

Department of Defense Retrospective Review Plan Report  
May 14, 2012

Agency / Sub-agency	RIN/ OMB Control Number	Title Of Initiative/ Rule/ICR	Brief Description	Actual or Target Completion Date	Anticipated savings in costs &/or burdens, & anticipated changes in benefits	Progress updates and anticipated accomplishments	Notes
DoD/ COE	0710-AA71	2012 Nationwide Permits Reissuance	Section 404(e) of the Clean Water Act authorizes USACE to develop general permits, including nationwide permits (NWP), for minor activities in waters of the U.S. for a period of five years. Accordingly, every five years, USACE undergoes a reauthorization process for the NWP Program and includes a public notice and provides an opportunity for public hearing. Comments for the NWP Program are submitted during the reauthorization process. Therefore, USACE periodically reviews this significant rule. We also solicit comments on additional ways in which the NWP reauthorization process may be improved.	Published 21 Feb 12, and then every five years after that.	Nationwide permits (NWPs) help relieve regulatory burdens on applicants who need to obtain DA permits; an expedited form of authorization, as long as the project proponent meets all terms and conditions of the NWPs. The costs for obtaining coverage under an NWP are low compared to the standard permit. The administrative costs for USACE range from \$1,800 to \$3,275 for an NWP and \$4,400 to \$22,240 for a standard permit; and the costs for the applicant range from \$13,100 to \$22,079 for an NWP and \$31,400 to \$57,180 for a standard permit.	Published 21 Feb 12 and took effect on 19 Mar 12.	
DoD/ COE	0710-AA60	Nationwide Permit Program	The Corps proposes to revise its Nationwide Permit Program regulations at 33 CFR part 330 to address changes in regulatory procedures and policy that have occurred since those regulations were last revised in 1991. The Corps proposes to revise the regulation to increase the pre-construction notification review period to 45 days, to be consistent with the current	End of 2012.	The effort will reduce burdens on permittees by clarifying that only one NWP verification is needed every five years. Also provides simplicity and clarity to the regulated public.	Rule revision complete. OMB clearance received 29 Feb 12. Requires ASA(CW) signature on Federal Register Notice.	

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			nationwide permits. The Corps also proposes to amend the regulation to allow district engineers to issue verification letters that can have the same expiration date as the nationwide permit.				
DoD/ COE		Defining the Term “Waters of the United States”	The rule is expected to establish categories of waters and wetlands that are jurisdictional by rule; other categories of waters and wetlands will require a case-specific analysis and finding of Clean Water Act jurisdiction. By declaring certain categories of waters and wetlands to be jurisdictional by rule, there will be more certainty as to which activities require Department of Army permits. There will also be reduced delays for activities affecting those categories of waters and wetlands, since it will no longer be necessary to provide detailed case-specific documentation to determine Clean Water Act jurisdiction.	Ongoing effort; this is a joint rule with EPA. EPA is the lead agency for the effort and, as such, will decide when to submit to OMB.	The rule will provide greater clarity to the regulated public regarding which waters are jurisdictional. Implementation of the revised definition may cost between \$4.8 and 11.2 million. Costs may be incurred from additional workload efforts for evaluating an increase in jurisdictional waters, any needed database changes, developing and providing training to field staff, and outreach to the regulated public and consultant community	TBD. Currently under Administration review.	
DoD/ COE		Regulations Review	In accordance with the E.O., the USACE plan solicited comments on its Regulations to make the Regulatory Program more effective and less burdensome. The USACE Regulatory Program’s regulations are found at 33 CFR parts 320–332 and 334. The current Regulations were published in the Federal	Federal Register soliciting comments published on November 16, 2011 with closing date of January 17, 2012.	The comments received in response to retrospective review may identify improvements to the Regulations to reduce the burden on the regulated public and make them easier to utilize.	Federal Register soliciting comments closed on 17 January 2012. Comments undergoing review. By Summer 2012, Publish Federal Register Notice summarizing	

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			Register on November 13, 1986 (51 FR 41206). These Regulations describe the fundamental procedures, policies, authorities, and guidelines of the U.S. Army Corps of Engineer's Regulatory Program. Since the 1986 Regulations were issued, parts of these Regulations have been modified and these are to be incorporated into one codified set of Regulations.	Priorities identified in Summer 2012. Implementation will be ongoing.		comments received and identifying priorities. Implementation and status updates of identified priorities will be ongoing.	
DoD/ DARS	0750- AH11	Only One Offer DFARS Case 2011- D013	This rule amends the Defense Federal Acquisition Regulation Supplement to address acquisitions in which only one offer is received. If less than 30 days was allowed for receipt of proposals, the contracting officer must re-solicit for an additional 30 days. If the solicitation allowed at least 30 days for receipt of proposals, then the contracting officer must conduct negotiations. Both of these requirements can be waived by the head of the contracting activity, without power of re-delegation. This rule was initiated to implement the initiative on promoting real competition that was presented by the Under Secretary of Defense for Acquisition, Technology & Logistics in a	June 2012.	Some savings should accrue to the Government in achieving better prices.	Public comment period closed 10/07/2011; public comments being reviewed for consideration in drafting the final report and rule.	4/17/2012 at OIRA

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			<p>memorandum dated November 3, 2010. In support of this initiative, DoD is proposing to amend DFARS subparts 215.3 and 215.4. The rule affects only those small entities that respond to a Federal competitive solicitation and no other offer is received. Any impact of this rule on small business is expected to be predominantly positive, by allowing more opportunity for competition.</p>				
DoD/ DARS	0750- AG62	Patents, Data, and Copyrights. DFARS Case 2010- D001	<p>This rule revises the Defense Federal Acquisition Regulation Supplement (DFARS) part 227 to update and streamline the regulations relating to patents, data, and copyrights. This is a follow-on case to DFARS Case 2003-D049, Patents, Data, and Copyrights. The rule removes text and clauses that are obsolete or unnecessary; relocates and integrates the coverage for computer software and computer software documentation with the coverage for technical data to eliminate redundant coverage for these subjects while retaining the necessary distinctions; eliminates or combines the clauses associated with technical data and computer software, consistent with the revised and streamlined regulatory coverage; relocates, reorganizes, and</p>	August 2012.	None.	Public comment period closed 11/26/2010; public comments under review for consideration in drafting the final report and rule.	This case entails significant effort to rewrite DFARS Part 227.

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			clarifies the coverage for rights in works; and relocates to the DFARS companion resource, Procedures, Guidance, and Information (PGI), text that is not regulatory in nature and does not impact the public. Because the rule updates and clarifies DFARS text, but makes no significant change to DoD policy regarding patents, data, and copyrights, any economic impact is expected to be minimal.				
DoD/ OSD	0790- AI77	Provision Of Early Intervention And Special Education Services To Eligible DoD Dependents	This part implements policy, assigns responsibilities, and prescribes procedures for the: (1) Provision of early intervention services (EIS) to infants and toddlers with disabilities (birth through 2 years, inclusive) and their families, and special education and related services (hereafter referred to as “special services”) to children with disabilities (ages 3 through 21 years, inclusive) entitled to receive special services from the Department of Defense. (2) Implementation of a comprehensive, multidisciplinary program of EIS for infants and toddlers (birth through 2 years, inclusive) with disabilities, and their families. (3) Provision of a free, appropriate public education	End of 2012.	Undetermined at this time.	Revised rule has started the coordination process within the Department	

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			<p>(FAPE) including special education and related services for children with disabilities enrolled in the DoD school systems, as specified in their Individualized Educational Programs (IEP).</p> <p>(4) Monitoring of DoD programs providing EIS, special education, and related services for compliance with this part.</p> <p>(5) Establishment of a DoD Advisory Panel (DoD-AP) on Early Intervention, Special Education, and Related Services and a DoD Coordinating Committee (DoD-CC) on Early Intervention, Special Education, and Related Services.</p>				
DoD/ OSD	0790- AI84	National Defense Science And Engineering Graduate (NDSEG) Fellowships	This part establishes guidelines for the award of National Defense Science and Engineering Graduate (NDSEG) Fellowships, as required by 10 U.S.C. 2191.	End of 2012.	Undetermined at this time	Revised rule has started the coordination process within the Department.	
DoD/ OSD	0790- AI88	Shelter For The Homeless Program	This part implements 10 U.S.C. 2546 by establishing Department of Defense policy for the Department of Defense Shelter for the Homeless Program. The Secretary of a Military Department, or designee, may make military installations under his or her jurisdiction available for the furnishing of shelter to persons without adequate shelter in accordance with 10 U.S.C.	A direct final rule is expected to publish in the last quarter of FY 2012.	Undetermined at this time.	Amendment rule has started the coordination process within the Department.	

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			2546 and this part if he or she, or designee, determines that such shelter will not interfere with military preparedness or ongoing military functions.				
DoD/ OSD	0790- AI75	Presentation Of DoD- Related Scientific And Technical Papers At Meetings	This part amplifies policy, assigns responsibilities, prescribes procedures, and provides guidance for consideration of national security concerns in the dissemination of scientific and technical information in the possession or under the control of the Department of Defense at conferences and meetings. It supports current policies regarding classified meetings and requirements for review of scientific and technical papers; provides guidance for reviewing and presenting papers containing export controlled DoD technical data; establishes procedures for containing DoD advice on independently produced scientific and technical papers; and provides criteria for identifying fundamental research activities performed under contract or grant that are excluded from review requirements.	End of 2012.	Undetermined at this time.	Revised rule has started the coordination process within the Department.	
DoD/ OSD	0790- AI73	Withholding Of Unclassified Technical Data From	This part establishes policy, prescribes procedures, and assigns responsibilities for the dissemination and withholding of technical data. In accordance	End of 2012.	Undetermined at this time.	Revised rule has started the coordination process within the Department.	

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		Public Disclosure	with 10 U.S.C. 140c, the Secretary of Defense may withhold from public disclosure, notwithstanding any other provision of law, any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully without an approval, authorization, or license under E.O. 12470 or the Arms Export Control Act. However, technical data may not be withheld under this section if regulations promulgated under either the Order or Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.				
DoD/ OSD		Enforcement of State Traffic Laws on DoD Installations	This part establishes policies for the enforcement, on DoD military installations, of those state vehicular and pedestrian traffic laws that cannot be assimilated under Title 18, U.S.C., section 13.	Early 2013.	Undetermined at this time.	Revised rule has started the coordination process within the Department.	