

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

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), 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 the rule in the **Federal Register**. This action 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: September 10, 2014.

G. Jeffrey 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, alphabetically add the following polymer to the table to read as follows:

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

Polymer	CAS No.
* * * * *	
2-Propenoic acid, butyl ester, polymer with 1,6-diisocyanatohexane, N-(hydroxymethyl)-2-methyl-2-propenamide and 2-propenenitrile, minimum number average molecular weight (in amu), 100,000	1469998-09-1
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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 213, 217, 225, and 249

Defense Federal Acquisition Regulation Supplement; Technical Amendments

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

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective September 19, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Manuel Quinones, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060. Telephone 571-372-6088; facsimile 571-372-6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows:

1. Directs contracting officers to additional procedures and guidance by adding references at 204.403 and 213.301 to DFARS PGI 204.403(2) and 213.301, respectively.
2. Amends 217.7802 by correcting punctuation at 217.7802(b)(1) and directing contracting officers to additional procedures and guidance at DFARS PGI 217.7802(b)(1)(iii).
3. Corrects the reference to additional procedures and guidance at 225.7703-3 for DFARS PGI 225.7703-3.
4. Amends 249.7000(a)(1) by replacing two telephone numbers with a central email address.

List of Subjects in 48 CFR Parts 204, 213, 217, 225, and 249

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 213, 217, 225, and 249 are amended as follows:

- 1. The authority citation for 48 CFR parts 204, 213, 217, and 225 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

- 2. Revise section 204.403 to read as follows:

204.403 Responsibilities of contracting officers.

(1) Contracting officers shall ensure that solicitations comply with PGI 204.403(1).

(2) For additional guidance on determining a project to be fundamental research in accordance with 252.204-7000(a)(3), see PGI 204.403(2).

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

- 3. Amend section 213.301 by adding the following introductory text:

213.301 Governmentwide commercial purchase card.

Follow the procedures at PGI 213.301 for authorizing, establishing, and operating a Governmentwide commercial purchase card program.

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PART 217—SPECIAL CONTRACTING METHODS

- 4. Amend section 217.7802 by revising paragraph (b)(1) to read as follows:

217.7802 Policy.

* * * * *

(b) * * *

(1) Evaluating whether using a non-DoD contract for the acquisition is in the best interest of DoD. Factors to be considered include:

- (i) Satisfying customer requirements.
- (ii) Schedule.
- (iii) Cost effectiveness (taking into account discounts and fees). In order to ensure awareness of the total cost of fees associated with use of a non-DoD contract, follow the procedures at PGI 217.7802(b)(1)(iii).
- (iv) Contract administration (including oversight).

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PART 225—FOREIGN ACQUISITION

- 5. Amend section 225.7703-3 by revising paragraph (d) to read as follows:

225.7703-3 Evaluating offers.

* * * * *

(d) For acquisitions in support of the United States Central Command (USCENTCOM), United States European Command (USEUCOM), United States Africa Command (USAFRICOM), United States Southern Command (USSOUTHCOM), or United States Pacific Command (USPACOM) theater of operations, see PGI 225.7703-3.

PART 249—TERMINATION OF CONTRACTS

■ 6. The authority citation for 48 CFR part 249 is revised to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

249.7000 [Amended]

■ 7. Amend section 249.7000, in paragraph (a)(1), by removing “(703) 697-9351, DSN 227-9351” and adding “*osd.pentagon.ousd-atl.mbx.cpic@mail.mil*” in its place.

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DEPARTMENT OF ENERGY

48 CFR Parts 904, 952 and 970

RIN 1991-AB85

Acquisition Regulation: Access to and Ownership of Records

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is publishing a final rule amending the Department of Energy Acquisition Regulation (DEAR) to ensure the access to and ownership of records generated during contract performance for its contractors and subcontractors performing potentially hazardous work and clarifies management, retention and disposal of records after contract termination. This final rule: Ensures that records generated on individuals that meet the requirements of the Privacy Act are operated and maintained as Privacy Act SORs; clarifies that Privacy Act SORs are Government-owned records, not contractor-owned, even though they are created by the contractor; ensures the inclusion of this clause in contracts where work activities could involve exposure to potentially hazardous substances; and, ensures that DOE has consistent records maintenance, retention, and disposal requirements in accordance with Federal laws, regulations and DOE Directives and updates thereto.

DATES: *Effective Date:* October 20, 2014.

FOR FURTHER INFORMATION CONTACT:

Jason Taylor, U.S. Department of Energy, Office of Procurement, MA-61, 1000 Independence Avenue SW., Washington, DC 20585; 202-287-1560 or jason.taylor@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

II. Section-by-Section Discussion of Comments and Rule Provisions

III. Section-by-Section Analysis

IV. Procedural Requirements

- A. Review Under Executive Order 12866
- B. Review Under Executive Order 12988
- C. Review Under the Regulatory Flexibility Act
- D. Review Under the Paperwork Reduction Act
- E. Review Under the National Environmental Policy Act
- F. Review Under Executive Order 13132
- G. Review Under the Unfunded Mandates Reform Act of 1995
- H. Review Under the Treasury and General Government Appropriations Act, 1999
- I. Review Under Executive Order 13211
- J. Review Under the Treasury and General Government Appropriations Act, 2001
- K. Congressional Notification
- L. Approval by the Office of the Secretary of Energy

I. Background

Historically, DOE's Management and Operating (M&O) contractors were tasked with performing functions that could involve exposure to radioactive and other hazardous materials. Because of the possible long-term effects of exposure, DOE contractors and subcontractors must create and maintain records documenting the potentially hazardous work activities performed by their personnel. For example, the *Occupational Radiation Protection* program at 10 Code of Federal Regulations (CFR) Part 835 and the *Chronic Beryllium Disease Prevention Program* at 10 CFR Part 850 both require the creation, maintenance and disposition of records on contractor and subcontractor personnel. These records include, but are not limited to: Certain personnel records, medical, and occupational safety and health records. DOE's M&O contractors already provide for DOE ownership and/or access to these types of records. However, DOE now also utilizes other types of contracts to perform many agency functions. Therefore, DOE is making this revised clause applicable to both M&O as well as non-M&O contracts and subcontracts to ensure that records are managed and retained in accordance with Federal laws (including the Privacy Act), applicable regulations and DOE requirements. To provide relevant information for processing of claims under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA; 42 U.S.C. 7385s-10) and for other similar issues, DOE must ensure government-ownership of not only records documenting agency functions, but records documenting potential exposure to hazardous substances. These records are needed for processing claims and provide documentation that otherwise

protects the financial and legal obligations of both individuals and the Government. These records include, but are not limited to: Personnel, medical and exposure records listed as privacy act systems of records, facility, environmental and other project related records, as well as, occupational safety and health records. Personnel records are also needed to allow DOE to identify and contact individuals in the future for participation in the DOE Federal Worker Medical Screening Program (FWP), to comply with other, future records requests, and to meet the requirement to retain the records in accordance with Federal laws and regulations.

The National Archives and Records Administration's (NARA) regulation at 36 Code of Regulations (CFR), Chapter XII, Subchapter B, “*Records Management*” requires agencies to ensure contractors performing agency functions create and maintain records that document these activities and specify government ownership of documents within the contract. For the Department of Energy, Title 42 U.S.C. 7101(b)(1) defines function as any duty, obligation, power, authority, responsibility, right, privilege and activity. Performance of those functions is defined in 42 U.S.C. 7101(b)(2). Throughout its history, DOE has been tasked by Congress to perform certain functions related to research, operations, and environmental clean-up that could cause potential exposure to hazardous substances.

On January 9, 2009, DOE published a System of Records Notice (SORN) in the **Federal Register** (74 FR 994) describing DOE's Privacy Act systems of records (SOR) in accordance with the Privacy Act of 1974 (5 U.S.C. 552a). For example, the SOR for EEOICPA files is located at DOE-10 (74 FR 1,008), and includes such records as: Employment records, exposure records, medical reports, personnel security questionnaires, safety records or other incident reports. The Personnel Medical Records SOR at DOE-33 (74 FR 1,302) includes the following types of records: Medical histories on contractor employees resulting from medical examination, medical records of periodic physical examinations and psychological testing, records on the results of workplace and medical monitoring of individuals for exposure to chemical and physical agents (not covered in DOE-35), and related work history data, including drug testing information and results, contractor employee-completed health questionnaires not resulting from a medical examination. Lastly, the Personnel Radiation Exposure Records