
Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts on local governments. Thus, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts on local governments. Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:


2. In §180.960, the table is amended by adding alphabetically the following polymers to read as follows:

<table>
<thead>
<tr>
<th>Polymer</th>
<th>CAS No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Polyoxethylglycerol fatty acid esters; the mono-, di-, or triglyceride mixtures of C6 through C18, the resulting saturated and unsaturated, fatty acids containing up to 15% water by weight reacted with a minimum of three moles of either ethylene oxide or propylene oxide; the resulting polyoxethylglycerol ester polymer minimum number average molecular weight (in amu), 1,500.</td>
<td>61791-23-9, 68201-46-7, 68440-49-3, 68458-88-8, 68606-12-2, 68648-38-4, 70377-91-2, 70914-02-2, 72245-12-6, 72698-41-3, 180254-52-8, 248273-72-5, 308063-50-5, 952722-33-7.</td>
</tr>
</tbody>
</table>
DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215, 234, 242, and 252

RIN 0750–AG46

Defense Federal Acquisition Regulation Supplement; Cost and Software Data Reporting System (DFARS Case 2008–D027)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to address DoD Cost and Software Data Reporting system requirements for Major Defense Acquisition Programs and Major Automated Information Systems.

DATES: Effective Date: November 24, 2010.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Overstreet, Telephone 703–602–0311.

SUPPLEMENTARY INFORMATION:

I. Background

The DoD cost and software data reporting (CSDR) system establishes requirements for proposals and contract performance for major defense acquisition programs (as defined in 10 U.S.C. 2430) and major automated information systems (as defined in 10 U.S.C. 2445a).

During the proposal process, offerors are required to—

• Describe the process to be used to satisfy the requirements of the CSDR Manual (DoD 5000.04–M–1) and the Government-approved CSDR plan; and

• Submit certain cost information with the pricing proposal.

During contract performance, the contractor is required to—

• Use a documented CSDR process for reporting;

• Use the Government-approved contract CSDR plan as the basis for reporting; and

• Require subcontractors to comply with the cost and software data reporting requirements.

DoD published a proposed rule at 75 FR 25165 on May 7, 2010. The public comment period closed July 6, 2010. Two respondents submitted comments that are grouped under four comment categories. Based on public comments, changes were made to the proposed rule. Major changes in the final rule are as follows:

• Explaining that the two principal components of the CSDR system are the contractor cost data reporting (CCDR) and the software resources data reporting (SRDR) (DFARS 234.7100(a)).

• Clarifying the solicitation and contract clause prescriptions (DFARS 234.7101).

• Including the approval authority for applying the CSDR requirements at lower dollar thresholds (DFARS 234.7101(b)(2)).

• Removing the requirement to submit DD Form 1921–2, Progress Curve Report, with the offeror’s pricing proposal (DFARS 252.234–7003(b)(6)).

• Removing the reference to DD Form 1921–3, Contractor Business Data Report, as the basis for reporting in accordance with the required CSDR data item descriptions (DIDs).” DD Form 1921–3, Contractor Business Data Report, is not a basis for reporting, but is a report to be prepared and submitted by the contractor in accordance with DDTAG–81765A. The respondent suggested removing the reference to DD Form 1921–3.

Response: DoD agrees and deleted the requirement for DD Form 1921–3, Contractor Business Data Report, from clause 252.234–7004 in the final rule.

b. Exempt Below $50 Million

Comment: One respondent asked if a subcontractor is exempt from reporting if it incurs less than $50 million on a program, or if the reporting requirements apply to all levels of subcontractors regardless of level of participation in the program.

Response: DoD revised the solicitation provision and contract clause to clarify applicability to subcontractors.

c. Specific Guidance Is Necessary

Comment: One respondent had numerous questions concerning the completion of DD Form 1921–3.

Response: Questions relating to DD Form 1921–3 preparation guidance are outside the scope of this rule and should be referred directly to the

II. Discussion and Analysis

The following paragraphs address the four categories of comments and DoD responses:

1. DD 1921–2, Progress Curve Report

Comment: A respondent noted that DD Form 1921–2 Progress Curve Report, required to be submitted by offerors, in accordance with paragraph (a)(3) of DFARS 252.234–70XX in the proposed rule, is designed to collect unit/lot cost data and is, therefore, not applicable to contracts that do not procure units or lots. The respondent recommended revising the solicitation requirements.

Response: DoD agrees that the DD 1921–2 is not required to be submitted with the contractor’s pricing proposal and has revised DFARS provision 252.234–7003 in the final rule accordingly.

2. The DD 1921–3, Contractor Business Data Report

a. Basis for Reporting

Comment: A respondent noted that paragraph (a)(3) of DFARS 252.234–70YY in the proposed rule directs “the Contractor (to) use DD Form 1921–3, Contractor Business Data Report, as the basis for reporting in accordance with the required CSDR data item descriptions (DIDs).” DD Form 1921–3, Contractor Business Data Report, is not a basis for reporting, but is a report to be prepared and submitted by the contractor in accordance with DDTAG–81765A. The respondent suggested removing the reference to DD Form 1921–3.

Response: DoD agrees and deleted the requirement for DD Form 1921–3, Contractor Business Data Report, from clause 252.234–7004 in the final rule.

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