accounting Standards.

**Timetable:**

Action	Date	FR Cite
Case Opened	07/01/03	
NPRM	11/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)**RIN:** 0750-AE10
**750. GEOGRAPHIC USE OF THE  
TERM "UNITED STATES" (DFARS  
CASE 2001-D003)**
**Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421

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

...

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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## Department of Defense (DOD)

## Defense Acquisition Regulations Council (DARC)

## Final Rule Stage

**751. INCREMENTAL FUNDING,  
FIXED-PRICE CONTRACTS (DFARS  
CASE 1990-037)**
**Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 232.7; 48 CFR  
252.232**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Case Opened	09/26/90	
Interim Final Rule	09/01/93	58 FR 46091
Final Action	12/00/04	

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

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**Related RIN:** Previously reported as  
0790-AE42

**RIN:** 0750-AA07
**752. CODIFICATION AND  
MODIFICATION OF BERRY  
AMENDMENT (DFARS CASE  
2002-D002)**
**Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107-107, sec 832**CFR Citation:** 48 CFR 225.7002; 48 CFR  
252.212-7001; 48 CFR 252.225-7012**Legal Deadline:** None

**Abstract:** Amends the Defense FAR  
Supplement to implement section 832  
of the Fiscal Year 2002 National  
Defense Authorization Act. Section 832  
codifies and makes minor modifications  
to the provision of law known as the  
Berry Amendment, which requires the  
acquisition of certain items from  
domestic sources.

**Timetable:**

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

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)**URL For Public Comments:**[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AD76

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**753. APPROVAL OF SERVICE CONTRACTS AND TASK ORDERS (DFARS CASE 2002–D024)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 107–107, sec 801(b)**CFR Citation:** 48 CFR 237.170**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to implement section 801(b) of the Fiscal Year 2002 National Defense Authorization Act. Section 801(b) requires DoD to establish and implement a management structure for the procurement of services.**Timetable:**

Action	Date	FR Cite
Interim Final Rule	10/01/03	68 FR 56563
Interim Final Rule Comment Period End	12/01/03	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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**RIN:** 0750–AD81**754. PURCHASE CARD INTERNAL CONTROLS (DFARS CASE 2002–D025)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 213.3**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement to add policy on internal controls for proper use of the Governmentwide commercial purchase card.**Timetable:**

Action	Date	FR Cite
NPRM	12/20/02	67 FR 77955
NPRM Comment Period End	02/18/03	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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**RIN:** 0750–AD87**755. IMPROPER BUSINESS PRACTICES, ORGANIZATIONAL CONFLICTS OF INTEREST, AND DEBARMENT (DFARS CASE 2003–D012)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 203; 48 CFR 209**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement (DFARS) to implement recommendations resulting from the DFARS Transformation Initiative that pertain to improper business practices, organizational conflicts of interest, and debarment.**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8146
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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**RIN:** 0750–AE02**756. PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION (DFARS CASE 2003–D038)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 224**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement (DFARS) to implement recommendations resulting from the DFARS Transformation Initiative that pertain to protection of privacy and freedom of information.**Timetable:**

Action	Date	FR Cite
Case Opened	07/28/03	
NPRM	02/23/04	69 FR 8152
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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**RIN:** 0750–AE03**757. CONTRACTOR QUALIFICATIONS RELATING TO CONTRACT PLACEMENT (DFARS CASE 2003–D011)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 209; 48 CFR 252.209**Legal Deadline:** None**Abstract:** Amends the Defense FAR Supplement (DFARS) to implement recommendations resulting from the DFARS Transformation Initiative that relate to contractor qualification requirements and contract placement.**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8150

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Action	Date	FR Cite
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

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RIN: 0750-AE06

**758. GOVERNMENT SOURCE INSPECTION REQUIREMENTS (DFARS CASE 2002-D032)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 246.4**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to limit Government source inspection requirements for contracts below \$250,000. This change will permit contract administration offices to devote more resources to high-risk contracts.

**Timetable:**

Action	Date	FR Cite
NPRM	09/15/03	68 FR 53946
NPRM Comment Period End	11/14/03	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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RIN: 0750-AE08

**759. UNIQUE ITEM IDENTIFICATION AND PROPERTY VALUATION (DFARS CASE 2003-D081)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 204.7104; 48 CFR 211.2; 48 CFR 212.301; 48 CFR 252.211**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	10/10/03	68 FR 58631
Interim Final Rule Comment Period End	11/10/03	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

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RIN: 0750-AE09

**760. CENTRAL CONTRACTOR REGISTRATION (DFARS CASE 2003-D040)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 204; 48 CFR 212.3; 48 CFR 213.1; 48 CFR 252.204**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to remove Central Contractor Registration (CCR)

requirements, since CCR requirements have been incorporated into the FAR.

**Timetable:**

Action	Date	FR Cite
Case Opened	07/28/03	
Interim Final Rule	11/14/03	68 FR 64557
Interim Final Rule Comment Period End	01/13/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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RIN: 0750-AE11

**761. LAWS INAPPLICABLE TO COMMERCIAL SUBCONTRACTS (DFARS CASE 2003-D018)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 212.504**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8151
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

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## Final Rule Stage

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**RIN:** 0750-AE14

### 762. TAX PROCEDURES FOR OVERSEAS CONTRACTS (DFARS CASE 2003-D031)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 229.70

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated contains procedures for contracting officers to use in obtaining tax relief and duty-free import privileges for acquisitions conducted in foreign countries.

#### Timetable:

Action	Date	FR Cite
NPRM	08/02/04	69 FR 46129
NPRM Comment Period End	10/01/04	
Final Action	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AE18

### 763. RESOLVING TAX PROBLEMS (DFARS CASE 2003-D032)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 229.101

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated addresses situations where a contracting officer may direct a contractor to litigate the applicability of a particular tax and addresses information on tax relief agreements between the United States and foreign governments.

#### Timetable:

Action	Date	FR Cite
NPRM	08/10/04	69 FR 48445
NPRM Comment Period End	10/12/04	
Final Action	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AE19

### 764. ARCHITECT-ENGINEER SERVICES (DFARS CASE 2003-D035)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 236.6

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated contains procedures for establishment of evaluation criteria in the selection of firms for architect-engineer contracts.

#### Timetable:

Action	Date	FR Cite
NPRM	06/25/04	69 FR 35568

Action	Date	FR Cite
NPRM Comment Period End	08/24/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AE20

### 765. CONTRACTING FOR ARCHITECT-ENGINEER SERVICES (DFARS CASE 2003-D105)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-136, sec 1427

**CFR Citation:** 48 CFR 219.502; 48 CFR 219.1005

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to implement section 1427 of the Fiscal Year 2004 National Defense Authorization Act. Section 1427 increases, from \$85,000 to \$300,000, the value below which acquisitions for architect-engineer services for military construction or family housing projects are set aside for small business concerns.

#### Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/04	69 FR 31909
Interim Final Rule Comment Period End	08/09/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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## DOD—DARC

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 RIN: 0750-AE21

#### 766. PUBLICIZING CONTRACT ACTIONS (DFARS CASE 2003-D016)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 205; 48 CFR 226; 48 CFR 235; 48 CFR 252

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated contains a notice for inclusion in acquisitions being considered for historically black college and minority institution set-aside.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8148
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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RIN: 0750-AE22

#### 767. COMPETITION REQUIREMENTS (DFARS CASE 2003-D017)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 206.001; 48 CFR 206.202; 48 CFR 206.3

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated addresses

circumstances under which use of other than full and open competition may be appropriate due to unusual and compelling urgency.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8149
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

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RIN: 0750-AE23

#### 768. SEALED BIDDING (DFARS CASE 2003-D076)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 214.2; 48 CFR 214.4; 48 CFR 214.5

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative.

Deletes unnecessary text pertaining to sealed bidding and updates administrative information.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8152
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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RIN: 0750-AE24

#### 769. CONTRACT PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS (DFARS CASE 2003-D097)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-136, sec 843

**CFR Citation:** 48 CFR 216.501-2; 48 CFR 217.204

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to implement section 843 of the Fiscal Year 2004 National Defense Authorization Act. Section 843 provides that a task or delivery order contract awarded under the authority of 10 U.S.C. 2304a may cover a total period of not more than 5 years.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/23/04	69 FR 13478
Interim Final Rule Comment Period End	05/24/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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RIN: 0750-AE25

#### 770. FIREFIGHTING SERVICES CONTRACTS (DFARS CASE 2003-D107)

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-136, sec 331

**CFR Citation:** 48 CFR 237.102-70

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to implement section 331

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of the Fiscal Year 2004 National Defense Authorization Act. Section 331 adds an exception to the prohibition on contracting for firefighting services, to permit such contracts for periods of 1 year or less, if the firefighting functions would otherwise have to be performed by members of the armed forces who are not readily available by reason of a deployment.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/25/04	69 FR 35532
Interim Final Rule Comment Period End	08/24/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)**URL For Public Comments:**[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)**RIN:** 0750-AE26**771. CONTRACTOR USE OF GOVERNMENT SUPPLY SOURCES (DFARS CASE 2003-D045)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 251.1; 48 CFR 252.251-7000**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated contains procedures for authorizing contractors to use Government supply sources. Also updates policy regarding contractor payment for purchases from Government supply sources.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8159

Action	Date	FR Cite
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)**RIN:** 0750-AE28**772. DOD PILOT MENTOR-PROTÉGÉ PROGRAM (DFARS CASE 2003-D013)****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 101-510, sec 831**CFR Citation:** 48 CFR 219.71; 48 CFR app I**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to update policy pertaining to the DoD Pilot Mentor-Protégé Program. The changes authorize the Director, Small and Disadvantaged Business Utilization, of each military department and defense agency to approve mentor firms and mentor-protégé agreements.

**Timetable:**

Action	Date	FR Cite
NPRM	05/13/04	69 FR 26533
NPRM Comment Period End	07/12/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)**URL For Public Comments:**[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)**RIN:** 0750-AE29**773. THRESHOLD FOR SMALL BUSINESS SPECIALIST REVIEW (DFARS CASE 2003-D060)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 219.201**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Eliminates requirements for small business specialists to review proposed acquisitions that are (1) within the scope and under the terms of the existing contract or (2) under \$100,000 and totally set aside for small business concerns. Also proposes to relocate text addressing the functions of small business specialists to a new DFARS companion resource, Procedures, Guidance, and Information (PGI).

**Timetable:**

Action	Date	FR Cite
NPRM	04/23/04	69 FR 21997
NPRM Comment Period End	06/22/04	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)**RIN:** 0750-AE30**774. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM (DFARS CASE 2003-D063)****Priority:** Substantive, Nonsignificant**Legal Authority:** 41 USC 421**CFR Citation:** 48 CFR 219.1007**Legal Deadline:** None

**Abstract:** Supplements FAR text that requires a statement on the face page of contracts to identify awards under the Small Business Competitiveness

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Demonstration Program. To accommodate the use of automated systems, the change specifies that, when it is not possible to mark the face page, alternate means may be used to identify a contact as an award under the Program.

**Timetable:**

Action	Date	FR Cite
NPRM	06/25/04	69 FR 35566
NPRM Comment	08/24/04	
Period End		
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AE31

**775. ACQUISITION OF COMMERCIAL ITEMS (DFARS CASE 2003-D074)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 212.303; 48 CFR 212.503

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Deletes unnecessary text pertaining to the structuring of contracts.

**Timetable:**

Action	Date	FR Cite
NPRM	06/08/04	69 FR 31939
NPRM Comment	08/09/04	
Period End		
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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**RIN:** 0750-AE32

**776. SMALL DISADVANTAGED BUSINESSES AND LEADER COMPANY CONTRACTING (DFARS CASE 2003-D092)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 217.401; 48 CFR 219.705-4

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Lowers the approval level for subcontracting plans that contain a small disadvantaged business goal of less than 5 percent, from two levels above the contracting officer to one level above the contracting officer. Also deletes unnecessary text pertaining to leader company contracting.

**Timetable:**

Action	Date	FR Cite
NPRM	04/23/04	69 FR 21996
NPRM Comment	06/22/04	
Period End		
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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**RIN:** 0750-AE33

**777. PAYMENT AND BILLING INSTRUCTIONS (DFARS CASE 2003-D009)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 204.2; 48 CFR 204.71; 48 CFR 252.204; 48 CFR app F

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Eliminates the need for non-standard local payment clauses by providing a menu of standard payment instructions from which the contracting officer will make a selection for inclusion in section G of the contract. Adds a clause addressing contract line item information needed in contract financing and interim payment requests and amends Material Inspection and Receiving Report instructions to address electronic submissions.

**Timetable:**

Action	Date	FR Cite
NPRM	06/25/04	69 FR 35564
NPRM Comment	08/24/04	
Period End		
Final Action	12/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AE34

**778. MAJOR SYSTEMS ACQUISITION (DFARS CASE 2003-D030)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 234.0; 48 CFR 242.11; 48 CFR 252.234; 48 CFR 252.242

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Updates text pertaining to major systems acquisition, earned value management systems, and cost/schedule status reporting.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8155

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Action	Date	FR Cite
NPRM Comment	04/23/04	
Period End		
Final Action	12/00/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

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RIN: 0750-AE35

**779. BONDS (DFARS CASE 2003-D033)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 228.1

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Clarifies that fidelity and forgery bonds are authorized for use under certain circumstances.

**Timetable:**

Action	Date	FR Cite
NPRM	08/10/04	69 FR 48444
NPRM Comment	10/12/04	
Period End		
Final Action	01/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

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RIN: 0750-AE36

**780. COST PRINCIPLES AND PROCEDURES (DFARS CASE 2003-D036)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 231.205

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Updates DFARS text pertaining to cost principles and procedures.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8154
NPRM Comment	04/23/04	
Period End		
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

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RIN: 0750-AE37

**781. INSURANCE (DFARS CASE 2003-D037)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 228.3

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Relocates text to a new DFARS companion resource, Procedures, Guidance, and Information (PGI). The text to be relocated addresses risk-pooling arrangements, overseas workers' compensation, and war-hazard insurance.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8153
NPRM Comment	04/23/04	
Period End		
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

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RIN: 0750-AE38

**782. REMOVAL OF OBSOLETE RESEARCH AND DEVELOPMENT CONTRACTING PROCEDURES (DFARS CASE 2003-D058)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.70

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Removes obsolete procedures for research and development contracting.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8157
NPRM Comment	04/23/04	
Period End		
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

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RIN: 0750-AE39

**783. RESEARCH AND DEVELOPMENT CONTRACTING (DFARS CASE 2003-D067)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 235.0; 48 CFR 252.235-7011

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**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative.

Updates text on research and development contracting. Relocates text addressing maintenance of scientific and technical reports to a new DFARS companion resource, Procedures, Guidance, and Information (PGI).

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8158
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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**RIN:** 0750-AE40

**784. PROCEDURES, GUIDANCE, AND INFORMATION (DFARS CASE 2003-D090)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 201.105-3; 48 CFR 201.2; 48 CFR 201.301; 48 CFR 202.101

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Establishes the framework for a new DFARS companion resource, Procedures, Guidance, and Information (PGI), which will contain mandatory and non-mandatory internal DoD procedures, non-mandatory guidance, and supplemental information. Use of PGI will enable DoD to more rapidly convey internal administrative and procedural information to the acquisition workforce. PGI will not contain policy or procedures that significantly affect the public and, therefore, will not be published in the Federal Register or the Code of Federal

Regulations. PGI will be available on the World Wide Web and will be electronically linked to the DFARS.

**Timetable:**

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8145
NPRM Comment Period End	04/23/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750-AE41

**785. CONTRACTORS ACCOMPANYING A FORCE DEPLOYED (DFARS CASE 2003-D087)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 207; 48 CFR 212; 48 CFR 225; 48 CFR 252

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to add policy for contracts that require contractor employees to accompany a force engaged in contingency, humanitarian, peacekeeping, or combat operations outside the United States.

**Timetable:**

Action	Date	FR Cite
NPRM	03/23/04	69 FR 13500
NPRM Comment Period End	05/24/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

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**RIN:** 0750-AE42

**786. FREE TRADE AGREEMENTS—CHILE AND SINGAPORE (DFARS CASE 2003-D088)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-77; PL 108-78

**CFR Citation:** 48 CFR 212; 48 CFR 213; 48 CFR 225; 48 CFR 252

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to implement new Free Trade Agreements with Chile and Singapore, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act and the United States-Singapore Free Trade Agreement Implementation Act. The new Free Trade Agreements waive the applicability of the Buy American Act for some foreign supplies and construction materials from Chile and Singapore, and specify procurement procedures designed to ensure fairness.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	01/13/04	69 FR 1926
Interim Final Rule Comment Period End	03/15/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

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**RIN:** 0750-AE43

**787. WRITTEN ASSURANCE OF TECHNICAL DATA CONFORMITY (DFARS CASE 2003-D104)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-136, sec 844

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**CFR Citation:** 48 CFR 227.71; 48 CFR 252.227–7036

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to implement section 844 of the Fiscal Year 2004 National Defense Authorization Act. Section 844 eliminates the requirement for a contractor to furnish written assurance that delivered technical data is complete, accurate, and complies with all requirements of the contract. The change reduces paperwork for contractors but does not diminish the contractor's contractual obligations.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/08/04	69 FR 31911
Interim Final Rule Comment Period End	08/09/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750–AE45

**788. REPORTING CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (DFARS CASE 2004–D001)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 225.72; 48 CFR 252.225

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement (DFARS) as a result of the DFARS Transformation Initiative. Clarifies requirements for contractor reporting of performance outside the United States and establishes two separate clauses to eliminate confusion between two reporting requirements presently contained in one clause.

**Timetable:**

Action	Date	FR Cite
NPRM	06/08/04	69 FR 31939
NPRM Comment Period End	08/09/04	
Final Action	12/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

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**RIN:** 0750–AE46

**789. • CONSOLIDATION OF CONTRACT REQUIREMENTS (DFARS CASE 2003–D109)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108–136, sec 801; 10 USC 2382

**CFR Citation:** 48 CFR 207.170; 48 CFR 219.201

**Legal Deadline:** Other, Statutory, May 23, 2004, Applies to solicitations issued after 05/22/2004.

**Abstract:** Amends the Defense FAR Supplement to place restrictions on consolidating two or more separate requirements into a single solicitation and contract. Requires agencies to include the following in acquisition strategies that involve consolidation of requirements exceeding \$5,000,000: (1) The results of market research; (2) any alternatives that would involve a lesser degree of consolidation; and (3) a determination by the senior procurement executive that the consolidation is necessary and justified. This change implements section 801 of the National Defense Authorization Act for Fiscal Year 2004 and is intended to ensure that decisions regarding consolidation of requirements are made with a view toward providing maximum practicable opportunity for small business concerns to participate in DoD procurements.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	09/17/04	69 FR 55986
Interim Final Rule Comment Period End	11/16/04	
Final Action	02/00/05	
Final Action Effective	04/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

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**RIN:** 0750–AE48

**790. • TRANSITION OF WEAPONS-RELATED PROTOTYPE PROJECTS TO FOLLOW-ON CONTRACTS (DFARS CASE 2003–D106)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108–136, sec 847

**CFR Citation:** 48 CFR 212.212; 48 CFR 212.70

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to establish a pilot program that permits contracting officers to use FAR part 12 (Acquisition of Commercial Items) procedures to award follow-on contracts for the production of items begun as prototype projects under other transaction agreements. The follow-on contract must be awarded to a nontraditional defense contractor; must not exceed \$50,000,000; must be either firm-fixed-price or fixed-price with economic price adjustment; and must be awarded on or before September 30, 2008. This change implements section 847 of the National Defense Authorization Act for Fiscal Year 2004 and is intended to ease the transition of nontraditional defense contractors from prototype transactions to standard contracts.

## DOD—DARC

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**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/00/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

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RIN: 0750-AE49

**791. • PERSONAL SERVICES CONTRACTS (DFARS CASE 2003-D103)**

Priority: Substantive, Nonsignificant

Legal Authority: PL 108-136, sec 721; 10 USC 1091(a)(2); PL 108-136, sec 841; 10 USC 129b

CFR Citation: 48 CFR 237.1

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement to authorize the use of personal services contracts for health care at locations outside of medical treatment facilities (such as military entrance processing stations) and for services that are to be performed outside the United States or that directly support the mission of a DoD intelligence or counter-intelligence organization or the special operations command. This change implements sections 721 and 841 of the National Defense Authorization Act for Fiscal Year 2004 and enables the award of contracts for specialized services that would be impractical for DoD to obtain by other means.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	09/17/04	69 FR 55991
Interim Final Rule	11/16/04	
Comment Period End		
Final Action	02/00/05	
Final Action Effective	04/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

RIN: 0750-AE50

**792. • QUALITY CONTROL OF AVIATION CRITICAL SAFETY ITEMS AND RELATED SERVICES (DFARS CASE 2003-D101)**

Priority: Substantive, Nonsignificant

Legal Authority: PL 108-136, sec 802

CFR Citation: 48 CFR 209.270; 48 CFR 217.75; 48 CFR 246.407; 48 CFR 246.504

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement to establish requirements for quality control in the procurement of aviation critical safety items and the modification, repair, and overhaul of those items. Specifies that the design control activity is responsible for qualifying and identifying aviation critical safety item suppliers and products. This change implements section 802 of the National Defense Authorization Act for Fiscal Year 2004 and is intended to ensure flight safety.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	09/17/04	69 FR 55987
Interim Final Rule	11/16/04	
Comment Period End		
Final Action	02/00/05	
Final Action Effective	04/00/05	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

RIN: 0750-AE51

**793. • POLYACRYLONITRILE (PAN) CARBON FIBER—RESTRICTION TO DOMESTIC SOURCES (DFARS CASE 2004-D002)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 225.7103-1

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement to extend the ending date for phasing out domestic source restrictions on the acquisition of PAN carbon fiber, from May 31, 2005, to May 31, 2006. The aerospace industry requested the extension to provide U.S. companies sufficient time to maintain the industrial and technological capability to support a critical material used in advanced aerospace weapons programs.

**Timetable:**

Action	Date	FR Cite
NPRM	06/25/04	69 FR 35567
NPRM Comment Period End	08/24/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: Federal

**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**URL For Public Comments:**

emissary.acq.osd.mil/dar/dfars.nsf

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

RIN: 0750-AE52

**794. • EXTENSION OF PARTNERSHIP AGREEMENT UNDER THE 8(A) PROGRAM (DFARS CASE 2004-D015)**

Priority: Substantive, Nonsignificant

Legal Authority: 41 USC 421

CFR Citation: 48 CFR 219.800

Legal Deadline: None

**Abstract:** Amends the Defense FAR Supplement to extend the expiration date of a partnership agreement

## DOD—DARC

## Final Rule Stage

between DoD and the Small Business Administration (SBA). The partnership agreement permits DoD to award contracts to 8(a) Program participants on behalf of SBA.

**Timetable:**

Action	Date	FR Cite
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062

Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0311  
**RIN:** 0750-AE56

**795. • PURCHASES FROM FEDERAL PRISON INDUSTRIES—DELETION OF DUPLICATIVE TEXT (DFARS CASE 2004-D005)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** Not Yet Determined

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to delete obsolete text pertaining to purchase of products from Federal Prison Industries. The text has been superseded by policy published in the FAR.

**Timetable:**

Action	Date	FR Cite
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0311

**RIN:** 0750-AE57

## Department of Defense (DOD)

## Long-Term Actions

## Defense Acquisition Regulations Council (DARC)

**796. • RADIO FREQUENCY IDENTIFICATION (DFARS CASE 2004-D011)**

**Priority:** Other Significant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 211; 48 CFR 212; 48 CFR 252

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to add requirements for contractors to affix radio frequency identification tags to certain

commodities to be delivered to certain DoD locations. The change will improve visibility of DoD assets in the supply chain, increase the accuracy of shipment and receipt data, and reduce the amount of time it takes to deliver material to the warfighter.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be Determined	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0311

**RIN:** 0750-AE55

## Department of Defense (DOD)

## Completed Actions

## Defense Acquisition Regulations Council (DARC)

**797. INFORMATION ASSURANCE (DFARS CASE 2002-D020)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	05/23/03	68 FR 28187

Action	Date	FR Cite
NPRM Comment Period End	07/22/03	
Final Action	06/25/04	69 FR 35533

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](http://emissary.acq.osd.mil/dar/dfars.nsf)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062

Defense Pentagon, Washington, DC 20301-3062  
Phone: 703 602-0311

**RIN:** 0750-AD86

**798. FOLLOW-ON PRODUCTION CONTRACTS FOR PRODUCTS DEVELOPED PURSUANT TO PROTOTYPE PROJECTS (DFARS CASE 2002-D023)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-107, sec 822

**CFR Citation:** 48 CFR 206.001

**Legal Deadline:** None

## DOD—DARC

## Completed Actions

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/03/03	68 FR 33057
NPRM Comment Period End	08/04/03	
Final Action	06/08/04	69 FR 31907

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

**RIN:** 0750-AD88

**799. FISH, SHELLFISH, OR SEAFOOD PRODUCTS (DFARS CASE 2002-D034)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-248, sec 8136

**CFR Citation:** 48 CFR 225.7002-2; 48 CFR 252.212-7001; 48 CFR 252.225-7012

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	02/14/03	68 FR 7441
Interim Final Rule Comment Period End	04/15/03	
NPRM	09/15/03	68 FR 53945
NPRM Comment Period End	11/14/03	
Final Action	06/08/04	69 FR 31910

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

**RIN:** 0750-AD91

**800. INDIAN INCENTIVE PROGRAM—COMMERCIAL ITEMS (DFARS CASE 2002-D033)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-248, sec 8021

**CFR Citation:** 48 CFR 226.1; 48 CFR 252.212-7001; 48 CFR 252.226-7001

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	10/01/03	68 FR 56561
Interim Final Rule Comment Period End	12/01/03	
Final Action	09/17/04	69 FR 55989

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

**Related RIN:** Merged with 0750-AD78

**RIN:** 0750-AD97

**801. MULTIYEAR PROCUREMENT AUTHORITY FOR ENVIRONMENTAL SERVICES FOR MILITARY INSTALLATIONS (DFARS CASE 2003-D004)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-314, sec 827

**CFR Citation:** 48 CFR 217.1

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	07/22/03	68 FR 43332
Interim Final Rule Comment Period End	09/22/03	
Final Action	05/13/04	69 FR 26507

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)

**RIN:** 0750-AD99

**802. PRODUCTION SURVEILLANCE AND REPORTING (DFARS CASE 2002-D015)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 242.1104

**Legal Deadline:** None

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

## DOD—DARC

## Completed Actions

resources to critical and high-risk contracts.

**Timetable:**

Action	Date	FR Cite
NPRM	08/21/03	68 FR 50495
NPRM Comment Period End	10/20/03	
Final Action	06/08/04	69 FR 31912

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**URL For Public Comments:**

[emissary.acq.osd.mil/dar/dfars.nsf](mailto:emissary.acq.osd.mil/dar/dfars.nsf)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)

**RIN:** 0750-AE07

**803. USE OF FAR PART 12 FOR PERFORMANCE-BASED CONTRACTING FOR SERVICES (DFARS CASE 2003-D111)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 106-398, sec 821

**CFR Citation:** 48 CFR 212.102; 48 CFR 237.601

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to delete obsolete text pertaining to the use of FAR part 12 (Acquisition of Commercial Items) for performance-based contracts for services. The statutory authority upon which this text was based expired on October 30, 2003.

**Timetable:**

Action	Date	FR Cite
Final Action	06/25/04	69 FR 35532

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)

**RIN:** 0750-AE27

**804. BERRY AMENDMENT CHANGES (DFARS CASE 2003-D099)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-136, sec 826; PL 108-136, sec 827

**CFR Citation:** 48 CFR 225.7002-2; 48 CFR 252.212-7001; 48 CFR 252.225-7012

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to implement sections 826 and 827 of the Fiscal Year 2004 National Defense Authorization Act. Sections 826 and 827 provide exceptions to the domestic source requirements of the Berry Amendment (10 U.S.C. 2533a). Section 826 applies to the acquisition of food, specialty metals, and hand or measuring tools needed to support contingency operations or to fulfill other urgent requirements. Section 827 applies to the acquisition of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	05/13/04	69 FR 26508
Interim Final Rule Comment Period End	07/12/04	
Final Action	09/17/04	69 FR 55989

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

Email: [michele.peterson@osd.mil](mailto:michele.peterson@osd.mil)

**RIN:** 0750-AE44

**805. ● ACQUISITION PLANS—CORROSION PREVENTION AND MITIGATION (DFARS CASE 2004-D004)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 107-314, sec 1067; 10 USC 2228

**CFR Citation:** 48 CFR 207.105

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to add corrosion prevention and mitigation to the areas that agencies must address in acquisition plans. This change implements section 1067 of the National Defense Authorization Act for Fiscal Year 2003, which requires DoD to prevent and mitigate corrosion during the design, acquisition, and maintenance of military equipment.

**Timetable:**

Action	Date	FR Cite
Final Action	09/17/04	69 FR 55986

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For More Information:**

[www.acq.osd.mil/dpap/dfars/index.htm](http://www.acq.osd.mil/dpap/dfars/index.htm)

**Agency Contact:** Michele Peterson, Department of Defense, Defense Acquisition Regulations Council, 3062 Defense Pentagon, Washington, DC 20301-3062

Phone: 703 602-0311

**RIN:** 0750-AE53

**806. ● DEFINITION OF TERRORIST COUNTRY (DFARS CASE 2003-D098)**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 41 USC 421

**CFR Citation:** 48 CFR 252.209-7001

**Legal Deadline:** None

**Abstract:** Amends the Defense FAR Supplement to remove Iraq from the list of terrorist countries subject to a prohibition on DoD contract awards. This change is a result of the President's May 7, 2003, determination to suspend all sanctions against Iraq that apply to countries that have supported terrorism.

**Timetable:**

Action	Date	FR Cite
Final Action	09/17/04	69 FR 55992

## DOD—DARC

## Completed Actions

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Federal**URL For More Information:**

www.acq.osd.mil/dpap/dfars/index.htm

**Agency Contact:** Michele Peterson,  
Department of Defense, Defense  
Acquisition Regulations Council, 3062Defense Pentagon, Washington, DC  
20301-3062

Phone: 703 602-0311

**RIN:** 0750-AE54**Department of Defense (DOD)  
Department of the Army (DOA)**

## Final Rule Stage

**807. • DECORATIONS, MEDALS,  
RIBBONS, AND SIMILAR DEVICES****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 3013; sec  
3012, 70A Stat 157**CFR Citation:** 32 CFR 578**Legal Deadline:** None**Abstract:** This proposed rule prescribes policy, criteria, and administrative instructions concerning individual military awards and incorporates laws enacted and policies approved since the rule was last published in 1956.**Timetable:**

Action	Date	FR Cite
NPRM	07/28/04	69 FR 45114
NPRM Comment Period End	09/27/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:**  
Undetermined**Agency Contact:** Brenda S. Bowen,  
Department of Defense, Department of  
the Army, U.S. Army Records  
Management and Declassification  
Agency, ATTN: AHRC-PDD-R, 7701  
Telegraph Road, Alexandria, VA  
22315-3860

Phone: 703 428-6422

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**RIN:** 0702-AA41**808. • LAW ENFORCEMENT  
REPORTING****Priority:** Substantive, Nonsignificant**Legal Authority:** 28 USC 534 note; 42  
USC 10601; 18 USC 922; 42 USC  
14071; 10 USC 1562; 10 USC ch 47**CFR Citation:** 32 CFR 635**Legal Deadline:** None**Abstract:** This proposed rule prescribes policies and procedures on preparing, reporting, using, retaining, and disposing of Military Police Reports. The rule also prescribes policies andprocedures for offense reporting and  
the release of law enforcement  
information.**Timetable:**

Action	Date	FR Cite
NPRM	07/16/04	69 FR 42626
NPRM Comment Period End	09/14/04	
Final Action	11/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Brenda S. Bowen,  
Department of Defense, Department of  
the Army, U.S. Army Records  
Management and Declassification  
Agency, ATTN: AHRC-PDD-R, 7701  
Telegraph Road, Alexandria, VA  
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**RIN:** 0702-AA42**Department of Defense (DOD)  
Department of the Army (DOA)**

## Long-Term Actions

**809. FOREIGN ACQUISITION****Priority:** Substantive, Nonsignificant.  
Major status under 5 USC 801 is  
undetermined.**CFR Citation:** 48 CFR 5125**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/28/03	68 FR 66738
Interim Final Rule Comment Period End	01/27/04	
Final Action	To Be Determined	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Brenda S. Bowen

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brenda.bowen@rmda.belvoir.army.mil

**Related RIN:** Related to 0702-AA39**RIN:** 0702-AA38**810. SOLICITATION PROVISIONS AND  
CONTRACT CLAUSES****Priority:** Substantive, Nonsignificant.  
Major status under 5 USC 801 is  
undetermined.**CFR Citation:** 48 CFR 5152**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/28/03	68 FR 66740
Interim Final Rule Comment Period End	01/27/04	
Final Action	To Be Determined	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Brenda S. Bowen

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Fax: 703 428-6514

## DOD—DOA

## Long-Term Actions

## Email:

brenda.bowen@rmda.belvoir.army.mil

**Related RIN:** Related to 0702-AA38**RIN:** 0702-AA39

## Department of Defense (DOD)

## Completed Actions

## Department of the Army (DOA)

**811. PUBLICATION OF RULES AFFECTING THE PUBLIC****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 3013; 5 USC 552**CFR Citation:** 32 CFR 519**Legal Deadline:** None

**Abstract:** This proposed rule prescribes procedures and responsibilities for publishing applicable Department of the Army policies, practices, and procedures as required by statutes. Proposed rule will update internal policies and procedures for Army proponents who develop certain documents that may affect or have

general interest to the public and require publication in the Federal Register. This proposed rule also incorporates guidance in support of various acts of Congress and Executive orders relating to the rulemaking process.

**Timetable:**

Action	Date	FR Cite
NPRM	04/07/04	69 FR 18314
NPRM Comment Period End	06/07/04	
Final Action	08/06/04	69 FR 47766
Final Action Effective	09/07/04	

**Regulatory Flexibility Analysis Required:** No

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

**Agency Contact:** Brenda S. Bowen, Department of Defense, Department of the Army, U.S. Army Records Management and Declassification Agency, ATTN: AHRC-PDD-R, 7701 Telegraph Road, Alexandria, VA 22315-3860

Phone: 703 428-6422

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**RIN:** 0702-AA40

## Department of Defense (DOD)

## Prerule Stage

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

**812. 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 part 800 have been revised substantially. The Corps will revise its regulations to conform to the NHPA's revised implementing regulations.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/27/04	69 FR 57662
ANPRM Comment Period End	11/26/04	
NPRM	09/00/05	
NPRM Comment Period End	11/00/05	
Final Action	09/00/06	
Final Action Effective	11/00/06	

**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-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000

Phone: 202 761-4922

Email:

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

**RIN:** 0710-AA51

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

**Proposed Rule Stage**

**813. 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 update, clarify, and provide additional guidance for the preparation and processing of Corps NEPA documents in support of Civil Works-funded activities. These requirements will cover all such U.S. Army Corps of Engineers Civil Works activities at Federal water resource development projects and associated lands.

**Timetable:**

Action	Date	FR Cite
NPRM	02/00/05	
NPRM Comment Period End	04/00/05	
Final Action	12/00/05	
Final Action Effective	02/00/06	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Forester Einarsen, Biologist, Department of Defense, U.S. Army Corps of Engineers, Office of Environmental Policy (CECW-PC), 441 G Street NW, Washington, DC 20314  
 Phone: 202 761-4700

**RIN:** 0710-AA42

**814. COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES**

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

**Legal Authority:** 33 USC 1344; PL 108-136; 33 USC 403

**CFR Citation:** Not Yet Determined

**Legal Deadline:** Final, Statutory, November 24, 2005.

Public Law 108-136 requires that the final regulations be issued no later than two years after the enactment of the Act.

**Abstract:** Section 314(b) of the National Defense Authorization Act of 2004 (Pub. L. 108-136) requires the Secretary of the Army, acting through the Chief of Engineers, to issue regulations establishing performance standards and criteria for on-site, off-site, and in lieu fee mitigation and mitigation banking consistent with section 404 of the Federal Water Pollution Control Act.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/04	
NPRM Comment Period End	02/00/05	
Final Action	09/00/05	
Final Action Effective	11/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:**

Undetermined

**Energy Effects:** Statement of Energy Effects planned as required by Executive Order 13211.

**Agency Contact:** David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, Attn: CECW-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000  
 Phone: 202 761-4922

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

**RIN:** 0710-AA55

**815. • NATIONWIDE PERMIT PROGRAM REGULATIONS**

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

**Legal Authority:** 33 USC 1344; 33 USC 401 et seq; 33 USC 1413

**CFR Citation:** 33 CFR 330

**Legal Deadline:** None

**Abstract:** The Corps will propose to revise its Nationwide Permit Program regulations at 33 CFR part 330 to address changes in regulatory procedures and policy that have occurred since those regulations were last revised in 1991. The Corps will propose to revise the regulation to increase the pre-construction notification review period to 45 days, to be consistent with the current nationwide permits. The Corps is also proposing to amend the regulation to allow district engineers to issue verification letters that can have the same expiration date as the nationwide permit.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/04	
NPRM Comment Period End	01/00/05	
Final Action	07/00/05	
Final Action Effective	09/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:**

Undetermined

**Energy Effects:** Statement of Energy Effects planned as required by Executive Order 13211.

**Agency Contact:** David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000

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

**RIN:** 0710-AA60

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

**Final Rule Stage**

**816. UNITED STATES COAST GUARD RESTRICTED AREA, COAST GUARD BASE MOBILE, MOBILE, ALABAMA**

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

**Legal Authority:** 33 USC 1; 33 USC 3

**CFR Citation:** 33 CFR 334

**Legal Deadline:** None

**Abstract:** The U. S. Army Corps of Engineers is proposing to establish a new restricted area in the waters of Arlington Channel surrounding the U.S. Coast Guard Base Mobile Docks at Mobile, Alabama. The designation would ensure public safety and satisfy the Coast Guard's security, safety, and operational requirements as they pertain to vessels at U.S. Coast Guard Base Mobile by establishing an area into which unauthorized vessels and persons may not enter.

**Timetable:**

Action	Date	FR Cite
NPRM	04/16/04	69 FR 20570
NPRM Comment Period End	05/17/04	
Final Action	11/00/04	
Final Action Effective	12/00/04	

**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-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000

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

**RIN:** 0710-AA56

**817. UNITED STATES MARINE CORPS RESTRICTED AREA AND DANGER ZONE, BRICKYARD CREEK AND TRIBUTARIES AND THE BROAD RIVER, MARINE CORPS AIR STATION, BEAUFORT, SOUTH CAROLINA**

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

**Legal Authority:** 33 USC 1; 33 USC 3

**CFR Citation:** 33 CFR 334

**Legal Deadline:** None

**Abstract:** The Corps is proposing a regulation to establish a restricted area

and danger zone in Brickyard Creek, a portion of the Atlantic Intracoastal Waterway, Mulligan Creek, Albergottie Creek and Salt Creek in the vicinity of the Marine Corps Air Station in Beaufort, South Carolina. In addition, the proposed regulation will establish a restricted area in the Broad River in the vicinity of Laurel Bay Military Family Housing Area. The purpose of these regulations is to provide effective security in the vicinity of the Marine Corps Air Station and the Laurel Bay Military Family Housing Area.

**Timetable:**

Action	Date	FR Cite
NPRM	07/29/04	69 FR 45298
NPRM Comment Period End	08/30/04	
Final Action	01/00/05	
Final Action Effective	02/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:**

Undetermined

**Agency Contact:** David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000

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**RIN:** 0710-AA57

**818. • UNITED STATES ARMY DANGER ZONE; SALT RIVER, ROLLING FORK RIVER, AND OTTER CREEK; U.S. ARMY GARRISON, FORT KNOX MILITARY RESERVATION; FORT KNOX, KENTUCKY**

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

**Legal Authority:** 33 USC 1; 33 USC 3

**CFR Citation:** 33 CFR 334

**Legal Deadline:** None

**Abstract:** The Corps of Engineers is proposing regulations to establish a danger zone on navigable portions of the Salt River and the Rolling Fork River and the non-navigable portions of Otter Creek, within the installation boundaries of the Fort Knox Military Reservation. These regulations will enable the Army to prohibit public access to the area and enhance safety and security within active military

impact and training areas. These regulations are necessary to protect the public from potentially hazardous conditions that may exist as a result of Army use and security of the area. The regulations will also safeguard government personnel and property from sabotage and other subversive acts, accidents, or incidents of similar nature.

**Timetable:**

Action	Date	FR Cite
NPRM	07/27/04	69 FR 44613
NPRM Comment Period End	08/26/04	
Final Action	02/00/05	
Final Action Effective	03/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:**

Undetermined

**Agency Contact:** David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000

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

**RIN:** 0710-AA58

**819. • DEPARTMENT OF THE ARMY, FORT RICHARDSON ALASKA, SMALL ARMS COMPLEX, FORT WAINWRIGHT, ALASKA**

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

**Legal Authority:** 33 USC 1; 33 USC 3

**CFR Citation:** 33 CFR 334.1301

**Legal Deadline:** None

**Abstract:** The Corps of Engineers is proposing to amend its regulations to designate an existing military small arms impact area as a Danger Zone. The military exercise area is located within the Small Arms Complex of Fort Wainwright, Alaska, along the Tanana River. The Danger Zone will only be activated by the United States Army Fort Wainwright during live fire training exercises. There will be no change in use of the existing military exercise area. The area needs to be marked on navigation charts as a Danger Zone to ensure security and safety for the public.

## DOD—COE

## Final Rule Stage

**Timetable:**

Action	Date	FR Cite
NPRM	08/23/04	69 FR 51788
NPRM Comment Period End	09/22/04	
Final Action	04/00/05	
Final Action Effective	05/00/05	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** Undetermined**Agency Contact:** David B. Olson,  
Regulatory Program Manager,  
Department of Defense, U.S. ArmyCorps of Engineers, CECW—MVD  
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DC 20314–1000

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**RIN:** 0710–AA59**Department of Defense (DOD)****Long-Term Actions****U.S. Army Corps of Engineers (COE)****820. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, ENDANGERED SPECIES ACT; SCOPE OF ANALYSIS****Priority:** Substantive, Nonsignificant**CFR Citation:** 33 CFR 325**Timetable:** Next Action Undetermined**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** None**Federalism:** Undetermined**Agency Contact:** Russell Kaiser  
Phone: 202 761–4614**RIN:** 0710–AA43**821. COST-SHARING REQUIREMENTS UNDER THE ABILITY TO PAY PROVISIONS****Priority:** Substantive, Nonsignificant**CFR Citation:** 33 CFR 241**Timetable:** Next Action Undetermined**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** None**Federalism:** Undetermined**Agency Contact:** Janice Rasgus  
Phone: 202 761–7674**RIN:** 0710–AA44**822. SPECIAL EVENTS RULE****Priority:** Substantive, Nonsignificant.  
Major status under 5 USC 801 is undetermined.**CFR Citation:** 36 CFR 327**Timetable:**

Action	Date	FR Cite
NPRM	To Be	Determined

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** Undetermined**Agency Contact:** Judy Rice  
Phone: 202 761–5541**RIN:** 0710–AA53**Department of Defense (DOD)****Completed Actions****U.S. Army Corps of Engineers (COE)****823. NATURAL DISASTER PROCEDURES: PREPAREDNESS, RESPONSE, AND RECOVERY ACTIVITIES OF THE CORPS OF ENGINEERS****Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 701**CFR Citation:** 33 CFR 203**Legal Deadline:** None**Abstract:** This revision of 33 CFR 203 is necessary to reflect current policy, add features required by the Water Resources Development Act of 1996 (Pub. L. 104-303), and streamline certain procedures concerning Corps authority for disaster preparedness, response, and recovery activities. Public Law 104-303 additions are the option of a nonstructural alternative to structural levee repairs for damage caused by flood events and the provision of a levee owners' manual. Other changes include a change in the

cost share provision for rehabilitation of Federal and non-Federal flood control works, expansion of investigation ability for potential Advance Measures work, and a streamlined approach for requests for assistance from Native American tribes and Alaska Native corporations.

**Timetable:**

Action	Date	FR Cite
NPRM	02/26/02	67 FR 8748
NPRM Comment Period End	04/29/02	
Final Action	04/21/03	68 FR 19357
Final Action Effective	05/21/03	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Mr. Jeffrey Jensen,  
Department of Defense, U.S. Army  
Corps of Engineers, HQUSACE, Officeof Homeland Security, 441 G Street  
NW, Washington, DC 20314–1000  
Phone: 202 761–7688**RIN:** 0710–AA47**824. CLEAN WATER ACT REGULATORY DEFINITION OF "WATERS OF THE UNITED STATES"****Priority:** Substantive, Nonsignificant**Legal Authority:** 33 USC 1361; 33 USC 1362**CFR Citation:** 33 CFR 328; 40 CFR 110; 40 CFR 112; 40 CFR 116; 40 CFR 117; 40 CFR 122; 40 CFR 230; 40 CFR 232; 40 CFR 257; 40 CFR 300; 40 CFR 401**Legal Deadline:** None**Abstract:** An Advance Notice of Proposed Rulemaking (ANPRM) on the Clean Water Act regulatory definition of "Waters of the United States" was published jointly by EPA and the Department of the Army on January 15,

## DOD—COE

## Completed Actions

2003. In response to the ANPRM, approximately 150,000 comments were received. On December 16, 2003, the Corps and EPA announced that a new rule on Federal regulatory jurisdiction over isolated waters would not be proposed.

**Timetable:**

Action	Date	FR Cite
ANPRM	01/15/03	68 FR 1991
ANPRM Comment Period End	04/16/03	68 FR 9613
Withdrawn	08/26/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Businesses, Governmental Jurisdictions, Organizations

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

**Agency Contact:** Russell Kaiser, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-NWD, 441 G Street NW, Washington, DC 20314-1000

Phone: 202 761-4614

**RIN:** 0710-AA50

**825. CIVIL MONETARY PENALTY INFLATION ADJUSTMENT RULE**

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 33 CFR 326.6

**Legal Deadline:** None

**Abstract:** The U.S. Army Corps of Engineers (Corps) amended its regulations to adjust its Class I civil penalties under the Clean Water Act and the National Fishing Enhancement Act. The adjustment of civil penalties to account for inflation is required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. The adjusted Class I civil penalty under the Clean Water Act will not exceed \$11,000 per violation, with a maximum civil penalty amount of \$27,500. Under the National Fishing Enhancement Act, the adjusted Class I civil penalty will not exceed \$11,000 per violation. Increasing the maximum amounts of the Class I civil penalties to account

for inflation will maintain the deterrent effects of those penalties.

**Timetable:**

Action	Date	FR Cite
NPRM	08/20/03	68 FR 50108
NPRM Comment Period End	10/06/03	
Final Action	06/25/04	69 FR 35515
Final Action Effective	07/26/04	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For More Information:**

[www.usace.army.mil/inet/functions/cw/cecwo/reg/](http://www.usace.army.mil/inet/functions/cw/cecwo/reg/)

**Agency Contact:** David B. Olson, Regulatory Program Manager, Department of Defense, U.S. Army Corps of Engineers, CECW-MVD (3G81), 441 G Street NW, Washington, DC 20314-1000

Phone: 202 761-4922

Email:

[david.b.olson@hq02.usace.army.mil](mailto:david.b.olson@hq02.usace.army.mil)

**RIN:** 0710-AA54

## Department of Defense (DOD)

## Department of the Navy (NAVY)

## Long-Term Actions

**826. SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS**

**Priority:** Substantive, Nonsignificant

**CFR Citation:** 48 CFR 5231 (New)

**Timetable:**

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

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

**Regulatory Flexibility Analysis**

**Required:** No

**Government Levels Affected:** None

**Agency Contact:** Clarence Belton

Phone: 703 693-4006

Email: [belton.clarence@hq.navy.mil](mailto:belton.clarence@hq.navy.mil)

**RIN:** 0703-AA50

## Department of Defense (DOD)

## Department of the Navy (NAVY)

## Completed Actions

**827. RELEASE OF OFFICIAL INFORMATION FOR LITIGATION PURPOSES AND TESTIMONY BY THE DEPARTMENT OF THE NAVY PERSONNEL**

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

**Legal Authority:** 5 USC 301; 10 USC 801 to 940

**CFR Citation:** 32 CFR 725

**Legal Deadline:** None

**Abstract:** The Department of the Navy is amending its regulations concerning

requests from members of the public for official Department of the Navy information in connection with litigation to reflect recent changes to chapter VI of the Manual of the Judge Advocate General (JAGMAN).

**Timetable:**

Action	Date	FR Cite
Final Action	04/16/04	69 FR 20540

**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, Personnel Law Branch, Administrative Law Division, 1322 Patterson Avenue SE, Washington Navy Yard, DC 20374-5066

Phone: 703 604-8208

Fax: 703 604-6955

## DOD—NAVY

## Completed Actions

Email: jason.baltimore@navy.mil

RIN: 0703-AA74

## Department of Defense (DOD)

## Final Rule Stage

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

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	01/20/94	59 FR 3046
NPRM Comment Period End	03/21/94	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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

Phone: 703 681-3628

Email: steve.lillie@tma.osd.mil

RIN: 0720-AA20

**829. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); EXCEPTION TO THE CHAMPUS DUAL COMPENSATION/CONFLICT OF INTEREST PROVISIONS****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** Currently, any individual who is a civilian employee of the

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

**Timetable:**

Action	Date	FR Cite
NPRM	08/26/97	62 FR 45196
NPRM Comment Period End	10/27/97	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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

Phone: 303 676-3572

Email: stephen.isaacson@tma.osd.mil

RIN: 0720-AA41

**830. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); PROSTHETIC DEVICES****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

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

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

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

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Fax: 303 676-3579

Email: margaret.brown@tma.osd.mil

RIN: 0720-AA49

**831. 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

## DOD—DODOASHA

## Final Rule Stage

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32451
NPRM Comment Period End	08/16/99	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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

Phone: 703 681-3628

Email: kathleen.larkin@tma.osd.mil

**RIN:** 0720-AA50

**832. 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	FR Cite
NPRM	01/13/00	65 FR 2085
NPRM Comment Period End	03/13/00	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** Donald Wagner, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 303 676-3411

**RIN:** 0720-AA56

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

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

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

**Timetable:**

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

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

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

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**RIN:** 0720-AA57

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

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	08/01/01	66 FR 39699
NPRM Comment Period End	10/01/01	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** Mary Stockdale, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 703 681-0039

**RIN:** 0720-AA65

## DOD—DODOASHA

## Final Rule Stage

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

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	02/06/02	67 FR 5477
Interim Final Rule Comment Period End	04/08/02	
Interim Final Rule Effective	04/08/02	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

**Agency Contact:** LCDR Robert Styron, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301

Phone: 703 681-0064

**RIN:** 0720-AA68**836. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); VOLUNTARY DISENROLLMENT FROM THE TRICARE RETIREE DENTAL PROGRAM (TRDP)****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This rule implements section 726 of the Floyd D. Spence National

Defense Authorization Act for Fiscal Year 2001, which amended 10 U.S.C. 1076c to allow for voluntary disenrollment from the TRICARE Retiree Dental Program in certain circumstances.

**Timetable:**

Action	Date	FR Cite
NPRM	01/30/02	67 FR 4375
NPRM Comment Period End	04/01/02	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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**RIN:** 0720-AA69**837. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ENURETIC DEVICES, BREAST RECONSTRUCTIVE SURGERY, PFPWD VALID AUTHORIZATION PERIOD, EARLY INTERVENTION SERVICES****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/15/00	65 FR 68957
NPRM Comment Period End	01/16/01	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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**RIN:** 0720-AA70**838. TRICARE; WAIVER OF CERTAIN TRICARE DEDUCTIBLES; CLARIFICATION OF THE TRICARE PRIME ENROLLMENT PERIOD****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/18/02	67 FR 19141
NPRM Comment Period End	06/17/02	
Interim Final Rule	07/31/03	68 FR 44882
Interim Final Rule Effective	09/29/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis****Required:** No

## DOD—DODOASHA

## Final Rule Stage

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 0720-AA72

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

**Priority:** Other Significant

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

**Abstract:** This rule partially implements the TRICARE “sub-acute and long-term care program reform” enacted by Congress in the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, specifically: (1) Establishment of “an effective, efficient, and integrated sub-acute care benefits program,” with skilled nursing facility and home health care benefits modeled after those of the Medicare Program; (2) adoption of Medicare payment methods for skilled nursing facility, home health care, and certain other institutional health care providers; (3) adoption of Medicare rules on balance billing of beneficiaries, prohibiting it by institutional providers and limiting it by non-institutional providers; and (4) change in the statutory exclusion of coverage for custodial and domiciliary care.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/13/02	67 FR 40597
Interim Final Rule Comment Period End	08/12/02	
Interim Final Rule Effective	08/12/02	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

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**RIN:** 0720-AA73

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

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/16/03	68 FR 18575
NPRM Comment Period End	06/16/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

Phone: 303 676-3803

**RIN:** 0720-AA77

**841. TRICARE; ELIMINATION OF NONAVAILABILITY STATEMENT AND REFERRAL AUTHORIZATION REQUIREMENTS AND ELIMINATION OF SPECIALIZED TREATMENT SERVICES PROGRAM**

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

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

**CFR Citation:** 32 CFR 199

**Legal Deadline:** None

**Abstract:** This rule implements section 735 of the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02) (Pub. L. 107-107). It also implements section 728 of the National Defense Authorization Act for Fiscal Year 2001 (NDAA-01) (Pub. L. 106-398). Section 735 of NDAA-02 eliminates the requirement for TRICARE Standard beneficiaries who live within a 40-mile radius of a military medical treatment facility (MTF) to obtain a nonavailability statement (NAS) or preauthorization from an MTF before receiving inpatient care (other than mental health services) or maternity care from a civilian provider in order that TRICARE will cost-share for such services. Further, this section eliminates the NAS requirement for specialized treatment services (STSs) for TRICARE Standard beneficiaries who live outside the 200-mile radius of a designated STS facility. This rule portrays the Department's decision to eliminate the STS program entirely. Finally, section 728 of NDAA-01 requires that prior authorization before referral to a specialty care provider that is part of the contractor network be eliminated under any new TRICARE contract.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	07/31/03	68 FR 44878

## DOD—DODOASHA

## Final Rule Stage

Action	Date	FR Cite
Interim Final Rule Comment Period End	09/29/03	68 FR 44879
Interim Final Rule Effective	12/28/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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

**RIN:** 0720-AA79**842. TRICARE; CHANGES INCLUDED IN THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003 (NDAA-03)****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC ch 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This interim final rule contains several provisions found in the NDAA-03 (Pub. L. 107-314). Specifically, this rule addresses eliminating the requirement for TRICARE preauthorization of inpatient mental health care for Medicare-eligible beneficiaries where Medicare is primary payer and has already authorized the care using Medicare certification of individual professional providers as sufficient documentation to also certify individual professional providers under TRICARE and expanding the TRICARE Dental Program eligibility for dependents of deceased members.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	11/19/03	68 FR 65172
Interim Final Rule Comment Period End	01/20/04	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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

**RIN:** 0720-AA85**843. TRICARE; COORDINATION OF BENEFITS BETWEEN TRICARE AND THE DEPARTMENT OF VETERANS AFFAIRS****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC ch 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	08/19/03	68 FR 49732
NPRM; Correction	09/05/03	68 FR 52722
NPRM; Correction Effective	09/05/03	68 FR 52722
NPRM Comment Period End	10/20/03	68 FR 49732
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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**Related RIN:** Previously reported as 0720-AA86**RIN:** 0720-AA87**844. TRICARE PROGRAM; RARE DISEASES DEFINITION AND PARTIAL LIST OF EXAMPLES OF UNPROVEN DRUGS, DEVICES, MEDICAL TREATMENTS, OR PROCEDURES****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 10 USC ch 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This rule revises the definition of rare diseases to be more in compliance with the definition of other Federal agencies and national organizations. This rule also clarifies the provision for case-by-case review of benefits for rare diseases. In addition, this rule removes the partial list of examples of unproven drugs, devices, medical treatments, or procedures.

**Timetable:**

Action	Date	FR Cite
NPRM	08/10/04	69 FR 48433
NPRM Comment Period End	10/12/04	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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**RIN:** 0720-AA88**845. • TRICARE; CHANGES TO NDAA FY02 AND TECHNICAL CORRECTION TO NDAA FY03****Priority:** Other Significant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** This rule makes several changes to the TRICARE program authorized by Congress in the NDAA-02 (Pub. L. 107-107, December 28, 2001). Specifically, revisions to the definition of durable medical equipment (DME); adoption of the same pricing methods for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) as are in effect for the Centers for Medicare & Medicaid

## DOD—DODOASHA

Final Rule Stage

Services (CMS); clarification that rehabilitative therapy is a TRICARE benefit; addition of augmentative communication devices (ACD)/speech generating devices (SGDs) as a TRICARE benefit; addition of hearing aids for family members of active duty members as a TRICARE Basic Program benefit; revisions to the definition of prosthetics; permanent authority for transitional health care for certain members separated from active duty; and revisions to the time period of eligibility for transitional health care.

This rule also addresses a technical correction found in section 706 of the Bob Stump NDAA-03, relating to transitional health care for dependents of certain members separated from active duty.

**Timetable:**

Action	Date	FR Cite
NPRM	04/16/03	68 FR 18575
NPRM Comment Period End	06/16/03	
Final Action	11/00/04	
Final Action Effective	01/00/05	

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

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**Related RIN:** Duplicate of 0720-AA77**RIN:** 0720-AA89

## Department of Defense (DOD)

Completed Actions

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

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

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	03/13/03	68 FR 11973
Interim Final Rule Comment Period End	05/12/03	
Interim Final Rule Effective	05/01/83	
Interim Final Rule; Amendment	03/31/03	68 FR 15372
Interim Final Rule Effective; Amendment	05/01/83	

**Timetable:**

Action	Date	FR Cite
Final Action	02/12/04	69 FR 6919
Final Action Effective	05/01/83	

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

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**RIN:** 0720-AA74**847. TRICARE PROGRAM; INCLUSION OF ANESTHESIOLOGIST'S ASSISTANTS AS AUTHORIZED PROVIDERS; COVERAGE OF CARDIAC REHABILITATION IN FREESTANDING CARDIAC REHABILITATION FACILITIES****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 55; 5 USC 301**CFR Citation:** 32 CFR 199**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	04/03/03	68 FR 16247
NPRM Comment Period End	06/02/03	
Final Action	05/21/04	69 FR 29226
Final Action Effective	05/21/04	
Final Rule/Addition	05/21/04	69 FR 29226
Final Rule/Addition Comment Period End	06/21/04	69 FR 29226

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

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**RIN:** 0720-AA76**848. TRICARE: INDIVIDUAL CASE MANAGEMENT: PROGRAM FOR PERSONS WITH DISABILITIES: EXTENDED BENEFITS FOR DISABLED FAMILY MEMBERS OF ACTIVE DUTY SERVICE MEMBERS: CUSTODIAL CARE**

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

**Legal Authority:** 5 USC 301; 10 USC chapter 55**CFR Citation:** 32 CFR 199**Legal Deadline:** None

**Abstract:** The Department is publishing this rule to implement requirements

## DOD—DODOASHA

## Completed Actions

enacted by Congress in section 701(g) of the National Defense Authorization Act for Fiscal Year 2002 (NDAA-02), Public Law 107-107, which terminates the Individual Case Management Program. The Department withdraws its proposed rule published at 66 FR 39699 to 39705, August 1, 2001, regarding the Individual Case Management Program. This rule also implements section 701(b) of the NDAA-02, which provides additional benefits for certain eligible active duty dependents by amending the TRICARE regulations at 32 CFR 199.5 governing the Program for Persons With Disabilities. The Program for Persons

With Disabilities will now be called the Extended Care Health Option. Other administrative amendments are included to clarify specific policies that relate to the Extended Care Health Option, custodial care, and to update related definitions.

**Timetable:**

Action	Date	FR Cite
NPRM	08/06/03	68 FR 46526
NPRM Comment Period End	10/06/03	
Final Action	07/28/04	69 FR 44942
Final Action Effective	07/01/04	
Final Rule/Correction	08/20/04	69 FR 51559
Final Rule/Correction Effective	09/20/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 0720-AA78

[FR Doc. 04-22645 Filed 12-10-04; 8:45 am]

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