



Agency Priority Goal Action Plan

Reduce Regulatory Burden

Goal Leader:

Lisa Hershman, Deputy Chief Management Officer

Overview

Goal Statement

Reduce Regulatory Burden by eliminating unnecessary Federal Rules (E.O. 13771) by September 30, 2019. The DoD Regulatory Reform Task Force evaluated 716 existing, codified DoD regulations and made recommendations to the Secretary of Defense regarding their repeal, replacement, modification, or retention consistent with applicable law. DoD set a goal to reduce its existing regulations by 25 percent. DoD is now in the implementation phase. In this phase, DoD has a goal of promulgating 50 regulations a year to implement Task Force recommendations, and to reduce its existing regulations by 35 percent.

Challenge

- Reducing regulatory burden and costs on the American people through effective implementation of regulatory reform principles across DoD.
- Some regulations may require a change in legislation or interagency coordination before they can be modified or repealed.

Opportunity

- Support Secretary's 1st LOE by prioritizing the issuance of rules that support the DoD's highest priorities.
- Support Secretary's 3rd LOE 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 4th LOE by promulgating regulations that provide benefits and services to take care of Service members and their families.

Goal Structure & Strategies

To effect regulatory reform, the DoD Regulatory Reform Task Force was established under the Chief Management Office (CMO) to evaluate the DoD components' assessments of all 716 existing, codified 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 there is a determination on the recommendations, 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. The Task Force continues to meet on a quarterly bases for implementation and regulatory program updates. It is estimated that the implementation phase will take 3 to 5 years.

Summary of Progress – FY 2019 Q4

During this quarter, DoD promulgated 32 regulations (repeals, replacements, modifications) toward its goal of promulgating 50 regulations per year, and reducing its existing regulations by 35 percent. Additionally, DoD continued to work on updates to its regulatory policies; however, due to other priorities, DoD will not meet its goal to issue revised policies this fiscal year. This will be a goal for completion in FY 2020.

To implement the Task Force repeal, replace, and modify recommendations, DoD will:

1) Update regulatory policies and provide training opportunities on the regulatory process.

It is estimated that draft regulatory policies/guidance will be in formal coordination in 2Q FY 2020. This quarter, the DoD Regulatory Program staff has provided training to component action officers on the regulatory process.

2) Provide information to DoD Components on the process for proposing legislation.

Information on proposing legislative changes provided as requested.

3) Bring an economist on-board to assist DoD Components with cost benefit analysis.

The economist will train component action officers how to conduct a cost benefit analysis. The economist will review and provide comments on draft cost benefit analysis in the preamble of regulations.

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

Key Milestones

- By 31 Dec 2018, evaluate 716 existing, codified DoD regulations and make 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.
 - DoD Regulatory Reform is now in the implementation phase. To implement the Task Force recommendations, DoD has a goal of promulgating 50 regulations a year and will reduce existing regulations by 35 percent, which is 10 percent above its original goal of reducing existing regulations by 25 percent.
 - In FY 2019, DoD promulgated 76 regulations. This is 26 above the DoD goal of promulgating 50 regulations a year.

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
REVIEW PHASE					
Complete review of 62 regulations	Q3 FY17	Complete		Joo Chung	
Complete review of 139 regulations	Q4 FY17	Complete	77 reg reviews	Joo Chung	
Complete review of 241 regulations	O1 FY18	Complete	102 reg reviews	Joo Chung	
Complete review of 328 regulations	Q2 FY18	Complete	87 reg reviews	Joo Chung	4 regs deferred for further review
Complete review of 448 regulations	Q3 FY18	Complete	120 reg reviews	Joo Chung	3 regs deferred for further review
Complete review of 605 regulations	O4 FY18	Complete	157 reg reviews	Joo Chung	2 regs deferred for further review
Complete review of 716 regulations	Q1 FY19	Complete	111 reg reviews	Joo Chung	All deferred regs reviewed
IMPLEMENTATION PHASE					
Implement 6 regulations	Q1 FY19	Complete	6 regs publish	Joo Chung	44 regs to reach goal of 50
Implement 24 regulations	Q2 FY19	Complete	24 regs publish	Joo Chung	20 regs to reach goal of 50
Implement 14 regulations	Q3 FY19	Complete	14 regs publish	Joo Chung	6 regs to reach goal of 50
Implement 32 regulations	Q4 FY19	Complete	32 regs publish	Joo Chung	26 regs over goal of 50

Key Milestones

APG 3.1.6: Reduce Regulatory Burden by eliminating unnecessary Federal Rules (E.O. 13771)

Performance Measures (PM)	Q1 2019 Target	Q1 2019 Actual	Q2 2019 Target	Q2 2019 Actual	Q3 2019 Target	Q3 2019 Actual	Q4 2019 Target	Q4 2019 Actual	Goal Achieved?
PM 3.1.6.1: Implement 50 or more regulatory actions that address recommendations by the Regulatory Reform Task Force	12.5 regs	6 regs	12.5 regs	24 regs	12.5 regs	14 regs	12.5 regs	32 regs	Yes
PM 3.1.6.2: Offset EO 13771 significant regulatory actions issued after January 20, 2017.	1%	2%	1%	0	1%	2%	1%	2%	Yes
PM 3.1.6.3: Increase number EO 13771 deregulatory actions issued after January 20, 2017.	2%	5%	2%	0	2%	1%	2%	1%	No
PM 3.1.6.4: Issue updated regulatory guidance that streamlines process and promotes accountability.	Draft Guidance	Draft Guidance close to completion	Coordinate draft guidance	Coordination of draft guidance Not Started	Adjudicate comments received on draft guidance	Coordination of draft guidance Not Started	Obtain PSA Approval on draft guidance	Coordination of draft guidance Not Started	No

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.

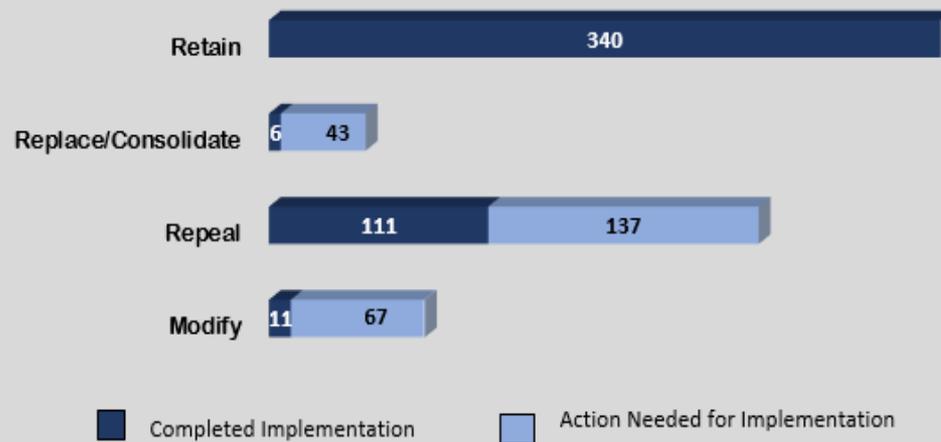
IMPLEMENTATION OF TASK FORCE RECOMMENDATIONS

As of October 1, 2019

DoD Regulatory Program Regulatory Reform Implementation Progress

FY 2019 - ANNUAL GOAL STATUS
(50 completed actions per year)

■ Rule Actions Completed ■ Remaining Actions to Meet Goal



Total Recommendations	
Retain	340
Replace/Consolidate	49
Repeal	248
Modify	79

Closeout APG Reporting for FYs 2018-2019 Cycle

The DoD Regulatory Reform Task Force first convened in April 2017, and continued to meet on a bi-weekly basis to review 716 existing, codified DoD regulations. DoD established a goal to review all 716 regulations in order to evaluate regulations for consolidation and to eliminate unnecessary, outdated, or ineffective regulations by 25 percent. This effort will help reduce burden and costs to the public; identify priority regulations that align with the Secretary of Defense's priorities; and improve the business process of issuing regulations. The DoD Task Force completed review of all 716 regulations in Q1, FY 2019 and recommended 248 (35%) for repeal, 49 (7%) for replacement, 80 (11%) for modification, and 339 (47%) for retention. Currently, DoD is taking action on the Secretary of Defense approved Regulatory Reform Task Force recommendations and has a goal of promulgating 50 regulations annually until all the recommendations are completed. Through Q4 of FY 2019, 58 repeals, 6 replacements, 8 modifications and 4 retained regulations were finalized with an actualized cost savings/avoidance of \$964,290. During FY 2019, DoD promulgated 76 regulations, 26 above its goal of 50 regulations annually. In total, DoD has completed 480 regulations, 118 repeals, 9 replacements, 12 modifications, and 341 retentions with an actualized cost savings/avoidance of \$21.23M. Currently, 93 of the 236 remaining rule actions are in progress, 45 repeals, 21 replacements, and 27 modifications. To assist with the implementation of the DoD Task Force recommendations, the DoD regulatory policy office is updating the Department's policies, providing training on the regulatory process, and contracting out for an economist to assist the DoD and OSD Components with cost benefit analysis.

Data Accuracy and Reliability

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 basis 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

Contributing Programs

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.