

DEPARTMENT OF DEFENSE**32 CFR Chs. I, V, VI, and VII****33 CFR Ch. II****36 CFR Ch. III****48 CFR Ch. II****Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Department of Defense (DoD).**ACTION:** Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulatory actions the Department of Defense (DoD) plans to take in the next 12 months and those regulatory actions completed since the publication of the fall 2021 Unified Agenda. It was developed under the guidelines of Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review." This agenda includes regulatory actions that support or impact the Secretary of Defense's top priorities along with those of the National Defense Strategy to defend the Nation, take care of our people, succeed through teamwork, and address the current worldwide pandemic. These actions include efforts to ensure TRICARE beneficiaries have access to the most up-to-date care required for the diagnosis and treatment of COVID-19. 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 31, 2022, and includes regulations expected to be issued and under review over the next 12 months. The next agenda will publish in the fall of 2022.

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

In accordance with the Regulatory Flexibility Act (5 U.S.C. 602), which requires agencies to publish its regulatory flexibility agendas in the **Federal Register**, the Department of Defense's printed agenda entries in the **Federal Register** 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.

Although 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 program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 1155 Defense Pentagon, Washington, DC 20301-1155, 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, telephone 703-695-1853, or email: gerald.j.dziedzichowicz.civ@mail.mil.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 1155 Defense Pentagon, Washington, DC 20301-1155, or email: patricia.l.toppings.civ@mail.mil.

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer Johnson, telephone 571-372-6100, or write to Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, or email: jennifer.d.johnson1.civ@mail.mil.

For general information on Department of the Army regulations, contact Mr. James "Jay" Satterwhite, telephone 571-515-0304, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDO, Building 1458, 9301 Chapek Road, Ft. Belvoir, VA, 22060-5605, or email: james.w.satterwhite.civ@mail.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Ms. Stacey Jensen, telephone 703-695-6791, or write to Office of the

Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Room 3E441, Washington, DC 20310-0108, or email: stacey.m.jensen.civ@mail.mil.

For general information on Department of the Navy regulations, contact LCDR Jenny Pike, 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: jennifer.m.pike5.mil@us.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 for each regulatory action.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions reports on actions planned by the Office of the Secretary of Defense, the Military Departments, the Office of the Under Secretary of Defense for Acquisition and Sustainment for procurement-related actions, and the U.S. Army Corps of Engineers.

This agenda also identifies rules impacted by the:

- a. Regulatory Flexibility Act.
- b. Paperwork Reduction Act of 1995.
- c. Unfunded Mandates Reform Act of 1995.

Generally, rules discussed in this agenda will contain five sections: (1) pre-rule 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)).

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: April 1, 2022.

Joo Y. Chung,

Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense.

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
66	Cybersecurity Maturity Model Certification (CMMC) Framework	0790-AL49

DEFENSE ACQUISITION REGULATIONS COUNCIL—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
67	Small Business Innovation Research Program Data Rights (DFARS Case 2019-D043)	0750-AK84

DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
68	Assessing Contractor Implementation of Cybersecurity Requirements (DFARS Case 2019-D041)	0750-AK81
69	Reauthorization and Improvement of Mentor-Protége Program (DFARS Case 2020-D009)	0750-AK96

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
70	TRICARE: Chiropractic and Acupuncture Treatment Under the TRICARE Program	0720-AB77

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
71	TRICARE Reimbursement of Ambulatory Surgery Centers and Outpatient Services Provided in Cancer and Children’s Hospitals.	0720-AB73

DEPARTMENT OF DEFENSE (DOD)

Office of the Secretary (OS)

Final Rule Stage

66. Cybersecurity Maturity Model Certification (CMMC) Framework [0790-AL49]

Legal Authority: 5 U.S.C. 301; Pub. L. 116-92, sec. 1648

Abstract: The National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 DoD Assessment Methodology employed to assess contractor implementation of the cybersecurity requirements in NIST SP 800-171, Protecting Controlled Unclassified Information (CUI) In Nonfederal Systems and Organizations, required by DFARS 252.204-7012. The verification of contractor implementation of NIST SP 800-171 security requirements is addressed under DFARS provision 252.204-7019, Notice of NIST SP 800-171 DoD Assessment Requirements, and DFARS clause 252.204-7020, NIST SP 800-171 DoD Assessment Requirements.

The Cybersecurity Maturity Model Certification (CMMC) Framework, version 2.0. CMMC 2.0 is a newly

approved DoD certification process to help assess a DIB contractor’s compliance with and implementation of cybersecurity requirements to safeguard FCI and CUI transiting non-federal systems and mitigate the threats posed by Advanced Persistent Threats—adversaries with sophisticated levels of expertise and significant resources.

This rule is related to DFARS clause 252.204-7021, Cybersecurity Maturity Model Certification Requirements, which specifies the CMMC requirement at the level specified for a contract and for the duration of the contract with the DIB contractor. This rule will specify the CMMC requirements, at CMMC Level 1, 2, or 3, with which DIB contractors must comply in advance of a contract award, as well as the process for obtaining and maintaining CMMC certification, as required for a designated DoD contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diane L. Knight, Senior Management and Program Analyst, Department of Defense, Office of the Secretary, 4800 Mark Center Drive, Suite 12E08, Alexandria, VA 22350, Phone: 202 770-9100, Email: diane.l.knight10.civ@mail.mil.

RIN: 0790-AL49

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Proposed Rule Stage

67. Small Business Innovation Research Program Data Rights (DFARS Case 2019-D043) [0750-AK84]

Legal Authority: 41 U.S.C. 1303

Abstract: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement changes related to data rights in the Small Business Administration’s Policy Directive for the Small Business Innovation Research (SBIR) Program, published in the **Federal Register** on April 2, 2019 (84 FR 12794). The final SBA Policy Directive includes several

revisions to clarify data rights, which require corresponding revisions to the DFARS.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/20	85 FR 53758
Correction	09/21/20	85 FR 59258
ANPRM Comment Period End.	10/30/20	
Comment Period Extended.	12/04/20	85 FR 78300
ANPRM Comment Period End.	01/31/21	
NPRM	07/00/22	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060, *Phone:* 571 372–6100, *Email:* jennifer.d.johnson1.civ@mail.mil. *RIN:* 0750–AK84

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Final Rule Stage

68. Assessing Contractor Implementation of Cybersecurity Requirements (DFARS Case 2019–D041) [0750–AK81]

Legal Authority: 41 U.S.C. 1303; Pub. L. 116–92, sec. 1648

Abstract: This rule is pending codification in title 32 CFR of the Cybersecurity Maturity Model Certification (CMMC) program. DoD is finalizing an interim rule to implement the CMMC framework in order to protect against the theft of intellectual property and sensitive information from the Defense Industrial Base (DIB) sector. The CMMC framework is a DoD certification process that measures a company’s institutionalization of processes and implementation of cybersecurity practices. See RIN 0790–AL49 for information on a rule amending title 32 of the Code of Federal Regulations with regard to CMMC, which will inform the DFARS final rule. This rule provides the Department with assurances that a DIB contractor can adequately protect sensitive unclassified information at a level commensurate with the risk, accounting for information flow down to its subcontractors in a multi-tier supply chain. The part of this rule that addressed the NIST SP 800–171

assessment requirements has been separated into RIN 0750–AL68.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/20	85 FR 48513
Interim Final Rule Effective.	11/30/20	
Final Action	03/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060, *Phone:* 571 372–6100, *Email:* jennifer.d.johnson1.civ@mail.mil. *RIN:* 0750–AK81

69. Reauthorization and Improvement of Mentor-Protege Program (DFARS Case 2020–D009) [0750–AK96]

Legal Authority: 41 U.S.C. 1303; Pub. L. 116–92, sec. 872

Abstract: DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement to implement section 872 of the National Defense Authorization Act for Fiscal Year 2020, which reauthorizes and improves the DoD Mentor-Protege Program.

Timetable:

Action	Date	FR Cite
NPRM	02/28/22	87 FR 11009
NPRM Comment Period End.	04/29/22	
Final Action	10/00/22	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060, *Phone:* 571 372–6100, *Email:* jennifer.d.johnson1.civ@mail.mil. *RIN:* 0750–AK96

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

70. TRICARE: Chiropractic and Acupuncture Treatment Under the Tricare Program [0720–AB77]

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

Abstract: Under the current regulations, TRICARE excludes

chiropractors as TRICARE-authorized providers whether or not their services would be eligible as medically necessary care if furnished by any other authorized provider. In addition, the current regulation excludes acupuncture treatment whether used as a therapeutic agent or as an anesthetic. This proposed rule seeks to eliminate these exclusions and to add benefit coverage of chiropractic and acupuncture treatment when deemed medically necessary for specific conditions. This rule proposes to add licensed Doctors of Chiropractic (DCs) and Licensed Acupuncturists (LACs) who meet established qualifications as TRICARE-authorized providers and will establish reimbursement rates and cost-sharing provisions for covered chiropractic and acupuncture treatment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/22	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Joy Mullane, Department of Defense, Office of Assistant Secretary for Health Affairs, 16401 E Centretch Parkway, Aurora, CO 80011–9066, *Phone:* 303 676–3457, *Fax:* 303 676–3579, *Email:* joy.mullane.civ@mail.mil. *RIN:* 0720–AB77

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

71. TRICARE Reimbursement of Ambulatory Surgery Centers and Outpatient Services Provided in Cancer and Children’s Hospitals [0720–AB73]

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

Abstract: The Department of Defense, Defense Health Agency, is revising its regulation on the reimbursement of ambulatory surgery centers (ASC) and outpatient services provided in Cancer and Children’s Hospitals (CCHs). Revisions are in accordance with the statutory provision at title 10 of the U.S.C., section 1079(i)(2) that requires TRICARE’s 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. In accordance with this requirement, TRICARE will: (1) adopt Medicare’s payment methodology for Ambulatory

Surgery Centers (ASC) and (2) adopt Medicare's payment methodology for outpatient services provided in Cancer and Children's Hospitals (CCHs). Although Medicare's reimbursement methods for ASC and CCHs are different, it is prudent to adopt both the Medicare ASC system and to adopt the Outpatient Prospective Payment System (OPPS) with hold-harmless adjustments (meaning the provider is not reimbursed less than their costs) for CCHs simultaneously to align with our statutory requirement to reimburse like

Medicare at the same time. This rule makes the modifications necessary to implement TRICARE reimbursement methodologies similar to those applicable to Medicare beneficiaries for outpatient services rendered in ASCs and CCHs.

Timetable:

Action	Date	FR Cite
NPRM	11/29/19	84 FR 65718
NPRM Comment Period End.	01/28/20	
Final Action	10/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elan Green, Department of Defense, Office of Assistant Secretary for Health Affairs, 16401 East Centretex Parkway, Aurora, CO 80011, *Phone:* 303 676-3907, *Email:* elan.p.green.civ@mail.mil.

RIN: 0720-AB73

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