

- (13) Repair;
- (14) Disposal;
- (15) Inspection; or
- (16) Any other use, including acquisitions requiring the use or the incorporation of materials listed in paragraph (b) of this subsection for initiation, propulsion, or detonation as an integral or component part of an explosive, an ammunition, or explosive end item or weapon system.

(b) This section does not apply to acquisitions solely for—

- (1) Inert components containing no explosives, propellants, or pyrotechnics;
- (2) Flammable liquids;
- (3) Acids;
- (4) Oxidizers;
- (5) Powdered metals; or
- (6) Other materials having fire or explosive characteristics.

223.370-2 Definition.

Ammunition and explosives, as used in this section, is defined in the clause at 252.223-7002, Safety Precautions for Ammunition and Explosives.

223.370-3 Policy.

(a) DoD policy is to ensure that its contractors take reasonable precautions in handling ammunition and explosives so as to minimize the potential for mishaps.

(b) This policy is implemented by DoD Manual 4145.26-M, DoD Contractors' Safety Manual for Ammunition and Explosives, which is incorporated into contracts under which ammunition and explosives are handled. The manual contains mandatory safety requirements for contractors. When work is to be performed on a Government-owned installation, the contracting officer may use the ammunition and explosives regulation of the DoD component or installation as a substitute for, or supplement to, DoD Manual 4145.26-M, as long as the contract cites these regulations.

[56 FR 36365, July 31, 1991, as amended at 70 FR 73150, Dec. 9, 2005]

223.370-4 Procedures.

Follow the procedures at PGI 223.370-4.

[70 FR 73151, Dec. 9, 2005]

223.370-5 Contract clauses.

Use the clauses at 252.223-7002, Safety Precautions for Ammunition and Explosives, and 252.223-7003, Change in Place of Performance—Ammunition and Explosives, in all solicitations and contracts for acquisition to which this section applies.

Subpart 223.4—Use of Recovered Materials

223.405 Procedures.

Follow the procedures at PGI 223.405.

[70 FR 73151, Dec. 9, 2005]

Subpart 223.5—Drug-Free Workplace

SOURCE: 57 FR 32737, July 23, 1992, unless otherwise noted.

223.570 Drug-free work force.

223.570-1 Policy.

DoD policy is to ensure that its contractors maintain a program for achieving a drug-free work force.

[57 FR 32737, July 23, 1992. Redesignated at 70 FR 73151, Dec. 9, 2005]

223.570-2 Contract clause.

(a) Use the clause at 252.223-7004, Drug-Free Work Force, in all solicitations and contracts—

- (1) That involve access to classified information; or
- (2) When the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

(b) Do not use the clause in solicitations and contracts—

- (1) For commercial items;
- (2) When performance or partial performance will be outside the United States and its outlying areas, unless the contracting officer determines such inclusion to be in the best interest of the Government; or

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(3) When the value of the acquisition is at or below the simplified acquisition threshold.

[57 FR 32737, July 23, 1992, as amended at 64 FR 2598, Jan. 15, 1999; 70 FR 35545, June 21, 2005. Redesignated at 70 FR 73151, Dec. 9, 2005]

Subpart 223.8—Ozone-Depleting Substances

223.803 Policy.

No DoD contract may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity in accordance with Section 326, Public Law 102-484 (10 U.S.C. 2301 (repealed) note). This restriction is in addition to any imposed by the Clean Air Act and applies after June 1, 1993, to all DoD contracts, regardless of place of performance.

[71 FR 75892, Dec. 19, 2006]

Subpart 223.70 [Reserved]

Subpart 223.71—Storage, Treatment, and Disposal of Toxic or Hazardous Materials

SOURCE: 79 FR 58697, Sept. 30, 2014, unless otherwise noted.

223.7101 Definitions.

As used in this subpart, the terms *storage* and *toxic or hazardous materials* are defined in the clause at 252.223-7006, Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials.

223.7102 Policy.

(a) 10 U.S.C. 2692 prohibits storage, treatment, or disposal on DoD installations of toxic or hazardous materials that are not owned either by DoD or by a member of the armed forces (or a dependent of the member) assigned to or provided military housing on the in-

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stallation, unless an exception in 223.7104 applies.

(b) When storage of toxic or hazardous materials is authorized based on an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal, the storage or disposal shall be terminated as determined by the Secretary of Defense.

223.7103 Procedures.

(a)(1) Storage, treatment, or disposal of toxic or hazardous materials not owned by DoD on a DoD installation is prohibited unless—

(i) One or more of the exceptions set forth in 223.7104(a) is met including requisite approvals; or

(ii) Secretary of Defense authorization is obtained under the conditions set forth in 223.7104(b).

(2) When storage, treatment, or disposal of toxic or hazardous materials not owned by DoD is authorized in accordance with this subpart, the contract shall specify the types and quantities of toxic or hazardous materials that may be temporarily stored, treated, or disposed of in connection with the contract or as a result of the authorized use of a DoD facility or space launch facility. All solicitations and contracts shall specify the conditions under which storage, treatment, or disposal is authorized.

(b) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7104, the contracting officer should seek advice from the cognizant office of counsel.

223.7104 Exceptions.

(a) The prohibition of 10 U.S.C. 2692 does not apply to any of the following:

(1) The storage, treatment, or disposal of materials that will be or have been used in connection with an activity of DoD or in connection with a service to be performed on a DoD installation for the benefit of DoD.

(2) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services Administration.