

Defense Federal Acquisition Regulation Supplement

Part 223—Environment, Conservation, Occupational Safety, and Drug-Free Workplace

SUBPART 223.70—HAZARDOUS WASTE DISPOSAL

223.7000 Scope of subpart.

This subpart implements Section 331 of the Defense Authorization Act for Fiscal Year 1992 (Pub. L. 102-190) and similar sections in subsequent Defense authorization acts.

223.7001 Definitions.

As used in this subpart—

(a) “Remedial action” has the meaning given that term by section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

(b) “Corrective action” has the meaning given that term under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

223.7002 Contract clause.

(a) Use the clause at 252.223-7005, Hazardous Waste Liability, in all solicitations and contracts for the offsite treatment or disposal of hazardous waste from a facility under the jurisdiction of the Secretary of Defense—

- (1) Entered into during or after fiscal year 1992;
- (2) With an owner or operator of a hazardous waste treatment or disposal facility.

(b) The clause at 252.223-7005 does not apply to contracts—

- (1) For performance of remedial action or corrective action under—
 - (i) The Defense Environmental Restoration Program;
 - (ii) Other programs or activities of the Department of Defense; or
 - (iii) Authorized State hazardous waste programs;
- (2) Under which the generation of the hazardous waste to be disposed of is incidental to the performance of the contract; or
- (3) For disposition of ammunition or solid rocket motors.

(c) Use of the clause at 252.223-7005 may be waived if the Secretary of Defense or the Secretary of the military department concerned determines that—

- (1) There is only one responsible offeror or there is no responsible offeror willing to provide the reimbursement required by paragraph (b) of the clause; or
- (2) Failure to award the contract would place the facility concerned in violation of any requirement of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).