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Part V

Department of Defense

Semiannual Regulatory Agenda

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. Members of the public may submit comments on individual proposed and interim final rulemakings at www.regulations.gov during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on January 8, 2013, 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 fall of 2013. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

Starting with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users the ability to obtain information from the agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C.

602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or email: patricia.toppings@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. Morgan Park, telephone 571-372-0489, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or email: morgan.park@whs.mil.

For general information on Office of the Secretary agenda items, which are procurement-related, contact Mr. Manuel Quinones, telephone 571-372-6085 or write to Defense Acquisition Regulations Directorate, 4800 Mark Center Drive, Suite 15D07-2, Alexandria, VA 22350, or email: manuel.quinones@osd.mil.

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703-428-6173, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDR-C, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, VA 22315-3860, or email: brenda.s.bowen.civ@mail.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 email: chip.smith@hqda.army.mil.

For general information on Department of the Navy regulations, contact LCDR Catherine Chiapetta, telephone 703-614-7408, 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 email: catherine.chiapetta@navy.mil.

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-695-6608/6605, or write to Department of the Air Force, SAF/A6PP, 1800 Air Force Pentagon, Washington, DC 20330-1800, or email: bao-anh.trinh@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 and Navy. 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.

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

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes,

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

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

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

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

Dated: April 18, 2013.

Michael L. Rhodes,
Director, Administration and Management.

DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
118	Safeguarding Unclassified DoD Information (DFARS Case 2011–D039)	0750–AG47
119	Ownership of Offeror (DFARS Case 2011–D044)	0750–AH58
120	Release of Fundamental Research Information (DFARS Case 2012–D054)	0750–AH92

DEFENSE ACQUISITION REGULATIONS COUNCIL—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
121	Government Support Contractor Access to Technical Data (DFARS Case 2009–D031)	0750–AG95
122	Proposal Adequacy Checklist (DFARS Case 2011–D042)	0750–AH47

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
123	TRICARE; Reimbursement of Sole Community Hospitals	0720–AB41

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Final Rule Stage

118. Safeguarding Unclassified DOD Information (DFARS Case 2011–D039)

Legal Authority: 41 U.S.C. 1303

Abstract: DoD is issuing an interim rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add a DFARS subpart and associated contract clauses to address requirements for the safeguarding of unclassified information within contractor information systems as specified in Executive Order 13556, Controlled Unclassified Information. DoD published an Advance Notice of Proposed Rulemaking (ANPR), and notice of public meeting in the **Federal Register** at 75 FR 9563 on March 3, 2010, to provide the public an opportunity for input into the initial rulemaking process. A proposed DFARS rule was published in the **Federal Register** at 76 FR 38089 on June 29, 2011 to implement adequate security

measures to safeguard unclassified DoD information within contractor information systems from unauthorized access and disclosure, and to prescribe reporting to DoD with regard to certain cyber intrusion events that affect DoD information resident on or transiting through contractor unclassified information systems. After comments were received on the proposed rule it was decided that the scope of the rule would be modified to reduce the information covered. This interim rule addresses safeguarding requirements that cover only unclassified controlled technical information, and reporting the compromise of unclassified controlled technical information. DoD anticipates this rule may have a significant economic impact on a substantial number of small entities. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/10	75 FR 9563

Action	Date	FR Cite
ANPRM Comment Period End.	05/03/10	
NPRM	06/29/11	76 FR 38089
NPRM Comment Period End.	08/29/11	
NPRM Comment Period Extended.	12/16/11	76 FR 55297
NPRM Comment Period Extended.	10/28/11	76 FR 66889
NPRM Comment Period End.	12/16/11	
Interim Final Rule	08/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07–2, Alexandria, VA 22350, Phone: 571 372–6088, Email: manuel.quinones@osd.mil.

RIN: 0750–AG47

119. Ownership of Offeror (DFARS Case 2011–D044)

Legal Authority: 41 U.S.C. 1303

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add a solicitation provision to require offerors to identify their highest-level owner, immediate owner, and entity with controlling interest in the offeror. The Commercial And Government Entity (CAGE) code and legal name of that business provide the ability to identify owners of offerors. DoD does not anticipate this rule will have a significant impact on small business.

Timetable:

Action	Date	FR Cite
NPRM	07/24/12	77 FR 43474
NPRM Comment Period End.	09/24/12	
Final Action	10/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07-2, Alexandria, VA 22350, Phone: 571 372-6088, Email: manuel.quinones@osd.mil. RIN: 0750-AH58

120. • Release of Fundamental Research Information (DFARS Case 2012-D054)

Legal Authority: 41 U.S.C. 1303

Abstract: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to provide guidance relating to the release of fundamental research information. This rule was previously published as part of the proposed rule 2011-D039, Safeguarding Unclassified DoD Information. This was broken out as a separate rule because the changes in this DFARS clause deal with the release of information on fundamental research projects and not safeguarding. This rule was initiated to implement guidance provided by the Under Secretary of Defense for Acquisition, Technology and Logistics (AT&L) in a memorandum dated May 24, 2010. The memorandum provided additional clarifying guidance to ensure that DoD does not restrict disclosure of the results of fundamental research, as defined by the National Security Decision Directive (NSDD) 189, unless such research efforts are classified for reasons of national security or otherwise restricted by applicable Federal statutes, regulations, or executive orders. The final rule is not expected to have a significant impact on small entities, because the rule aims to implement policy guidance that is already being followed within DoD regarding restrictions on the disclosure of fundamental research.

Timetable:

Action	Date	FR Cite
Final Action	07/00/13	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Kortnee Stewart, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07-02, Alexandria, VA 22350, Phone: 571 372-6100, Email: kortnee.stewart@osd.mil. RIN: 0750-AH92

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Completed Actions

121. Government Support Contractor Access to Technical Data (DFARS Case 2009-D031)

Legal Authority: Pub. L. 111-84; 41 U.S.C. 1303

Abstract: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 821 of the National Defense Authorization Act for Fiscal Year 2010. Section 821 authorizes certain types of Government support contractors to have access to proprietary technical data belonging to prime contractors and other third parties, provided that the owner of the technical data may require the support contractor to sign a nondisclosure agreement. These nondisclosure agreements, having certain restrictions and legal or equitable remedies, protect the owner of the technical data against disclosure of confidential information. Additionally, this rule implements a third statutory exception to the prohibition on release of privately developed data outside the Government. This new statutory exception allows a “covered Government support contractor” access to, and use of, any technical data delivered under a contract for the sole purpose of furnishing independent and impartial advice or technical assistance directly to the Government in support of the Government’s management and oversight of the program or effort to which such technical data relates.

The rule also provides a definition of “covered Government support contractor” as contractor under a contract, whose primary purpose is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government’s management and oversight of a program or effort. A

“covered Government support contractor” must meet certain criteria identified in the rule and provide certain assurances to the Government to protect the proprietary and nonpublic nature of the technical data furnished to the covered Government support contractor, to include signing a nondisclosure agreement.

The rule affects small businesses that are Government support contractors that need access to proprietary technical data belonging to prime contractors and other third parties. The impact of this rule on small business is not expected to be significant because the nondisclosure agreement is not likely to have a significant cost or administrative impact.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/02/11	76 FR 11363
Interim Final Rule Effective Date.	03/02/11	
Interim Final Rule Comment Period End.	05/02/11	
Final Action	05/22/13	78 FR 30233
Final Action Effective.	05/22/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07-2, Alexandria, VA 22350, Phone: 571 372-6088, Email: manuel.quinones@osd.mil. RIN: 0750-AG95

122. Proposal Adequacy Checklist (DFARS Case 2011-D042)

Legal Authority: 41 U.S.C. 1303

Abstract: This rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to add a checklist for DoD contractors to complete under solicitations that require submission of certified cost or pricing data and the Contracting Officer chooses to use the associated provision. This rule supports one of DoD’s Better Buying Power initiatives. The purpose of the Proposal Adequacy Checklist and associated solicitation provision is to ensure offerors submit thorough, accurate, and complete proposals. This rule is not expected to have a significant economic impact on small businesses.

Timetable:

Action	Date	FR Cite
NPRM	12/02/11	76 FR 75512
NPRM Comment Period End.	01/21/12	
Final Action	03/28/13	78 FR 18865

Action	Date	FR Cite
Final Action Effective.	03/28/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Manuel Quinones, Department of Defense, Defense Acquisition Regulations Council, 4800 Mark Center Drive, Suite 15D07-2, Alexandria, VA 22350, *Phone:* 571 372-6088, *Email:* manuel.quinones@osd.mil.

RIN: 0750-AH47

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

123. TRICARE; Reimbursement of Sole Community Hospitals

Legal Authority: 5 U.S.C. 301; 10 U.S.C. ch 55

Abstract: This proposed rule would implement the statutory provision at 10 U.S.C. 1079(j)(2) that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries

for inpatient services provided by Sole Community Hospitals (SCHs). It will be phased in over a several-year period.

Timetable:

Action	Date	FR Cite
NPRM	07/05/11	76 FR 39043
NPRM Comment Period End.	09/06/11	
Final Action	07/00/13	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marty Maxey, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, *Phone:* 303 676-3627.

RIN: 0720-AB41

[FR Doc. 2013-17056 Filed 7-22-13; 8:45 am]

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