

The Department of Defense Regulatory Reform Task Force September 30, 2017 Progress Report and Recommendations

Background

On February 24, 2017, President Trump issued Executive Order (EO) 13777, “Enforcing the Regulatory Reform Agenda,” to implement regulatory reform initiatives across the federal government and to direct the creation of a Regulatory Reform Task Force within each agency. On April 20, 2017, the Deputy Secretary signed a memorandum establishing the Department of Defense (DoD) Regulatory Reform Task Force (Task Force) under the Deputy Chief Management Officer (DCMO), who is DoD’s Regulatory Policy Officer, and designating the Director of Oversight and Compliance, in the Office of the DCMO, as the DoD Regulatory Reform Officer (RRO), in accordance with EO 13777. EO 13777 also requires agency Task Forces to provide periodic progress reports to the head of the agency detailing the agency’s progress toward the goals of improving implementation of regulatory reform initiatives and identifying regulations for repeal, replacement, or modification. This is the DoD Task Force’s second progress report and recommendations covering the period between May 25, 2017 and August 31, 2017.

After the establishment of the DoD Task Force, the Task Force conducted a data call to DoD Components to obtain an assessment of the regulations under their purview to determine if such regulations should be repealed, replaced, or modified to alleviate unnecessary regulatory cost and burden. Three subgroups under the Task Force have been established to aid in the review of the provisions of the Defense Federal Acquisition Regulation Supplement (DFARS), the regulations of the Army Corps of Engineers, and the amendments to the Defense Health Agency TRICARE regulation.

The work of the Task Force will be conducted in three main phases: 1) assessment of all 716 existing, codified DoD regulations on a biweekly basis; 2) upon approval of recommendations, implement regulatory and deregulatory actions in accordance with law, which may require notice and comment to the public and reviews by other agencies and the Office of Management and Budget (OMB); and 3) sustained implementation of reform efforts on new regulatory actions on an on-going basis. The Task Force has started to evaluate DoD regulations on a biweekly basis. At the outset, the Task Force scheduled reviews of regulations by topic in order to evaluate regulations for consolidation and to eliminate unnecessary, outdated, or ineffective regulations, which is a priority set forth in EO 13777. The deregulatory actions and the cost savings that will be produced as a result of DoD’s reform efforts will help reduce unnecessary burdens on the public and ensure the Department of Defense continues to meet its fiduciary responsibilities to the American public.

Progress Report

Since the last progress report, which was dated May 24, 2017, the Task Force has reviewed an additional 84 regulations and, as detailed in TAB B, recommends 54 for repeal, 9 for replacement, 5 for modification, 13 for retention, and 3 for additional review. Several of the

regulations recommended for repeal can be cancelled only after they are consolidated with other related departmental regulations, which will reduce duplicative rulemaking and unnecessary or conflicting regulatory requirements.

To date, the Task Force has reviewed 120 DoD regulations, including 19 Defense Federal Acquisition Regulation Supplement (DFARS) clauses and provisions. A brief accounting of the Task Force's recommendations and projected cost savings is below. In total, the DoD Components have identified \$10,558,796.00 in estimated regulatory cost savings. For fiscal year 2018, the performance goal of the Department is to reduce its regulations by 25% in order to meaningfully reduce burden to the public, which the Department is on target to meet.

In accordance with Section 3(e) of Executive Order 13777, which requires the department to seek input from the public on which regulations should be repealed, replaced, or modified, the Task Force published two such notices in the *Federal Register* relating to the DFARS and the Army Corps of Engineers' regulations. An additional two notices will soon be published in the *Federal Register* for the TRICARE and DoD non-procurement regulations.

Implementation of the Task Force's initial recommendations, which were approved by the Secretary on June 5, 2017, is expected to begin in October/November 2017, with the issuance of the DoD-level FOIA Program regulation and the repeal of the DoD Component FOIA implementing regulations. As additional recommendations are approved, the Task Force will ensure that the relevant DoD Components implement all deregulatory actions in accordance with law. Progress on implementation of these actions will be provided in future reports.

Below is an accounting of the Department's total proposed and completed regulatory actions and related cost estimates based on "performance indicators" set forth in the OMB M-17-23, "Guidance on Regulatory Reform Accountability under Executive Order 13777, titled 'Enforcing the Regulatory Reform Agenda.'"

| Total Proposed and Completed Regulatory Actions and Costs (April 27, 2017 – August 31, 2017) | Total Reviewed | Percent Reviewed |
|---|-------------------------------|-------------------------|
| Task Force Reviewed Regulations | 120 out of 716 | 17% |
| Task Force Recommended Deregulatory/Repeal Actions | 88 out of 120 | 73% |
| Task Force Recommended Modify/Amend Actions | 5 out of 120 | 4% |
| Task Force Recommended Replace (Consolidate)/Revise Actions | 10 out of 120 | 8% |
| Task Force Recommended Retain Actions | 14 out of 120 | 12% |
| Task Force Deferred Actions for Further Data or GC Review | 3 out of 120 | 3% |
| Deregulatory Actions Issued After 20 January 2017 ¹ | 0 | 0 |
| Significant Regulatory Actions Issued After 20 January 2017 | 0 | 0 |
| Deregulatory Actions Issued that included public input/peer review | 0 | 0 |
| Total Incremental Cost of New Significant Regulatory Actions | Estimated \$ TBD | N/A |
| Total Incremental Cost Savings of Proposed Deregulatory Actions | Estimated -\$10,558,796.00 | N/A |

¹ Deregulatory/Repeal actions are contingent on the revision of other regulatory actions, or are in some phase of the normal regulatory process to be issued.

DoD Regulatory Reform Task Force's Second Set of Recommendations

| REPEAL (REMOVE) | |
|---|-------------------------------|
| CFR PART AND TITLE | ESTIMATED COST SAVINGS |
| 32 CFR part 9, Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War against Terrorism | \$0.00 |
| 32 CFR part 10, Military Commission Instructions | \$0.00 |
| 32 CFR part 11, Crimes and Elements for Trials by Military Commission | \$0.00 |
| 32 CFR part 12, Responsibilities of the Chief Prosecutor, Prosecutors, and Assistant Prosecutors | \$0.00 |
| 32 CFR part 13, Responsibilities of the Chief Defense Counsel, Detailed Defense Counsel, and Civilian Defense Counsel | \$0.00 |
| 32 CFR part 14, Qualification of Civilian Defense Counsel | \$0.00 |
| 32 CFR part 15, Reporting Relationships for Military Commission Personnel | \$0.00 |
| 32 CFR part 16, Sentencing | \$0.00 |
| 32 CFR part 17, Administrative Procedures | \$0.00 |
| 32 CFR part 45, Certificate of Release or Discharge from Active Duty (DD Form 214/5 Series) | \$0.00 |
| 32 CFR part 54, Allotments for Child and Spousal Support | \$0.00 |
| 32 CFR part 65, Post- 9/11 GI Bill | \$0.00 |
| 32 CFR part 80, Provision of Early Intervention Services to Eligible Infants and Toddlers with Disabilities and Their Families, and Special Education Children with Disabilities within the Section 6 School Arrangements | \$0.00 |
| 32 CFR part 81, Paternity Claims and Adoption Proceedings Involving Members and Former Members of the Armed Forces | \$0.00 |
| 32 CFR part 105, Sexual Assault Prevention and Response (SAPR) Program Procedures (Note: Repeal once 32 CFR part 103 is revised) | \$0.00 |
| 32 CFR part 117, National Industrial Security Program (NISP): Subpart C—Procedures for Government Activities Relating to Foreign Ownership, Control or Influence (FOCI) (Note: Repeal once 32 CFR part 2004 is revised) | \$0.00 |
| 32 CFR part 149, Policy on Technical Surveillance Countermeasures | \$0.00 |
| 32 CFR part 157, Investigative and Adjudicative Guidance for Issuing the Common Access Card (CAC) | \$0.00 |

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| 32 CFR part 173.2, Competitive Information Certification | \$0.00 |
| 32 CFR part 173.3, Profit Reduction Clause | \$0.00 |
| 32 CFR part 182, Defense Support of Civilian Law Enforcement Agencies | \$0.00 |
| 32 CFR part 183, Defense Support of Special Events | \$0.00 |
| 32 CFR part 185, Defense Support of Civil Authorities | \$0.00 |
| 32 CFR part 205, End Use Certificates (EUCs) | \$0.00 |
| 32 CFR part 206, National Security Education Program (NSEP) Grants to Institutions of Higher Education | \$0.00 |
| 32 CFR part 215, Employment of Military Resources in the Event of Civil Disturbances | \$0.00 |
| 32 CFR Part 231, Procedures Governing Banks, Credit Unions and Other Financial Institutions on DoD Installations (Note: Repeal once 32 CFR part 230 is revised) | \$0.00 |
| 32 CFR part 504, Obtaining Information from Financial Institutions (Note: Repeal once 32 CFR part 275 is revised) | \$0.00 |
| 32 CFR part 508, Competition with Civilian Bands | \$0.00 |
| 32 CFR part 575, Admission to the United States Military Academy (Note: Repeal once 32 CFR part 217 is revised) | \$0.00 |
| 32 CFR part 581, Personnel Review Board (Note: Repeal once 32 CFR part 70 is revised) | \$0.00 |
| 32 CFR part 584, Family Support, Child Custody, and Paternity | \$0.00 |
| 32 CFR part 632, Use of Force by Personnel Engaged in Law Enforcement and Security Duties | \$0.00 |
| 32 CFR Part 637, Military Police Investigations | \$0.00 |
| 32 CFR part 723, Board for Correction of Naval Records (Note: Repeal once 32 CFR part 70 is revised) | \$0.00 |
| 32 CFR part 724, Naval Discharge Review Board (Note: Repeal once 32 CFR part 70 is revised) | \$0.00 |
| 32 CFR part 733, Assistance to and Support of Dependents; Paternity Complaints | \$0.00 |
| 32 CFR part 734, Garnishment of Pay of Naval Military and Civilian Personnel for Collection of Child Support and Alimony | \$0.00 |
| 32 CFR part 865, Personnel Review Board (Note: Repeal once 32 CFR part 70 is revised) | \$0.00 |
| 32 CFR part 901, Appointment to the United States Air Force Academy (Note: Repeal once 32 CFR part 217 is revised) | \$0.00 |
| 32 CFR part 903, Air Force Academy Preparatory School (Note: Repeal once 32 CFR part 217 is revised) | \$0.00 |

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| 48 CFR 231.205-18(c)(iii)(C)(4), Independent Research and Development Technical Interchange | \$0.00 |
| 48 CFR 252.201-7000, Contracting Officer's Representative | \$0.00 |
| 48 CFR 252.204-7004, System for Award Management | \$0.00 |
| 48 CFR 252.204-7011, Alternative Line Item Structure | \$0.00 |
| 48 CFR 252.247-7008, Evaluation of Bids | \$0.00 |
| 48 CFR 252.247-7009, Award | \$0.00 |
| 48 CFR 252.247-7010, Scope of Contract | \$0.00 |
| 48 CFR 252.247-7011, Period of Contract | \$0.00 |
| 48 CFR 252.247-7012, Ordering Limitation | \$0.00 |
| 48 CFR 252.247-7013, Contract Areas of Performance | \$0.00 |
| 48 CFR 252.247-7017, Erroneous Shipments | \$0.00 |
| 48 CFR 252.247-7018, Subcontracting | \$0.00 |
| 48 CFR 252.247-7019, Drayage | \$0.00 |
| TOTAL RULES FOR REPEAL: 54 | TOTAL ESTIMATED COST SAVINGS: \$0.00 |

| REPLACE (REVISE) | |
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| CFR PART AND TITLE | ESTIMATED COST SAVINGS |
| 32 CFR part 69, School Boards for DoD Domestic Dependent Elementary and Secondary Schools (DDESS) | \$13,500.00 |
| 32 CFR part 70, Discharge Review Board (DRB) Procedures & Standards | \$0.00 |
| 32 CFR part 103, Sexual Assault Prevention and Response (SAPR) Program | \$0.00 |
| 32 CFR part 168a, National Defense Science and Engineering Graduate Fellowships | \$0.00 |
| 32 CFR part 217, Service Academies | \$0.00 |
| 32 CFR part 230, Financial Institutions on DoD Installations | \$0.00 |
| 32 CFR part 242, Admission Policies and Procedures for the School of Medicine, Uniformed Services University of the Health Sciences | \$0.00 |
| 32 CFR part 275, Obtaining Information from Financial Institutions: Right to Financial Privacy Act of 1978 | \$0.00 |
| 32 CFR part 635, Law Enforcement Reporting | \$0.00 |
| TOTAL RULES FOR REVISION: 9 | TOTAL ESTIMATED COST SAVINGS: \$13,500.00 |

| MODIFY (AMEND) | |
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| CFR PART AND TITLE | ESTIMATED COST SAVINGS |
| 32 CFR part 61, Family Advocacy Program (FAP) | \$0.00 |
| 32 CFR part 68, Voluntary Education Programs | \$10,000,000.00 |
| 32 CFR part 79, Child Development Programs (CDPs) | \$0.00 |
| 32 CFR part 86, Background Checks on Individuals in DoD Child Care Services Programs | \$0.00 |
| 32 CFR part 553, Army National Military Cemeteries | \$0.00 |
| TOTAL RULES FOR AMENDMENT: 5 | TOTAL ESTIMATED COST SAVINGS: \$10,000,000.00 |

| RETAIN (NO CHANGES) | |
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| CFR PART AND TITLE | ESTIMATED COST SAVINGS |
| 32 CFR part 57, Provision of Early Intervention and Special Education Services to Eligible DoD Dependents | \$0.00 |
| 32 CFR part 66, Qualification Standards for Enlistment, Appointment, and Induction | \$0.00 |
| 32 CFR part 89, Interstate Compact on Educational Opportunities for Military Children | \$0.00 |
| 32 CFR part 161, Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals | \$0.00 |
| 32 CFR part 208, National Security Education Program (NSEP) and NSEP Service Agreement | \$0.00 |
| 32 CFR part 216, Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education | \$0.00 |
| 32 CFR part 232, Limitations on Terms of Consumer Credit Extended to Service Members and Dependents (Note: Also retain interpretive rule for this part) | \$0.00 |
| 32 CFR part 238, DoD Assistance to Non-Government, Entertainment-Oriented Media Productions | \$0.00 |
| 32 CFR part 251, National Language Service Corps (NLSC) | \$0.00 |
| 48 CFR 252.247-7014, Demurrage | \$0.00 |
| 48 CFR 252.247-7016, Contractor Liability for Loss and Damage | \$0.00 |
| 48 CFR 252.247-7023, Transportation of Supplies by Sea | \$0.00 |
| 48 CFR 252.247-7024, Notification of Transportation of Supplies by Sea | \$0.00 |
| TOTAL RULES FOR RETAINMENT: 13 | TOTAL ESTIMATED COST SAVINGS: \$0.00 |

| DEFER FOR FURTHER REVIEW | |
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| CFR PART AND TITLE | ESTIMATED COST SAVINGS |
| 32 CFR part 542, Schools and Colleges | \$TBD |
| 32 CFR part 562, Reserve Officers' Training Corps | \$TBD |
| 32 CFR part 571, Recruiting and Enlistments | \$TBD |
| TOTAL RULES DEFERRED: 3 | TOTAL ESTIMATED COST SAVINGS: \$TBD |