DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

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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 regulations 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 regulations listed in the agenda are of limited 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 12, 2018, 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 2018.

The complete Unified Agenda will be available online at *www.reginfo.gov.*

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 Office of the Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301–9010, or email: *patricia.l.toppings.civ@mail.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 Office of the Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301–9010, or email: *morgan.e.park.civ@mail.mil.*

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer Hawes, telephone 571–372–6115, or write to Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Procurement and Acquisition Policy, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060, or email: *jennifer.l.hawes2.civ@mail.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, Virginia 22315–3860, or email: *brenda.s.bowen.civ@mail.mil.*

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Christopher Page, telephone 703–697–0718, 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: *christopher.m.page20.civ@mail.mil.*

For general information on Department of the Navy regulations, contact LCDR Emilee Baldini, 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: *emilee.k.baldini@navy.mil.*

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703–614–8500, or write the Office of the Secretary of the Air Force, Chief, Information Dominance/Chief Information Officer (SAF CIO/A6), 1800 Air Force Pentagon, Washington, DC 20330–1800, or email: *usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.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 Military Departments. 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.

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 regulations 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 regulations, 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)).

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: February 23, 2018.

John H. Gibson, II,

Chief Management Officer.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
76	TRICARE; Reimbursement of Long-Term Care Hospitals and Inpatient Rehabilitation Facilities	0720–AB47

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (OASHA)

Completed Actions

76. TRICARE; Reimbursement of Long-Term Care Hospitals and Inpatient Rehabilitation Facilities

E.O. 13771 Designation: Fully or Partially Exempt.

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

Abstract: The Department of Defense, Defense Health Agency, revised its reimbursement of long-term care hospitals (LTCHs) and inpatient rehabilitation facilities (IRFs). The revisions are in accordance with the statutory provision at title 10, United States Code, section 1079(i)(2) that requires TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare. 32 CFR 199.2 includes a definition for ''hospital, long-term (tuberculosis, chronic care, or rehabilitation).'' This rule deleted this definition and created separate definitions for ''Long Term Care Hospital'' and ''Inpatient Rehabilitation Facility'' in accordance with Centers for Medicare and Medicaid Services (CMS) classification criteria. Under TRICARE, LTCHs and IRFs (both freestanding rehabilitation hospitals and rehabilitation hospital units) are currently paid the lower of a negotiated rate (if they are a network provider) or billed charges (if they are a non-network provider). Although Medicare's reimbursement methods for LTCHs and IRFs are different, the Defense Health Agency adopted both the Medicare LTCH and IRF Prospective Payment System (PPS) methods simultaneously to align with our statutory requirement to reimburse like Medicare. This rule set forth the regulation modifications that are necessary for TRICARE to adopt Medicare's LTCH and IRF Prospective Payment Systems and rates applicable for inpatient services provided by LTCHs and IRFs to TRICARE beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	01/26/15	80 FR 3926
NPRM Comment Period End.	03/27/15	
Second NPRM	08/31/16	81 FR 59934
Second NPRM Comment Period End.	10/31/16	
Final Action	12/29/17	82 FR 61678
Final Action Effective.	03/05/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ann N. Fazzini, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, *Phone:* 303 676–3803.

RIN: 0720–AB47

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