

### Subpart 23.7—Contracting for Environmentally Preferable Products and Services

SOURCE: 60 FR 28497, May 31, 1995, unless otherwise noted.

#### 23.700 Scope.

This subpart prescribes policies for acquiring environmentally preferable products and services.

[66 FR 65353, Dec. 18, 2001]

#### 23.701 Definition.

*Biobased product*, as used in this subpart, means a commercial or industrial product (other than food or feed) that utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

[65 FR 36020, June 6, 2000]

#### 23.702 Authorities.

(a) Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.*).

(b) National Energy Conservation Policy Act (42 U.S.C. 8262g).

(c) Pollution Prevention Act of 1990 (42 U.S.C. 13101, *et seq.*).

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

(e) Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition.

(f) Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

[60 FR 28497, May 31, 1995, as amended at 65 FR 36020, June 6, 2000; 66 FR 65353, Dec. 18, 2001; 68 FR 43869, July 24, 2003]

#### 23.703 Policy.

Agencies must—

(a) Implement cost-effective contracting preference programs promoting energy-efficiency, water conservation, and the acquisition of environmentally preferable products and services; and

(b) Employ acquisition strategies that affirmatively implement the following environmental objectives:

(1) Maximize the utilization of environmentally preferable products and

services (based on EPA-issued guidance).

(2) Promote energy-efficiency and water conservation.

(3) Eliminate or reduce the generation of hazardous waste and the need for special material processing (including special handling, storage, treatment, and disposal).

(4) Promote the use of nonhazardous and recovered materials.

(5) Realize life-cycle cost savings.

(6) Promote cost-effective waste reduction when creating plans, drawings, specifications, standards, and other product descriptions authorizing material substitutions, extensions of shelf-life, and process improvements.

(7) Consider the use of biobased products.

[65 FR 36020, June 6, 2000, as amended at 66 FR 65353, Dec. 18, 2001]

#### 23.704 Application to Government-owned or -leased facilities.

Executive Order 13101, Section 701, requires that contracts for contractor operation of a Government-owned or -leased facility and contracts for support services at a Government-owned or -operated facility include provisions that obligate the contractor to comply with the requirements of the order. Compliance includes developing programs to promote and implement cost-effective waste reduction and affirmative procurement programs required by 42 U.S.C. 6962 for all products designated in EPA's Comprehensive Procurement Guideline (40 CFR part 247).

[65 FR 36020, June 6, 2000]

#### 23.705 Contract clause.

Insert the clause at 52.223-10, Waste Reduction Program, in all solicitations and contracts for contractor operation of Government-owned or -leased facilities and all solicitations and contracts for support services at Government-owned or -operated facilities.

[65 FR 36020, June 6, 2000]

### Subpart 23.8—Ozone-Depleting Substances

SOURCE: 60 FR 28500, May 31, 1995, unless otherwise noted.

**23.800****23.800 Scope of subpart.**

This subpart sets forth policies and procedures for the acquisition of items which contain, use, or are manufactured with ozone-depleting substances.

[60 FR 28500, May 31, 1995, as amended at 61 FR 31645, June 20, 1996]

**23.801 Authorities.**

(a) Title VI of the Clean Air Act (42 U.S.C. 7671, *et seq.*).

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

(c) Environmental Protection Agency (EPA) regulations, Protection of Stratospheric Ozone (40 CFR part 82).

[60 FR 28500, May 31, 1995, as amended at 68 FR 43869, July 24, 2003]

**23.802 [Reserved]****23.803 Policy.**

(a) It is the policy of the Federal Government that Federal agencies:

(1) Implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone; and

(2) Give preference to the procurement of alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by lessening the depletion of ozone in the upper atmosphere.

(b) In preparing specifications and purchase descriptions, and in the acquisition of supplies and services, agencies shall:

(1) Comply with the requirements of Title VI of the Clean Air Act, Executive Order 13148, and 40 CFR 82.84(a) (2), (3), (4), and (5); and

(2) Substitute safe alternatives to ozone-depleting substances, as identified under 42 U.S.C. 7671k, to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1), except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4(r).

[60 FR 28500, May 31, 1995, as amended at 61 FR 31645, June 20, 1996; 68 FR 43869, July 24, 2003]

**23.804 Contract clauses.**

Except for contracts that will be performed outside the United States and its outlying areas, insert the clause at:

(a) 52.223-11, Ozone-Depleting Substances, in solicitations and contracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances.

(b) 52.223-12, Refrigeration Equipment and Air Conditioners, in solicitations and contracts for services when the contract includes the maintenance, repair, or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers.

[61 FR 31645, June 20, 1996, as amended at 68 FR 28083, May 22, 2003]

**Subpart 23.9—Contractor Compliance With Toxic Chemical Release Reporting**

SOURCE: 60 FR 55307, Oct. 30, 1995, unless otherwise noted.

**23.901 Purpose.**

This subpart implements the requirements of Executive Order (E.O.) 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

[68 FR 43869, July 24, 2003]

**23.902 General.**

(a) The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and the Pollution Prevention Act of 1990 (PPA) established programs to protect public health and the environment by providing the public with important information on the toxic chemicals being released by manufacturing facilities into the air, land, and water in its communities.

(b) Under EPCRA section 313 (42 U.S.C. 11023), and PPA section 6607 (42 U.S.C. 13106), the owner or operator of certain manufacturing facilities is required to submit annual reports on toxic chemical releases and waste management activities to the Environmental Protection Agency (EPA) and