



## Agency Priority Goal Action Plan

# Reduce Regulatory Burden

### Goal Leader:

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# Overview

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## Goal Statement

Reduce Regulatory Burden by eliminating unnecessary Federal Rules through continued implementation of Executive Order 13771. Between October 1, 2019 and September 30, 2021, DoD will promulgate 50 regulations a year to implement the recommendations of DoD's Regulatory Reform Task Force, and reduce its existing regulations by 35 percent.

- At the outset, DoD set a goal to reduce its existing regulations by 25 percent by September 30, 2024. With enhanced review and upon further consideration, DoD pressed to reduce its existing regulations by an additional 10 percent for an overall reduction of 35 percent. As of January 2, 2019, DoD has been in the implementation phase of its regulatory reform initiative. In this phase, DoD has set a goal of promulgating 50 regulations each fiscal year to implement the Task Force recommendations, which will support DoD meeting its overall reduction target of 35 percent. Additionally, as components repeal, replace, and modify regulations to reduce regulatory burden and cost on the American people, the Department will be able to also realize internal efficiencies by reducing unnecessary administrative burdens and reallocating resources to higher priorities, which will contribute to the Departments overall reforms savings.

## Challenge

- Some regulations may require a change in legislation or interagency coordination before they can be modified or repealed.

## Opportunity

- Support Secretary's 1<sup>st</sup> LOE in the NDS by prioritizing the issuance of rules that support the DoD's highest priorities.
- Support Secretary's 3<sup>rd</sup> LOE in the NDS by creating internal efficiencies by ensuring legitimacy and currency of its regulations; codifying business process improvements; reducing litigation risks and its costs; reducing internal manpower needed to maintain and issue regulations; reducing internal conflict and confusion of applicability of regulations by consolidating rules.
- Support Secretary's 4<sup>th</sup> LOE in the NDS by promulgating regulations that provide benefits and services to take care of Service members and their families.

# Goal Structure & Strategies

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The DoD Regulatory Reform Task Force was established under the Chief Management Office (CMO) to evaluate the DoD assessments of all 716 existing DoD regulations. The Task Force also established three subgroups to aid in the review of the provisions of the Defense Federal Acquisition Regulation Supplement (DFARS), Army Corps of Engineers regulations, and the amendments to the Defense Health Agency TRICARE regulation. The subgroups provide initial recommendations to the Task Force, and the Task Force provides final recommendations to the Secretary of Defense on a quarterly basis for approval.

The DoD Task Force first convened in April 2017, and continued to meet on a bi-weekly basis to review scheduled DoD regulations, and make recommendations to the Secretary of Defense regarding their repeal, replacement, modification or retention. Once approved recommendations are provided by the Task Force, the DoD Components implement the regulatory or deregulatory actions that can be executed within existing authorities, and coordinate with the Office of Information and Regulatory Affairs and Congress when necessary.

The Task Force completed the review phase by December 31, 2018. All deferred regulations were scheduled and reviewed before the completion of the review phase. As of January 2, 2019, DoD has been in the implementation phase of its regulatory reform initiative. It was estimated that the implementation phase would take 3 to 5 years. As of September 30, 2020, there are 200 Task Force recommendations remaining to be implemented. If 50 regulations are promulgated each fiscal year, it is estimated that the implementation phase will be completed by September 30, 2024. The Task Force continues to meet on a quarterly basis for implementation and regulatory program updates.

# Summary of Progress – FY 2020 Q4

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During Quarter 4 FY 2020, DoD repealed, replaced, or modified the remaining 20 regulations toward its goal of publishing 50 final regulations each fiscal year to reduce its existing 716 Federal regulations by 35 percent by the end of FY 2024. Additionally, DoD continues to work on updates to its regulatory policies.

DoD Implementation:

1) Update regulatory policies and provide training opportunities on the regulatory process across the Department. It is estimated that draft regulatory policies/guidance will be in formal coordination in Q1 FY 2021.

2) The DoD Regulatory Program staff continued to provide information to DoD Components on the process for proposing legislation to effectuate some of the Task Force recommendations, as requested.

3) The OCMO/Directorate for Oversight and Compliance (DO&C) provided an economist to assist DoD Components with the cost benefit analysis for evaluating the need for regulations.

4) Component dashboards have been developed for tracking and reporting component progress with promulgating their repealed, replaced, and modified regulations.

COVID-19 Impact:

During the past several months, regulatory entities prioritized regulatory actions responding to COVID-19. Such prioritization within the regulatory environment and the increased demand placed on DoD's regulatory staff for processing interagency regulatory reviews related to COVID-19 actions may impact the Department's ability to achieve its target for agency-specific regulatory actions.

# Key Milestones

- By 31 Dec 2018, DoD evaluated 716 existing regulations and made recommendations to the Secretary of Defense regarding their repeal, replacement, modification, or retention consistent with applicable law. DoD originally set a goal to reduce its existing regulations by 25 percent by September 30, 2024.
  - As of January 2, 2019, DoD has been in the implementation phase of its regulatory reform initiative. To implement the Task Force recommendations, DoD has a goal of publishing 50 final regulations each fiscal year and will reduce existing regulations by 35 percent, which is 10 percent above its original goal.
  - In FY 2019, DoD promulgated 76 regulations-26 above the DoD goal for the fiscal year.
  - In FY 2020, DoD achieved its goal of promulgating 50 regulations.

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
<b>REVIEW PHASE</b>					
Complete review of 716 regulations	Q1 FY19	Complete		CMO/DO&C	All deferred regs reviewed
<b>IMPLEMENTATION PHASE</b>					
Implemented 76 regulations	FY19	Complete		CMO/DO&C	26 regs over FY19 goal of 50
Implement 12 regulations	Q1 FY20	Complete	14 regs published	CMO/DO&C	36 regs to reach FY20 goal of 50
Implement 13 regulations	Q2 FY20	Complete	10 regs published	CMO/DO&C	26 regs to reach FY20 goal of 50
Implement 12 regulations	Q3 FY20	Partially Complete	6 regs published	CMO/DO&C	20 regs to reach FY20 goal of 50
Implement 13 regulations	Q4 FY20	Complete	20 regs published	CMO/DO&C	Achieved FY20 goal of 50

# Key Milestones

## APG 3.1.7: Reduce Regulatory Burden by eliminating unnecessary Federal Rules (E.O. 13771)

Performance Measures (PM)	Q1 2020 Target	Q1 2020 Actual	Q2 2020 Target	Q2 2020 Actual	Q3 2020 Target	Q3 2020 Actual	Q4 2020 Target	Q4 2020 Actual	Goal Achieved ?
PM 3.1.7.1: Implement 50 or more regulatory actions that address recommendations by the Regulatory Reform Task Force	12 regs	14 regs	13 regs	10 regs	12 regs	6 Regs	13 regs	20 regs	Achieved
PM 3.1.7.2: Offset EO 13771 Regulatory Costs	≤ \$0	-\$16M	≤ \$0	\$0M	≤ \$0	\$0M	≤ \$0	-\$114.5M	Exceeded
PM 3.1.7.3: Actions completed to reduce unnecessary regulation	5	10	5	4	5	5	5	16	Exceeded
PM 3.1.7.4: Issue updated regulatory guidance that streamlines process and promotes accountability	Draft Guidance	Guidance drafted	Coordinate draft guidance	Guidance drafted 90% Complete Coord in Q3	Adjudicate comments received on draft guidance	Guidance drafted 90% Complete Coord in Q4	Obtain PSA Approval on draft guidance	Guidance drafted 90% Complete Coord in Q1 FY21	Off track Complete NLT Q2 FY 21

While DoD has identified and published several repeal rules, many of these repeals fall into the category of administrative cleanup and do not count as EO 13771 deregulatory actions. Additionally, many of the Department's rules are fully or partially exempt or not subject to the requirements of EO 13771.

# IMPLEMENTATION OF TASK FORCE RECOMMENDATIONS

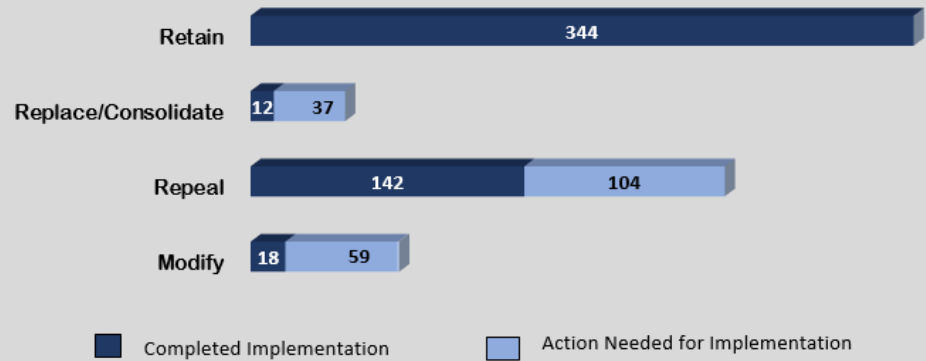
## As of September 30, 2020

### DoD Regulatory Program Regulatory Reform Implementation Progress

#### FY 2020 - ANNUAL GOAL STATUS

(50 completed actions per year)

■ Rule Actions Completed ■ Remaining Actions to Meet Goal



Total Recommendations	
Retain	344
Replace/Consolidate	49
Repeal	246
Modify	77

# Data Accuracy and Reliability

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**Means used to verify and validate measured values:** OSD and DoD Components submit the status of their regulatory activities through a SharePoint site. Information from the component submissions is used to report the status of the department's regulatory activities to senior leaders and OMB. A management analyst created component dashboards for the submission of data. Another management analyst reviews the data submissions for accuracy.

**Sources of the data:** Each month, the DoD regulatory team uses information provided by the components to monitor the regulatory activity of the department. The denominator is the number of regulations entering the Regulatory Policy Officer stage of the regulatory process. The goal measures the percent of regulatory activity in a given fiscal year's result from the established baseline.

**Level of accuracy required for the intended use of the data:** The status of regulatory activities submitted by the components includes where in the regulatory process the regulation is currently being worked and how long the regulation has been at that stage. This shows stoppage points and allows for intervention by senior leaders to move regulations through the process timely allowing the department to reach its goal.

**Limitations to the data at the required level of accuracy:** There can be a delay between the time a regulation is moved from one stage to another and when the component actually enters status information in the component dashboard, which could result in an incomplete data set.

**How the department has compensated for such limitations if needed to reach the required level of accuracy:** Due to the delay between when the component dashboard is updated and when the regulation moves from one stage to another, management analyst within the DoD Regulatory Team reach out to component POCs on a quarterly bases to verify information provided in the component dashboard. This ensures all data is complete and accurate and included in the calculation of the goal.



# Additional Information

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## Contributing Factors

Internal: DoD Components assessed regulations under their purview to determine if such regulations should be repealed, replaced, modified, or retained to alleviate unnecessary regulatory cost and burden on the public. Three subgroups of the Task Force assisted in the review of the provisions of the Defense Federal Acquisition Regulation Supplement (DFARS), the regulations of the Army Corps of Engineers, and the amendments to the Defense Health Agency TRICARE regulation.

As the Task Force evaluated existing DoD acquisition regulations, it coordinated with and considered the recommendations of the Advisory Panel on Streamlining and Codifying Acquisition Regulations. The Panel, as directed by section 809 of the FY 2016 NDAA, reviewed the acquisition regulations applicable to the Department with a view toward streamlining and improving the efficiency and effectiveness of the defense acquisition process and maintaining a defense technology advantage.

The Army Corps of Engineers evaluated the Nationwide Permit rule to comply with the requirements of Executive Order 13783, “Promoting Energy Independence and Economic Growth,” dated March 28, 2017. This Executive Order requires a review of the Department’s regulations that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

External: During the implementation phase of this initiative, departmental rules are submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the requirements of Executive Order 12866, “Regulatory Planning and Review,” dated September 30, 1993. During the OMB review period, OMB forwards the rules for interagency coordination.

## Stakeholder / Congressional Consultations

The DoD Task Force published four notices in the *Federal Register* soliciting input from the public on which regulations should be repealed, replaced, or modified. One notice was published for the primary Task Force and for each of the subgroups. These comments are being taken under consideration as the DoD Components implement the approved recommendations of the Task Force. DoD also coordinates with OMB as needed.