

#### 223.370-4

(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]

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##### 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

(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.

(1) *Contracts.* 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.

(2) *Modifications.* (i) Contracts awarded before June 1, 1993, with a value in excess of \$10 million, that are modified or extended (including option exercise) and, as a result of the modification or extension, will expire more than one year after the effective date of the

modification or extension, must be evaluated in accordance with agency procedures for the elimination of ozone-depleting substances.

(A) The evaluation must be carried out within 60 days after the first modification or extension.

(B) No further modification or extension may be made to the contract until the evaluation is complete.

(ii) If, as a result of this evaluation, it is determined that an economically feasible substitute substance or alternative technology is available, the contracting officer shall modify the contract to require the use of the substitute substance or alternative technology.

(iii) If a substitute substance or alternative technology is not available, a written determination shall be made to that effect at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity.

[70 FR 73151, Dec. 9, 2005]

**Subpart 223.70 [Reserved]**

**Subpart 223.71—Storage and Disposal of Toxic and Hazardous Materials**

SOURCE: 58 FR 28466, May 13, 1993, unless otherwise noted.

**223.7100 Policy.**

10 U.S.C. 2692 prohibits storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations, except as provided in 223.7102. DoD Instruction 4715.6, Environmental Compliance, implements 10 U.S.C. 2692.

[58 FR 28466, May 13, 1993, as amended at 67 FR 61516, Oct. 1, 2002]

**223.7101 Procedures.**

(a) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7102, the contracting officer should seek advice from the cognizant office of counsel.

(b) When storage, treatment, or disposal of non-DoD-owned toxic or hazardous materials is authorized in accordance with this subpart, the con-

tract or authorization should specify the types, conditions, 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 commercial use of a DoD industrial-type facility.

[60 FR 61597, Nov. 30, 1995]

**223.7102 Exceptions.**

(a) The prohibition of 10 U.S.C. 2692 does not apply to—

(1) 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;

(2) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal agency concerned;

(3) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities;

(4) The disposal of excess explosives produced under a DoD contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements;

(5) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy;

(6) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable DoD regulations;

(7) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency;

(8) The storage of any material that is not owned by DoD, if the Secretary of the military department concerned