

the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCFA, 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 established by Congress in the preemption provisions of section 408(n)(4) of FFDCFA. As such, 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. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule.

In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

**XI. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 17, 2010.

**G. Jeffery Herndon,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

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

**Authority:** 21 U.S.C. 321(q), 346a and 371.

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

**§ 180.960 Polymers; exemptions from the requirement of a tolerance.**

\* \* \* \* \*

Polymer	CAS No.
* * * * *	* * * * *
Polyoxyalkylated glycerol fatty acid esters; the mono-, di-, or triglyceride mixtures of C <sub>8</sub> through C <sub>22</sub> , primarily C <sub>8</sub> through C <sub>18</sub> 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 polyoxyalkylated glycerol ester polymer minimum number average molecular weight (in amu), 1,500.	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.
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

**[EPA-R06-RCRA-2010-0066; SW FRL-9231-4]**

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Withdrawal of Direct Final Exclusion**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final exclusion.

**SUMMARY:** Because EPA received adverse comments, we are withdrawing the direct final exclusion for ExxonMobil Refining and Supply Company—Beaumont Refinery, published on October 1, 2010.

**DATES:** Effective November 24, 2010, EPA withdraws the direct final exclusion published at 75 FR 60632, on October 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Michelle Peace, Environmental Protection Agency, Multimedia Planning and Permitting Division, RCRA Branch, Mail Code: 6PD-C, 1445 Ross Avenue, Dallas, TX 75202, by

calling (214) 665-7430 or by e-mail at [peace.michelle@epa.gov](mailto:peace.michelle@epa.gov).

**SUPPLEMENTARY INFORMATION:** Because EPA received adverse comments, we are withdrawing the direct final exclusion for ExxonMobil Refining and Supply Company—Beaumont Refinery, published on October 1, 2010, 75 FR 60632. We stated that in the direct final rule that if we received adverse comment by November 1, 2010, the direct final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule. We will address the comments submitted in a subsequent final action which will be based on the parallel proposed rule also published on October 1, 2010, 75 FR 60689. As stated in the direct final rule and the parallel proposed rule, we will not institute a second comment period on this action.

Dated: November 16, 2010.

**Bill Luthans,**

*Acting Director, Multimedia Planning and Permitting Division.*

■ Accordingly, the amendments to the rule published on October 1, 2010, 75 FR 60632 are withdrawn as of November 24, 2010 until an action making the exclusion final is published. [FR Doc. 2010-29630 Filed 11-23-10; 8:45 am]

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## 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 (DFARS 242.503-2(b) and 252.234-7004, Cost and Software Data Reporting System).
- Restructuring the solicitation provision to clarify proposal submission requirements (DFARS 252.234-7003).
- Providing an Alternate I to the solicitation provision and to the clause to accommodate CSDR requirements at

lower dollar thresholds (DFARS 252.234-7003 and 252.234-7004).

#### 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 DID DI-FNCL-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 subcontracts.

###### 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