

## 223.7304

provide acceptable performance for the application.

(b) This prohibition is in addition to any imposed by the Clean Air Act regardless of the place of performance.

### 223.7304 Exceptions.

The prohibition in 223.7303 does not apply to—

(a) Legacy systems and their related parts, subsystems, and components that already contain hexavalent chromium. However, alternatives to hexavalent chromium shall be considered by the appropriate official during system modifications, follow-on procurements of legacy systems, or maintenance procedure updates; and

(b) Additional sustainment related contracts (e.g., parts, services) for a system in which use of hexavalent chromium was previously approved.

### 223.7305 Authorization and approval.

(a) The prohibition in 223.7303 does not apply to critical defense applications if no substitute can meet performance requirements. The DoD policy of April 8, 2009, “Minimizing the Use of Hexavalent Chromium,” contains requirements for weighing hexavalent chromium versus substitutes. DoD Program Managers must consider the following factors—

(1) Cost effectiveness of alternative materials or processes;

(2) Technical feasibility of alternative materials or processes;

(3) Environment, safety, and occupational health risks associated with the use of the hexavalent chromium or substitute materials in each specific application;

(4) Achieving a DoD Manufacturing Readiness Level of at least eight for any qualified alternative;

(5) Materiel availability of hexavalent chromium and the proposed alternatives over the projected life span of the system; and

(6) Corrosion performance difference of alternative materials or processes as determined by agency corrosion subject matter experts.

(b) However, unless an exception in 223.7304 applies, the incorporation of hexavalent chromium in items acquired by DoD shall be specifically authorized at a level no lower than a gen-

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eral or flag officer or a member of the Senior Executive Service from the Program Executive Office or equivalent level, in coordination with the component Corrosion Control and Prevention Executive. Follow the procedures in PGI 223.7305.

### 223.7306 Contract clause.

Unless an exception in 223.7304 applies, or use has been authorized in accordance with 223.7305, use the clause at 252.223-7008, Prohibition of Hexavalent Chromium, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that are for supplies, maintenance and repair services, or construction.

[76 FR 25575, May 5, 2011, as amended at 78 FR 37986, June 25, 2013]

## PART 224—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

### Subpart 224.1—Protection of Individual Privacy

Sec.  
224.103 Procedures.

### Subpart 224.2—Freedom of Information Act

224.203 Policy.

AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36367, July 31, 1991, unless otherwise noted.

### Subpart 224.1—Protection of Individual Privacy

#### 224.103 Procedures.

(b)(2) DoD rules and regulations are contained in DoDD 5400.11, Department of Defense Privacy Program, and DoD 5400.11-R, Department of Defense Privacy Program.

### Subpart 224.2—Freedom of Information Act

#### 224.203 Policy.

(a) DoD implementation is in DoDD 5400.7, DoD Freedom of Information

Act Program, and DoD 5400.7-R, DoD Freedom of Information Act Program.

[56 FR 36367, July 31, 1991. Redesignated at 62 FR 34122, June 24, 1997]

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