has implemented or plans to implement an EMS; or
(2) Activities and operations—
   (i) To be performed at a Government-
   operated Federal facility that has im-
   plemented or plans to implement an
   EMS; and
   (ii) That the agency has determined
   are covered within the EMS.
(c) Use the clause with its Alternate II
   if—
   (1) The contract provides for con-
   tractor activities on a Federal facility;
   and
   (2) The agency has determined that
   the contractor activities should be in-
   cluded within the FCA or an environ-
   mental management system audit.

Subpart 23.11—Encouraging Con-
ractor Policies to Ban Text
Messaging While Driving

Source: 75 FR 60265, Sept. 29, 2010, unless
otherwise noted.

23.1101 Purpose.

This subpart implements the require-
ments of the Executive Order (E.O.)
13513, dated October 1, 2009 (74 FR 51225,
October 6, 2009), Federal Leadership on
Reducing Text Messaging while Driv-
ing.

23.1102 Applicability.

This subpart applies to all solicita-
tions and contracts.

23.1103 Definitions.

As used in this subpart—

Driving—(1) Means operating a motor
vehicle on an active roadway with the
motor running, including while tempo-
rarily stationary because of traffic, a
traffic light, stop sign, or otherwise.

(2) Does not include operating a
motor vehicle with or without the
motor running when one has pulled
over to the side of, or off, an active
roadway and has halted in a location
where one can safely remain sta-
tionary.

Text messaging means reading from or
entering data into any handheld or
other electronic device, including for
the purpose of short message service
texting, e-mailing, instant messaging,
obtaining navigational information, or
engaging in any other form of elec-
tronic data retrieval or electronic data
communication. The term does not in-
clude glancing at or listening to a navi-
gational device that is secured in a
commercially designed holder affixed

to the vehicle, provided that the des-
tination and route are programmed
into the device either before driving or
while stopped in a location off the
roadway where it is safe and legal to
park.

23.1104 Policy.

Agencies shall encourage contractors
and subcontractors to adopt and en-
force policies that ban text messaging
while driving—

(a) Company-owned or –rented vehi-
cles or Government-owned vehicles; or

(b) Privately-owned vehicles when on
official Government business or when
performing any work for or on behalf of
the Government.

23.1105 Contract clause.

The contracting officer shall insert
the clause at 52.223-18, Contractor Pol-
icy to Ban Text Messaging While Driv-
ing, in all solicitations and contracts.