

## Federal Acquisition Regulation

## 23.1005

shall consider the EPA recommendation and determine if termination or some other action is appropriate.

[60 FR 55307, Oct. 30, 1995, as amended at 61 FR 41474, Aug. 8, 1996; 65 FR 46058, July 26, 2000; 68 FR 28083, May 22, 2003. Redesignated and amended at 68 FR 43869, July 24, 2003]

### 23.906 Solicitation provision and contract clause.

Except for acquisitions of commercial items as defined in part 2, the contracting officer shall—

(a) Insert the provision at 52.223-13, Certification of Toxic Chemical Release Reporting, in all solicitations for competitive contracts expected to exceed \$100,000 and competitive 8(a) contracts, unless it has been determined in accordance with 23.905(b) that to do so is not practicable; and

(b) Insert the clause at 52.223-14, Toxic Chemical Release Reporting, in competitively awarded contracts exceeding \$100,000 and competitively awarded 8(a) contracts, except when the determination at 23.905(b) has been made.

[60 FR 55307, Oct. 30, 1995, as amended at 61 FR 41474, Aug. 8, 1996. Redesignated and amended at 68 FR 43869, July 24, 2003; 72 FR 46360, Aug. 17, 2007]

## Subpart 23.10—Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements

SOURCE: 68 FR 43869, July 24, 2003, unless otherwise noted.

### 23.1000 Scope.

This subpart prescribes policies and procedures for obtaining information needed for Government—

(a) Compliance with right-to-know laws and pollution prevention requirements;

(b) Implementation of an environmental management system (EMS) at a Federal facility; and

(c) Completion of facility compliance audits (FCAs) at a Federal facility.

### 23.1001 Authorities.

(a) Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001-11050 (EPCRA).

(b) Pollution Prevention Act of 1990, 42 U.S.C. 13101-13109 (PPA).

(c) Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

### 23.1002 Applicability.

The requirements of this subpart apply to facilities owned or operated by an agency in the customs territory of the United States.

### 23.1003 Definitions.

As used in this subpart—

*Federal agency* means an executive agency (see 2.101).

*Priority chemical* means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

### 23.1004 Requirements.

(a) E.O. 13148 requires Federal facilities to comply with the provisions of EPCRA and PPA.

(b) Pursuant to E.O. 13148, and any agency implementing procedures, every new contract that provides for performance on a Federal facility shall require the contractor to provide information necessary for the Federal agency to comply with the—

(1) Emergency planning and toxic release reporting requirements in EPCRA, PPA, and E.O. 13148;

(2) Toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148; and

(3) Requirements for EMSs and FCAs if the place of performance is at a Federal facility designated by the agency.

### 23.1005 Contract clause.

(a) Insert the clause at 52.223-5, Pollution Prevention and Right-to-Know Information, in solicitations and contracts that provide for performance, in whole or in part, on a Federal facility.

(b) Use the clause with its *Alternate I* if the contract provides for contractor—

(1) Operation or maintenance of a Federal facility at which the agency