APPENDIX A: RULE PREAMBLE TEMPLATE

**GENERAL INSTRUCTIONS FOR COMPLETION:**

1. Please keep in mind that this document should be written for the general public. Please write in plain language, with lay explanations of terms and requirements. For formatting assistance, the Office of the Federal Register Document Drafting Handbook is online at <https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf>.
2. You must provide a response to each section. Please write your responses in paragraph format, using full sentences, and the standard text responses where applicable.
3. If a standard text response, denoted by (ST) is applicable for your regulation, please use it. If you think additional explanation is needed, please add to the standard response using full sentences. We have provided text that is required or previously used in rules and approved by OMB.
4. Please delete all prompt text, which begins with (P), the NOTES, and INSERT instructions before submitting this document with your package for review. However, do not change the format used throughout this template.
5. Please draft document in Times New Roman, double-space, and number each page at bottom center. Also, all text should be aligned left of margin. You may use indentation but it must be consistent throughout the document.
6. Blue font will be removed after the draft is completed. Black font should be the final document text and should be reviewed and confirmed.

**BILLING CODE: XXXX-XX** *(P): The billing code will be provided by FRLO*.

**DEPARTMENT OF DEFENSE
Office of the Secretary**

*(Other ST):*Department of the Army; Department of the Army, Corps of Engineers;

Department of the Navy; or Department of the Air Force

**XX CFR Part XXX**

*(P): Use previously assigned CFR title and part number unless this is a new rule. For new rules, the FRLO will assign the CFR title and part number.*

**[Docket ID: DoD-2021-XX-XXXX]** *(P): The docket ID will be provided by the FRLO.*

*(Other ST): USA-2021-XXXX, COE-2021-XXXX, USN-2021-XXXX, or USAF-2021-XXXX*

*(P): If final rule, use the same docket ID that was assigned to the proposed or interim final rule.*

**RIN 0790-XXXX** *(P): The RIN will be provided by the FRLO*.

*(Other ST): 0720-XXXX, 0701-XXXX, 0702-XXXX, 0710-XXXX, or 0703-XXXX*

*(P): If final rule, use the same RIN that was assigned to the proposed or interim final rule.*
[INSERT Title or Subject of Rule Part] **AGENCY:** [INSERT full name of the DoD component that is issuing this rule], Department of Defense (DoD).
**ACTION:**  [INSERT rule action].

*(ST):* Proposed rule; Interim final rule, Final rule, Direct final rule
**SUMMARY:** [INSERT summary text here]

*(P): In four or five sentences, briefly describe what action is being taken with this rule, explain the need for this action, and the intended results or effect of this action in plain language.*

*NOTE: You should complete the Supplementary Information first and provide the BLUF here. Please do not reference public or internal policy in this section. Also Federal Register style guidelines do not allow for citations in the SUMMARY section. Please add any citations in the Supplementary Information section below.*

**DATES:** [INSERT appropriate standard language here]

If proposed rule, please state *(ST):* Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

If final rule, please state *(ST):* This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*(P): For other rule actions, consult your FRLO for appropriate language.*

**ADDRESSES:** [INSERT *–* address text/instructions]

*(P): If proposed rule, interim final rule, or direct final rule, insert appropriate standard language here. If final rule, delete ADDRESSES section in its entirety.*

(ST): You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Mail: Department of Defense, Office of the Director of Administration and Management, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350-1700.

*Instructions:*  All submissions received must include the agency name and docket number or RIN for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at http://www.regulations.gov as they are received without change, including any personal identifiers or contact information.

*(P): Generally, public comments are not emailed or faxed to component action officers or component systems. If public comments are received directly, the comments should be provided to the OSD or COE FRLO, as appropriate.*

**FOR FURTHER INFORMATION CONTACT:** [INSERT POC information here]

*(P): Please include a point-of-contact (POC) name, telephone number (including area code). This POC must be a government employee (not a contractor) who is able to answer questions about the rule.*

*(P): Email address and/or mailing address is optional.*

**SUPPLEMENTARY INFORMATION:**

*(P): If final rule, add the DISCUSSION OF COMMENTS AND CHANGES section below*

**DISCUSSION OF COMMENTS AND CHANGES**

*(ST)*: This [INSERT proposed or interim final] rule was published in the Federal Register [INSERT Federal Register Citation] on [INSERT Publication Date]. Comments were accepted for [INSERT 30 or 60] days until [INSERT End of Comment Period Date]. A total of [INSERT #] comments were received. Please see a summarized comments and the Department’s responses below.

[INSERT Comments & Responses]

*(P): Please keep this in a narrative format, and do not simply list each comment and response.*

*(P): Explain the comment briefly, in plain language, and how the Department responded.*

*NOTE: Comments can be grouped together by topic if you receive multiple comments regarding the same subject. However, all comment topics must be addressed.*

*(P): Please specify whether changes were made to the rule text in response to the comments. If changes to the final rule were a result of these comments, please outline those in this section as well. Explain what changed from when the proposed or interim final rule was published.*

*(P): Please specify if any administrative-type changes were made to the rule text that were not a result of comments received.*

*(P): If interim final rule, add the JUSTIFICATION FOR INTERIM FINAL RULE section below:*

**INTERIM FINAL RULE JUSTIFICATION**

(ST): This rule is being published as an interim final rule because it has been determined that the publication of this rule for public comment is impracticable [INSERT explanation], unnecessary [INSERT explanation], and contrary to public interest [[INSERT explanation].

*(P): Explain why this rule needs to be implemented now and what issues of problems will be experienced if this rule in not implemented now.*

*(P): Explain why this rule needs to become effective prior to receiving public comments. Discuss the negative impacts if this rule is not implemented immediately.*

*(P): If final rule, change the title for this section to read: Exception to Notice and Comment.*

**I. BACKGROUND**

**A. STATEMENT OF NEED FOR THIS RULE**

[INSERT Statement of Need]

*(P): Elaborate on why there is a need for this rule.*

*(P): What is the behavior that needs to change?*

**B. LEGAL AUTHORITY**

[INSERT legal authority]

*(P): What are legal/statutory authorities for this action? Describe these authorities narratively and not in a bulleted list or a list of the citations only. Also, provide a working web address so the public can access the authority.*

**C. COMMUNITY IMPACT**

[INSERT Community Impact]

*(P): What populations will be impacted by this rule? Explain how the entities will be affected, including both government and non-government.*

*(P): Examples of non-government populations include, but are not limited to:*

* *Contractors*
* *Companies or Organizations*
* *Veterans*
* *Retirees or separated Federal Civilian Employees*
* *Spouses and Dependents*

*(P): If you have small entities that are impacted, those should be discussed here as well as in the Regulatory Flexibility section below.*

*NOTE: Always consider the impact on State and local governments, in addition to the Federal government. If a federal regulation “imposes substantial direct requirement costs on state and local governments”, then the regulation has federalism implications. An additional analysis will be required if there is federalism or an unfunded mandate. You will be required to explain the impact on State and local governments.*

**D. REGULATORY HISTORY**

[INSERT Regulatory History]

*(P): Provide a narrative of the rule’s regulatory history to include when was the rule last published? Indicate the Federal Register citation (for example, 86 FR 12345) and publication date.
(P): Explain what action was taken last time. Was it new? What changed in that action?
(P): If there is any internal policy (DoD Issuance), please cite this policy, provide its title, indicate when it was last updated, and provide a working link for the public to view.*

*(P): What changes (provisions) are being made in this effort? In plain language, please explain what is changing since the last time this rule was published. If the changes in this rule are adopted, how will the status quo change?*

*(P): Each major provision should be described clearly and separately, along with a brief explanation*

*NOTE: Again, when addressing the regulatory history, address the history of the rule and not the history of the DoD issuance.*

**II. REGULATORY IMPACT ANALYSIS**

*Note: This section is designed to show the thought process that informs your decision to choose a particular course of action. This is where you “tell the story’ of what is happening now without the proposed rule, and is called the baseline. Once you have established the baseline, you should input the behavior change identified earlier in the Background section of the preamble as the Need for Change.*

*(P): Briefly describe the analysis completed to show the benefits of THIS rulemaking action. To do so, please consider:*

* *How much does this program cost the public as the rule stands today? Please consider that the public’s “time” is also a cost. The requirements this rule imposes on the public should have a cost. This is considered your “Baseline” cost.*
* *Next, consider the changes being made to this rule. Are these changes decreasing or increasing the cost (time and money) to the public?*
* *Perhaps the changes are administrative. It may not save the public money, but perhaps it makes it easier, or more streamlined for the public. Please address those benefits here.*

*(P): For economically significant regulatory actions, please include a table summarizing the assessment of costs and benefits.*

*(P): Discuss transfer costs is this section. Transfer costs refers to the cost which is paid for the transfer of intangible assets, goods, money, services, and comparable transactions from one entity to another.*

*(P): Costs can include: Equipment costs; training costs; physical/virtual storage costs; time to complete the task or requirement; and time to comply with new procedures.*

*(P): Describe the positive impacts this rule is intended to have on all affected parties. Discuss dignity and equity distributional analysis, as appropriate. Discuss climate change analysis, as appropriate.*

1. **BASELINE**

[INSERT what is happening now before any rule change. Identify the government and non-government populations impacted, what is working well, and what can and should change. Establish the costs of doing business.]

1. **COURSE OF ACTION #1**

[INSERT COA1- explain the change and how it works]

1. **COST BENEFIT ANALYSIS OF COA#1**

[INSERT CBA]

1. **TOTAL COSTS FOR GOVERNMENT & NON-GOVERNMENT**

[INSERT Cost Totals]

1. **REASON FOR NOT SELECTING COA#1**

[INSERT positive & negatives about this COA, specifically why it is not recommended]

1. **COURSE OF ACTION #2**

[INSERT COA2]

**1. COST BENEFIT ANALYSIS OF COA#2**

[INSERT CBA –explain the change and how it works]

**2. TOTAL COSTS FOR GOVERNMENT & NON-GOVERNMENT**

[INSERT Cost Totals]

**3. REASON FOR NOT SELECTING COA#2**

[INSERT positive & negatives about this COA, specifically why it is not recommended]

1. **RECOMMENDED COURSE OF ACTION#3**

[INSERT COA3]

1. **COST BENEFIT ANALYSIS OF COA#3**

[INSERT CBA- explain the change and how it works]

1. **TOTAL COSTS FOR GOVERNMENT & NON-GOVERNMENT**

[INSERT Cost Totals]

1. **REASON FOR SELECTING COA#3**

[INSERT positive & negatives about this COA, specifically why it is recommended]

**III. REGULATORY COMPLIANCE ANALYSIS**

1. **Executive Order 12866**, “**Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”**

These Executive Orders direct agencies to assess all costs, benefits and available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety effects, distributive impacts, and equity). These Executive Orders emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated “[INSERT significant or not significant], under section 3(f) of Executive Order 12866. [INSERT a few sentences explaining why] Accordingly, this rule [INSERT has been or has not been] reviewed by the Office of Management and Budget (OMB) under these requirements.

*(P): If significant, identify and explain reason: [Insert section 3(f) of Executive Order 12866 explanation.*

*NOTE: It is important you understand the direction from the White House so you can address the concerns in full. These Executive Orders can be found at:* [*https://www.archives.gov/files/federal-register/executive-orders/pdf/12866.pdf*](https://www.archives.gov/files/federal-register/executive-orders/pdf/12866.pdf) *and* [*https://www.govinfo.gov/content/pkg/FR-2011-01-21/pdf/2011-1385.pdf*](https://www.govinfo.gov/content/pkg/FR-2011-01-21/pdf/2011-1385.pdf)

**B. Congressional Review Act** (5 U.S.C. 801 et seq.)

Pursuant to the Congressional Review Act, this rule [INSERT has been or has not been] designated a major rule, as defined by 5 U.S.C. 804(2). [Insert CRA explanation here]

*NOTE: The Congressional Review Act can be found at:* [*https://www.govinfo.gov/content/pkg/HMAN-112/pdf/HMAN-112-pg1247.pdf*](https://www.govinfo.gov/content/pkg/HMAN-112/pdf/HMAN-112-pg1247.pdf)

**C. Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. 601)**

The [INSERT full name of the DoD component that is issuing this rule] certifies that this rule [INSERT is or is not] subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it [INSERT would or would not], if promulgated, have a significant economic impact on a substantial number of small entities. [If small entities are impacted, INSERT several sentences on how this rule may impact small entities and a description of efforts, resources, etc. provided to assist small entities with complying with the requirements of this rule, including the publication of small entity compliance guides in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Public Law 104-121), as amended.] Therefore, the Regulatory Flexibility Act, as amended, [INSERT does or does not] require us to prepare a regulatory flexibility analysis.

*(P): To determine if this rule has an impact on small entities you will complete an Initial Regulatory Financial Analysis (IRFA). A Final Regulatory Financial Analysis (/FRFA) is completed at the final rule stage. Templates for the IRFA/FRFA are available on the DoD Regulatory Program website at:* [*https://open.defense.gov/Regulatory-Program/*](https://open.defense.gov/Regulatory-Program/)

*NOTE: The Regulatory Flexibility Act can be found at:* [*https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg1164.pdf*](https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg1164.pdf)

The Small Business Administration offers a primer on the Reg Flex Act at [*https://www.sba.gov/advocacy/rfa-nutshell-condensed-guide-regulatory-flexibility-act*](https://www.sba.gov/advocacy/rfa-nutshell-condensed-guide-regulatory-flexibility-act)

*This is a great resource in helping define small business impact, highly recommend opening this guide for help in drafting a quality Reg Flex Act section.*

**D. Sec. 202, Public Law 104-4, “Unfunded Mandates Reform Act”**

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. This rule [INSERT will or will not] mandate any requirements for state, local, or tribal governments, and [INSERT will / will not] affect private sector costs. [INSERT explanation of unfunded mandate here]

*NOTE: The Unfunded Mandate Reform Act can found at:* [*https://www.congress.gov/104/plaws/publ4/PLAW-104publ4.htm*](https://www.congress.gov/104/plaws/publ4/PLAW-104publ4.htm)

**E. Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)**If no PRA requirement (ST): It has been determined that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

If there is PRA requirement, and the information collection is approved

(ST): It has been determined that this rule does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The information collection(s) has/have been reviewed and approved by the Office of Management and Budget (OMB) under [INSERT the assigned OMB Control Number(s) and title(s) of the information collection(s)].

If there is a PRA requirement and the information collection has not been approved

PROPOSED RULE LANGUAGE:

(ST): Section XXX,XX of this proposed rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Title:

Type of Request:

Number of Respondents:

Responses Per Respondent:

Annual Responses:

Average Burden Per Response:

Annual Burden Hours:

Needs and Uses:

Affected Public:

Frequency:

Respondent’s Obligation:

OMB Desk Officer:

 Written comments and recommendations on the proposed information collection should be sent to [INSERT OMB Desk Officer Name] at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to the [INSERT agency address]. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

 You may also submit comments, identified by docket number and title, by the following method:

 Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Instructions*: All submissions received must include the agency name, docket number and title for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

 To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to [INSERT agency address, contact name and phone number].

*NOTE: A proposed rule containing a collection of information is to include in the preamble of the proposed rule (under the heading for Paperwork Reduction Act of 1995) a notification that OMB review has been requested and is to direct public comments to the OMB Desk Officer. The notice in the preamble of the proposed rule is to include both the information required in the 60-day information collection notice as well as the information required in the 30-day information collection notice. This notice is to direct comments to the OMB Desk Officer and indicate that comments can be received between 30 days and date of the close of comments for the rule (normally 60 days as required by EO 12866 and the Administrative Procedures Act), but that comments to OMB will be most useful if received by OMB within 30 days of publication.*

*OMB has 60 days from the publication of the proposed rule to either approve or file public comments on the collection of information contained in the rule. OMB is to provide at least 30 days for public comment after receipt of the proposed collection of information before approving or filing its public comments. The Department is to include any OMB comments in its rulemaking record.*

FINAL RULE LANGUAGE:

(ST): Section XXX.XX of this rule contains information collection requirements. As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), DoD has submitted an information clearance package to the Office of Management and Budget for review. In response to DoD's invitation in the Proposed Rule to comment on any potential paperwork burden associated with this rule, the following comments were received.

 Comment:

 Response:

*(P): If there are related System of Records Notices (SORNs) and/or Privacy Impact Assessments (PIAs) related to the information collection(s), please indicate those in this section by listing:*

* *SORN/PIA Identifier*
* *SORN/PIA Title*
* *SORN Federal Register Citation (if published)*
* *PIA website location*

*(P): For assistance with information collection determinations, please contact your Component Information Management Control Officer (IMCO) or WHS, Directives Division, Office of Information Management (OIM).*

*For additional information:* [*https://www.esd.whs.mil/Directives/collections/*](https://www.esd.whs.mil/Directives/collections/)

*For assistance with SORN/PIA information, please contact the DA&M, Directorate for Oversight and Compliance, Defense Privacy, Civil Liberties, and Transparency Division.*

*NOTE: The Paperwork Reduction Act can be found at:* [*https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg2812.pdf#page=1*](https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg2812.pdf#page=1)

**F. Executive Order 13132, “Federalism”**

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. This rule [INSERT will or will not] have a substantial effect on State and local governments. [INSERT Federalism application for this rule here]

*NOTE: Executive Order 13132 can be found at:*

[*https://www.govinfo.gov/content/pkg/FR-1999-08-10/pdf/99-20729.pdf*](https://www.govinfo.gov/content/pkg/FR-1999-08-10/pdf/99-20729.pdf)

**G: Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments”**

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the federal government and Indian tribes. This rule [INSERT will or will not] have a substantial effect on Indian tribal governments. [INSERT Indian trial application for this rule here]

*NOTE: Executive Order 13175 can be found at:*

[*https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governements*](https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governements)

*(P): For additional information: See DoD Instruction 4710.02, “DoD Interactions with Federally Recognized Tribes”* [*https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/471002p.pdf?ver=2018-11-28-143903-320*](https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/471002p.pdf?ver=2018-11-28-143903-320)

**List of Subjects in XX CFR Part XXX** *(P): The FRLO will identify the list of subjects.*

Accordingly, XX CFR Part XXX is [INSERT appropriate standard language here] to read as follows:

(ST): Revised, amended, or removed

PART XXX – [INSERT title of the rule part]

**[RULE TEXT TO FOLLOW]**

***NEW/REVISION RULE***

* *If you have an DoD issuance text, this may be a good starting point:*
	+ *Take the issuance text, remove any “internal only” guidance.*
	+ *Add in any text relevant to the public and public requirements.*
	+ *Have your General Counsel review the text.*

***AMENDMENT RULE***

* *Go to the eCFR website (*[*https://www.ecfr.gov/cgi-bin/ECFR?page=browse*](https://www.ecfr.gov/cgi-bin/ECFR?page=browse)*) and locate your CFR Part by selecting the dropdowns and options provided.*
* *Export a copy of the rule text.*
* *Conduct a “Red Line” edit of the rule text in track changes.*
* *Submit the red-lined rule text to your FRLO for assistance with writing the amendatory language.*
* *Alternatively, you are welcome to draft the amendment rule following the guidelines in the Office of the Federal Register Document Drafting Handbook online at* [*https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf*](https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf)