

DEPARTMENT OF WAR
STATEMENT OF REGULATORY PRIORITIES

Background

The Department of War (DoW) is the largest Federal department, employing over 2.8 million people (including 1,326,211 active duty military personnel; 767,774 Reserve/Guard; and 770,132 Appropriated Funds civilian positions) with operations all over the world. DoW's enduring mission is to provide combat-credible military forces needed to protect the security of our nation. To guide this mission, the Secretary of War has outlined three top priorities, which are to revive the warrior ethos, rebuild our military, and reestablish deterrence. Because of this expansive and diversified mission and reach, DoW regulations can address a broad range of matters and have an impact on varied members of the public, as well as other Federal agencies.

Pursuant to Executive Order 12866, "Regulatory Planning and Review" (September 30, 1993) and Executive Order 13563, "Improving Regulation and Regulatory Review" (January 18, 2011), the DoW issues this Regulatory Plan and Agenda to provide notice about the DoW's regulatory and deregulatory actions. Consistent with current Administration policy, the Department places primary emphasis on deregulatory actions and regulatory restraint. Regulatory actions are advanced only where required by statute, necessary to implement higher-level policy direction, or essential to national security and mission execution.

Deregulatory Policy and Compliance

In accordance with Executive Order 14192, the DoW evaluates all existing and proposed regulatory actions to identify opportunities to reduce regulatory burden, eliminate unnecessary or duplicative requirements, and achieve measurable cost savings.

The Department requires Components to demonstrate Executive Order 14192 compliance for any regulatory action proposed for inclusion in the Unified Agenda. This includes identification of deregulatory actions or offsets, documentation of anticipated cost savings or burden reductions, and confirmation that the action does not exceed Administration-wide cost caps. Actions that do

not meet Executive Order 14192 criteria are not prioritized and may be deferred or withdrawn.

Deregulatory Governance and Oversight

The DoW maintains centralized oversight of deregulatory actions through its regulatory governance framework. Proposed actions are reviewed for Executive order compliance, cost impacts, and alignment with the Secretary's priorities prior to submission to the Office of Management and Budget. This oversight ensures consistent application of deregulatory policy across all Components and supports defensible, date-driven decision-making.

Retrospective Review of Existing Regulations

Under Executive Order 14219, "Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative" (February 19, 2025), the Department conducts coordinated, Department-wide reviews to identify regulations suitable for repeal, consolidation, or modification. These reviews focus on reducing compliance burden, improving clarity, and enhancing operational flexibility while maintaining statutory and national security requirements.

Pursuant to section 6 of Executive Order 13563, "Improving Regulation and Regulatory Review" (January 18, 2011), the Department continues to review existing regulations with a goal to eliminate outdated, unnecessary, or ineffective regulations; account for the currency and legitimacy of each of the Department's regulations; and ultimately reduce regulatory burden and costs.

Public Participation and Community Outreach

As the DoW develops our regulations, we seek to increase public participation and community outreach to be better informed of and address issues from members of the public affected by our regulations. The following provides examples of our specific outreach and public participation efforts.

The Office of the Assistant to the Secretary of War for Public Affairs/Community Engagement Directorate, via its Opinion Leader Engagement portfolio, provides public affairs support to leaders throughout the Office of the Secretary of War (OSW) who are responsible for regulatory activities.

This support includes convening roundtables and similar engagements for national stakeholder organizations to meet with OSW leaders to discuss and share information about DoW policies and

programs that are governed by Federal regulations. For example, regular engagements with leaders of national military and veteran supporting organizations include topics such as military benefits, housing, healthcare, compensation, and sexual assault prevention and response, which are governed by law and Federal regulation. These meetings allow the regulating authorities in OSW an opportunity to dialogue with national organizations with a stakeholder interest in the impact and effect of DoW regulations.

DoW engages with the public on procurement-related regulations that will affect the Defense Federal Acquisition Regulation Supplement (DFARS) in several ways. In addition to publishing abstracts of and anticipated publication dates for upcoming rules in the biannual Unified Agenda, members of the public can track the progress of any open and pending DFARS regulation via the Open DFARS Cases Report, which is publicly available at https://www.acq.osd.mil/dpap/dars/case_status.html. The report is updated on a weekly basis and includes the following information: a case number, title, DFARS parts anticipated to be impacted by the regulation, a summary of the basis for the regulation, and the status of the regulation. Members of the public who are interested in a particular DFARS case are encouraged to monitor the Open DFARS Cases Report to track the progress of a particular regulation through the rulemaking process.

DoW also meets with industry associations on a quarterly basis. Industry associations that regularly participate in these quarterly discussions include the Council of Defense and Space Industry Associations, the Professional Services Council, the Aerospace Industries Association, and the National Defense Industrial Association. During these meetings, DoW often provides updates on open DFARS cases.

While developing certain DFARS regulations, DoW may seek input from the public by publishing in the **Federal Register** an early engagement opportunity, an advance notice of proposed rulemaking (ANPR), or a general request for information (RFI). Notices for early engagement opportunities usually pertain to a recent law, such as the annual National Defense Authorization Act (NDAA), and request input on implementation of the law in the DFARS. ANPRs and RFIs may include a summary of the overarching policy objectives of the regulation and a list of questions seeking input that will help DoW develop a proposed regulation. Information on whether DoW plans to publish an ANPR or RFI is included in both

the Open DFARS Cases Report and the biannual Unified Agenda.

Occasionally, while an ANPR, proposed DFARS regulation, or interim DFARS regulation is out for public comment, DoW may hold a public meeting to allow the public to provide feedback to the Government in an open forum. Information about whether DoW plans on holding a public meeting for an ANPR or a regulation is normally included in the ANPR, proposed regulation, or interim regulation when it is published for public comment. Presentations made during the public meeting are made publicly available.

The U.S. Army Corps of Engineers (USACE) occasionally utilizes listening sessions prior to proposing a rule to obtain public input that is then used to inform the contents of the proposed rule. Additionally, **Federal Register** notices, website postings, press releases, and social media releases are used to notify the public of the dates and times for the listening sessions. When a **Federal Register** notice is used to provide notification of the listening sessions, the use of an open docket is employed for the submission of public comments in addition to the receipt of public comments during the listening sessions.

Also, the USACE may publish an ANPR to engage the public on the development of a proposed rule. **Federal Register** notices, website postings, press releases, and social media releases are used to notify the public of the publication of the proposed rule and how they can provide comments and engage in the rulemaking effort.

Finally, the USACE has meetings with industry associations, non-Government Organizations (NGOs), or similar stakeholders to provide updates on proposed policies or actions to solicit informal feedback that is used to help inform the path forward for the development of a proposed rule.

DoW Priority Deregulatory Actions

The Federal regulatory and deregulatory actions identified in this Regulatory Plan embody the core of DoW's regulatory priorities for Fiscal Year (FY) 2026 and help support the President's regulatory priorities, the Secretary of War's top priorities. The DoW Deregulatory prioritization is focused on initiatives that:

- Restore the warrior ethos.
- Rebuild our military readiness and capability;

- Reestablish credible deterrence; and .
- Strengthen national security, including safeguarding Federal information and information technology systems.

Rules that Promote the Country's Economic Resilience

Solicitation Provisions and Contract Clauses. RIN 0790-AK52

This final rule amends the Defense Logistics Agency (DLA) acquisition regulations in title 48 Code of Federal Regulations (CFR) part 5452 by removing an unnecessary clause. The 5452.249 Allocation clause became effective on May 4, 1995, and was last revised on May 17, 2001 (66 FR 27474). The rule permits fuel contractors to supply less than the full amount of fuel contracted for by the government, without being terminated for default, during periods of exceptional fuel shortages, provided that the fuel shortage is beyond the control and without the fault or negligence of the contractor. The DLA has determined there are existing Federal Acquisition Regulations and DFARS clauses on excusable delay.

Reissuance and Modification of Nationwide Permits. 0710-AB56

This proposed rule would begin the process of reissuing the 57 existing nationwide permits before they expire on March 14, 2026. Under the Clean Water Act and the Corps' regulations, nationwide permits can be issued for a period of no more than five years. If the nationwide permits are not reissued before they expire, they automatically become null and void and project proponents who want to conduct activities regulated under section 404 of the Clean Water Act or section 10 of the Rivers and Harbors Act would need to obtain individual permits from the Corps for those activities. The nationwide permits are a type of general permit issued by the Chief of Engineers and are designed to regulate with little, if any, delay or paperwork categories of activities having no more than minimal individual and cumulative adverse environmental impacts. The nationwide permits provide environmental protection by incentivizing project proponents to reduce impacts to waters and wetlands to obtain the required Corps authorization in less time than it would take to be granted individual permits for regulated activities.

Updated Definition of "Waters of the United States". 0710-AB59

The Environmental Protection Agency and the Department of the Army are undertaking a rulemaking to revise key topics of the waters of the United States definition in light of the Supreme Court's decision in *Sackett v. Environmental Protection Agency*, 598 U.S. 651 (2023), including continuous surface

connection, relatively permanent, and jurisdictional versus non-jurisdictional ditches. These revisions focus on clarity, simplicity, and improvements that will stand the test of time. This action will streamline implementation of Clean Water Act programs by aligning the definition of waters of the United States with Sackett, which significantly narrowed the definition under the Clean Water Act.

Health Care Priorities

TRICARE Removal of Temporary Regulation Change and Freestanding End-Stage Renal Disease (ESRD) Facilities as TRICARE-Authorized Institutional Providers and Reimbursement Methods for ESRD Facilities. RIN 0720-AB85

This rule finalizes an interim final rule that amended 32 CFR part 199 by: (1) adding freestanding End Stage Renal Disease (ESRD) facilities as a category of TRICARE-authorized institutional provider and modifying the reimbursement for such facilities; and (2) temporarily adopting Medicare's New COVID-19 Treatments Add-on Payment (NCTAP). The ESRD provisions are made permanent, and the temporary NCTAP provisions which expired at the end of the public health emergency are terminated.

Medical Billing for Healthcare Services Provided by Department of War Medical Treatment Facilities to Civilian Non-Beneficiaries. RIN 0720-AB87

This final rule is aimed at preventing severe financial harm to civilians who are not covered beneficiaries of the Military Health System, and who receive healthcare services at military medical treatment facilities. The proposed rule implements the requirement to apply a sliding fee and/or a catastrophic waiver to medical invoices of non-beneficiaries; to accept payments from health insurers as full payment; to not balance bill non-beneficiaries except for copays, coinsurance, deductibles, nominal fees, and non-covered services; and grants the Director of Defense Health Agency (DHA) discretionary authority to waive medical debts of non-beneficiaries when the healthcare provided enhances the knowledge, skills, and abilities of healthcare providers, as determined by the Director of DHA.

Rules that Support National Security Efforts

Cybersecurity Maturity Model Certification (CMMC) Program. RIN 0790-AM01

With this amendment, DoW amends the CMMC Program to comply with National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 Revision 2, to a requirement to comply with NIST SP 800-171 Revision 3. As described by NIST, the significant changes between these two

documents include added specificity in the security requirements and introduction of organization-defined parameters (ODPs) in select security requirements. In addition to revising documents incorporated by reference in this rule, this amendment adds administrative edits and clarifying content in certain areas.

National Industrial Security Program Operating Manual (NISPOM); Second Amendment. RIN 0790-AL52

The DoW is amending the NISPOM based on public comments received on a final rule published on December 21, 2020. The amendments address implementation guidance and costs for the Security Executive Agent Directive (SEAD) 3; clarifications on procedures for the protection and reproduction of classified information and controlled unclassified information (CUI); National Interest Determination (NID) requirements for cleared contractors operating under a Special Security Agreement for Foreign Ownership, Control or Influence; and eligibility determinations for personnel security clearance processes and requirements.