The Department of Defense Regulatory Reform Task Force
Progress Report
(January 1, 2019 through February 28, 2020)

I. Reviews During Reporting Period

In December 2018, the Department of Defense (DoD) Regulatory Reform Task Force (Task Force) completed its initial review of the Department's then-existing regulations. Regulatory reform efforts are now in the implementation phase, which could take three to five years to complete because of the, at times lengthy, legal requirements for finalizing regulatory actions. While finalizing this phase, it has been determined that recommendations previously approved by you should be changed because of the availability of new information or a shift in circumstances. At its quarterly meetings, the Task Force reviewed requests to change the disposition of regulations. During this reporting period, the DoD Task Force reviewed nine such requests and, as detailed in the attached list, recommends that five regulations previously identified for repeal be retained, one regulation identified for replacement be retained, two regulations identified for modification be repealed, and one regulation identified for repeal contingent upon another regulatory action instead be independently repealed.

II. Implementation

With your approval of the recommended disposition changes, 487 of the 716 recommendations require no further action. This includes the finalization of 121 repeals, 9 replacements, 14 modifications, and 343 regulations identified for retention. There are 229 recommendations that still require action, and 88 of those actions (43 repeals, 21 replacements, and 24 modifications) are in the regulatory process.

To date, DoD has realized $21.23 million in actual cost avoidance through the finalization of deregulatory actions. It has identified an estimated $[Redacted – (5)(b)] in additional public cost avoidance which should be realized as more deregulatory actions when finalized. That savings number should continue to increase as the DoD Components work with the Office of Management and Budget (OMB) to analyze the public cost savings/avoidance that may result from additional proposed deregulatory actions. This information will be provided in future reports, as it is approved by OMB.

Below is a total accounting of the Department's 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.'" The accounting reflects totals presuming the disposition changes in this report will be approved. A performance goal of the Department is to reduce its existing regulations by 35% in order to meaningfully reduce burden to the public. The Task Force is on track to achieve that goal and has recommended 247 of 716 regulations for repeal.

Total Regulatory Actions and Costs (April 27, 2017 – February 28, 2020)	**Total**
Task Force Reviewed Regulations	716 out of 716 (100%)
Task Force Recommended Deregulatory/Repeal Actions	247 out of 716 (35%)
Task Force Recommended Modify/Amend Actions	77 out of 716 (11%)
Task Force Recommended Replace (Consolidate)/Revise Actions	49 out of 716 (7%)
Task Force Recommended Retain Actions	343 out of 716 (48%)
Administrative Repeal Actions Issued After 20 January 2017[1] (not counted as deregulatory actions for purposes of EO 13771)	121
Deregulatory Actions Issued After 20 January 2017[2]	10
Significant Regulatory Actions Issued After 20 January 2017[3]	6
Deregulatory Actions Issued That Included Public Input/Peer Review	7
Total Incremental Cost of New Significant Regulatory Actions	To Date $0
Total Incremental Cost of Deregulatory Actions	To Date -$21,232,028.05
Total Incremental Cost of Proposed Deregulatory Actions	Estimated and Subject to OMB Approval -$[Redacted – (5)(b)]

[1] Many of the Department's repeal rules fall into the category of "administrative cleanup" and do not count as deregulatory actions under EO 13771.
[2] Many recommended deregulatory/repeal actions are contingent on the revision of other regulatory actions, and all regulatory actions must be submitted to OMB for review and approval, in accordance with law.
[3] Many of the Department's rules are fully or partially exempt or not subject to the requirements of EO 13771.

III. Conclusion

The Task Force will continue to track and report on DoD regulations reviewed in accordance with EO 13777 to support the Department's regulatory reform initiatives to reduce unnecessary regulatory burden on the public. Future reports will provide status updates on the DoD Component's progress with implementing the DoD Task Force recommendations. Any additional changes in disposition will be reviewed by the DoD Task Force and submitted to the Deputy Secretary of Defense for approval.

DoD Regulatory Reform Task Force's Revised Recommendations
(January 1, 2019 through February 28, 2020)

RECOMMENDATION: REPEAL (REMOVE)	
CFR PART AND TITLE	**RATIONALE**
32 CFR 104, Civilian Employment and Reemployment Rights for Service Members, and Applicants of the Uniformed Services NOTE: On June 14, 2018, P&R presented to the RRTF a recommendation to modify 32 CFR part 104, contingent upon the recommendations from the USERRA Working Group evaluating the corresponding DoD issuance.	**Outdated, unnecessary or ineffective.** Upon further review, it was determined that the content of part 104 is not applicable to the public, and it should be repealed.
32 CFR 903, Air Force Academy Preparatory School NOTE: On June 8, 2017, the Air Force presented to the RRTF a recommendation to repeal 32 CFR part 903 contingent upon the revision of 32 CFR part 217, "Service Academies." Upon further review, it was determined that the content of part 903 is not applicable to the public, it is outdated, and it should be repealed independent of a revision to 32 CFR part 217.	**Outdated, unnecessary or ineffective.** The content of the rule addresses how the Department of the Air Force accesses individuals into the Air Force Academy Preparatory School. This part is outdated, contains internal guidance, reiterates statutory law, and is otherwise subject to the military function exemption to rulemaking. Candidates to the preparatory school are individually provided with any relevant entrance information and the current policy is publically available on the department's website. Therefore, this part is unnecessary and can be removed from the CFR. None of the content of 32 CFR part 903 will be incorporated in part 217, and it should be repealed.
48 CFR 252.237-7018, Special Definitions of Government Property NOTE: On November 1, 2018, the DoD RRTF reviewed this clause and recommended that it be modified to match the current title and application of DoD's Government property clause. During the process of modification, the usefulness of the clause in light of current Government property policies and practices was reviewed, and, as a result, the clause is being recommended for repeal.	**Outdated, unnecessary or ineffective.** This clause is no longer necessary. When reading this clause, in conjunction with other dry cleaning clauses, none of the clause's text asserts that the items provided to the contractor under the contract are "Government-furnished property." In accordance with current Government property policies and procedures, a contracting officer must explicitly identify an item as Government-furnished property in a solicitation and provide item-specific information and direction to offerors. Without this information and

	direction in the solicitation, DoD would not require or anticipate the application of Government property rules to supplies under the contract. As such, the clarification provided by this clause is unnecessary.
TOTAL RULES FOR REPEAL: 3	

RECOMMENDATION: RETAIN (NO CHANGES)	
CFR PART AND TITLE	**RATIONALE**
32 CFR 94, Naturalization of Aliens Serving in the Armed Forces of the United States and of Alien Spouses and/or Alien Adopted Children of Military and Civilian Personnel Ordered Overseas NOTE: On June 28, 2018, P&R recommended the repeal of the rule because the policy is owned by the Department of Homeland Security. Since that meeting, General Counsel has raised objections to the repeal of the rule.	The rule is necessary at this time. The rule prescribes uniform procedures acceptable to the U.S. Citizenship and Immigration Services of the Department of Homeland Security, to (a) facilitate the naturalization of aliens who have served honorably in the Armed Forces of the United States and to (b) militarily certify alien dependents seeking naturalization under the provisions of Immigration and Nationality Act. This is a longstanding immigration statute that applies to military members and their families. Upon completion of all litigation dealing with naturalization of Service members and their dependents, this rule can be considered for removal or update as necessary based upon policy changes as the result of court determinations.
32 CFR 631, Armed Forces Disciplinary Control Boards (AFDCB) and Off-Installation Liaison and Operations NOTE: On February 2, 2018, the Army presented to the RRTF a recommendation to repeal 32 CFR part 631. The rule was identified as internal content which did not require rulemaking, and the removal was approved. During the rule approval process, Army OTJAG raised an objection to the rule's removal. It was determined the rule is necessary and should be retained.	The rule is current, correct, and necessary. The rule contains the rules of procedure by which the AFDCB may declare a local/private establishment "off-limits" to military personnel. The provisions grant members of the public basic administrative due process protections, including required notification of the action and an opportunity to take corrective action before the AFDCB renders a decision.
48 CFR 252.204-7015, Notice of Authorized Disclosure of Information for Litigation Support NOTE: On November 15, 2018, the DoD RRTF reviewed this clause and recommended its repeal,	This clause was added to the DFARS in 2014 to advise contractors of the implementation of section 802 of the NDAA for FY 2012 (10 U.S.C. 129d), which authorizes DoD to provide litigation

as it is not necessary to implement the underlying statute. Upon processing of the repeal, the DoD DFARS Subgroup reconsidered the clause and recommended its retention.	support contractors with certain types of non-public information. Included in all solicitations and contract, this clause notifies contractors that DoD may disclose to a litigation support contractor any information received within or in connection with a quote or offer or in the performance of or in connection with a contract. While the notice provided by this clause is not necessary to implement the authority of 10 U.S.C. 129d, it implements a desired best practice by notifying offerors that the information they provide to the Government in response to a solicitation or contract is subject to the statutorily authorized release of 10 U.S.C. 129d. The public could interpret the repeal of this clause as an indication that DoD does not intend to use the authority of 10 U.S.C. 129d. Additionally, DoD litigation support contractors could interpret the repeal of this clause as creating a need to negotiate individual nondisclosure agreements with offerors, contractors, and third parties. In order to prevent a misunderstanding or misapplication of the statute by industry, as well as maintain transparency, it is beneficial for DoD to retain this clause.
48 CFR 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer NOTE: In May 2018, this clause was recommended for repeal, contingent upon the passage of legislation to repeal section 884 of the NDAA for FY 2009. It was determined that the transportation of supplies/freight via truck transportation is a commercial service; Business arrangements between a prime contractor and a subcontractor in a commercial environment are negotiated between those two parties and reflect the terms and conditions those parties are willing to accept. As such, this commercial practice should be acknowledged and left to the parties negotiating the commercial contract. In July 2019, a legislative proposal to repeal section 884 was submitted to	This clause is necessary to ensure DoD and contractor compliance with section 884 of the NDAA for FY 2009. This clause was added to the DFARS in 2009 to implement section 884 of the NDAA for FY 2009, which requires DoD to ensure that fuel-related adjustments in contracts for carriage are passed through to the person bearing the cost of the fuel to which the adjustment relates. Included in solicitations and contracts for carriage in which a motor carrier, broker, or freight forwarder will provide or arrange truck transportation services that provide for a fuel-related adjustment, this clause— – Requires contractors to pass through any motor carrier fuel-related charges to the entity that directly bears the cost of fuel

OSD(A&S), but not included in the final OSD(A&S) submissions to OSD. As a result, this clause is being recommended for retention.	for shipping under the contract; and – Requires the insertion of the clause in any subcontract.
48 CFR 252.231-7000, Supplemental Cost Principles NOTE: The DoD RRTF recommended this clause for repeal in October 2017. Upon processing of the repeal, DoD subject matter experts recommended retention of the clause in order to maintain current practices and avoid any misunderstanding of the impact of its repeal. As a result, this clause is being recommended for retention.	This clause has appeared, in its current form, in the DFARS since 1991. Used in all solicitations and contracts, which are subject to the cost principles described in FAR Subparts 31.1, 31.2, 31.6, and 31.7, this clause notifies contractors that allowable costs shall also be determined in accordance with DFARS Part 231. This clause ensures offerors and contractor are aware that DoD's cost principles will also be used when determining which costs are allowable under the contract.
48 CFR 252.243-7001, Pricing of Contract Modifications NOTE: The DoD RRTF recommended this clause for replacement in May 2018. The recommendation was to include the text of DFARS clause 252.231-7000, Supplemental Cost Principles, into the text of this clause. Upon processing of the replacement, DoD subject matter experts recommended retention of the clause in order to maintain current practices and avoid any misunderstanding if it was replaced. As a result, this clause is being recommended for retention.	Included in solicitations and contracts when anticipating and using a fixed-price-type contract, this clause advises the contractor that, when costs are a factor in any price adjustment under the contract, the cost principles of FAR 31 and DFARS 231 apply. This clause maintains the use of consistent pricing principles across the life of the contract by stating that the cost principles and procedures in effect on the date of contract award will apply to any future adjustments under the contract. By including this statement in the contract, the clause represents a meeting of the minds between two parties.
TOTAL RULES RETAINED: 6	