

Priority chemical means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

23.1004 Requirements.

(a) E.O. 13148 requires Federal facilities to comply with the provisions of EPCRA and PPA.

(b) Pursuant to E.O. 13148, and any agency implementing procedures, every new contract that provides for performance on a Federal facility shall require the contractor to provide information necessary for the Federal agency to comply with the—

(1) Emergency planning and toxic release reporting requirements in EPCRA, PPA, and E.O. 13148;

(2) Toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148; and

(3) Requirements for EMSs and FCAs if the place of performance is at a Federal facility designated by the agency.

23.1005 Contract clause.

(a) Insert the clause at 52.223–5, Pollution Prevention and Right-to-Know Information, in solicitations and contracts that provide for performance, in whole or in part, on a Federal facility.

(b) Use the clause with its Alternate I if the contract provides for contractor—

(1) Operation or maintenance of a Federal facility at which the agency 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 implemented 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 contractor activities on a Federal facility; and

(2) The agency has determined that the contractor activities should be included within the FCA or an environmental management system audit.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 14. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(1)(vii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

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Terms and Conditions—Simplified Acquisitions (Other than Commercial Items) (Aug 2003)

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(b) * * *

(1) * * *

(vii) 52.223–5, Pollution Prevention and Right-to-Know Information (Aug 2003) (E.O. 13148) (Applies to services performed on Federal facilities).

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■ 15. Revise section 52.223–5 to read as follows:

52.223–5 Pollution Prevention and Right-to-Know Information.

As prescribed in 23.1005, insert the following clause:

Pollution Prevention and Right-to-Know Information (Aug 2003)

(a) *Definitions.* As used in this clause—

Priority chemical means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.

(b) Executive Order 13148 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101–13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of section 302 of EPCRA.

(2) The emergency notice requirements of section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of section 312 of EPCRA.

(5) The toxic chemical release inventory of section 313 of EPCRA, which includes the reduction and recycling information required by section 6607 of PPA.

(6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148.

(End of clause)

Alternate I (Aug 2003). As prescribed in 23.1005(b), add the following paragraph (c)(7) to the basic clause:

(c)(7) The environmental management system as described in section 401 of E.O. 13148.

Alternate II (Aug 2003). As prescribed in 23.1005(c), add the following paragraph (c)(7) to the basic clause. If Alternate I is also prescribed, renumber paragraph (c)(7) as paragraph (c)(8).

(c)(7) The facility compliance audits as described in section 402 of E.O. 13148.

■ 16. Amend section 52.223–13 by revising the introductory text, the date of the provision, and paragraphs (a), (b)(2)(i) and (b)(2)(iv) to read as follows:

52.223–13 Certification of Toxic Chemical Release Reporting.

As prescribed in 23.906(a), insert the following provision:

Certification of Toxic Chemical Release Reporting (Aug 2003)

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

(b) * * *

(2) * * *

[] (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

* * * * *

[] (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(A) Major group code 10 (except 1011, 1081, and 1094).

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

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■ 17. Amend section 52.223–14 by revising the introductory text, the date of the clause, and paragraphs (b)(1) and (b)(4) to read as follows:

52.223–14 Toxic Chemical Release Reporting.

As prescribed in 23.906(b), insert the following clause:

Toxic Chemical Release Reporting (Aug 2003)

* * * * *

(b) * * *

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

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(4) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(i) Major group code 10 (except 1011, 1081, and 1094).

(ii) Major group code 12 (except 1241).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/