

# Part 23 – Sustainable Acquisition, Material Safety, and Pollution Prevention

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### **23.000 Scope of part.**

This part prescribes acquisition policies and procedures for sustainable acquisition, ensuring proper handling and notification of hazardous materials, and preventing pollution.

## **Subpart 23.1 - Sustainable Products**

### **23.100 Scope of subpart.**

This subpart provides policies and procedures for procuring sustainable products.

### **23.101 Definitions.**

(a) As used in this subpart—

*Energy-efficient product* means a product that—

(1) Meets Department of Energy (DOE) and Environmental Protection Agency (EPA) criteria for use of the ENERGY STAR® trademark label

(see <https://www.energy.gov/eere/femp/search-energy-efficient-products>); or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the DOE Federal Energy Management Program (FEMP)

(see <https://www.energy.gov/eere/femp/search-energy-efficient-products>).

*EPA-designated item* means a product that is listed by EPA in a procurement guideline because it can be made with recovered material and for which EPA has provided recommended recovered material content levels

(see <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>).

*Low standby power device* means a product that—

(1) Uses an external standby power device or contains an internal standby power function; and

(2) Uses no more than one watt of electricity in its standby power consuming mode or meets recommended low standby levels as designated by DOE FEMP

(see <https://www.energy.gov/femp/low-standby-power-product-list>).

*Ozone-depleting substance* means any substance the EPA designates in 40 CFR part 82 as—

- (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or
- (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

*Sustainable product* means—

- (1) A product that contains recovered material designated by the EPA under the Comprehensive Procurement Guidelines (42 U.S.C. 6962) (40 CFR part 247) (<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>).
- (2) An energy-efficient product or low standby power device (42 U.S.C. 8259b) (10 CFR part 436, subpart C) (<https://www.energy.gov/eere/femp/search-energy-efficient-products>, <https://www.energystar.gov/products?s=mega>, and <https://www.energy.gov/femp/low-standby-power-product-list>).
- (3) A biobased product that meets the content requirements of the USDA under the BioPreferred® program (7 U.S.C. 8102) (7 CFR Part 4270) (<https://www.biopreferred.gov/>).
- (4) A substance identified in the EPA's Significant New Alternatives Policy (SNAP) program as a safe alternative to an ozone-depleting substance (42 U.S.C. 7671) (40 CFR part 82, subpart G) (<https://www.epa.gov/snap/unacceptable-and-acceptable-substitutes-tables>).

*USDA-designated product category* means a generic grouping of biobased products that are listed by USDA in a procurement guideline and for which USDA has provided minimum biobased content standards (<https://www.biopreferred.gov/resources/categories.html>).

### **23.102 Policy.**

(a) Agencies must procure sustainable products to the maximum extent practicable. Procuring a sustainable product is considered practicable, unless the agency cannot acquire the sustainable product—

- (1) Competitively within a reasonable performance schedule;
- (2) That meets reasonable performance requirements; or
- (3) At a reasonable price.

(b) When considering whether the price of a sustainable product is reasonable, agencies should consider whether the product is cost-effective over the life of the product.

### **23.103 Procedures.**

(a) Work with the requiring activity to identify sustainable products that apply to the acquisition.

(b) When it is not practicable to procure a sustainable product (see 23.102(a)), include a justification explaining the circumstances in the contract file.

(c) Ensure the solicitation and contract identify sustainable products that are required to be provided during performance of the contract and those that are covered by a justification described in paragraph (b).

### **23.104 Priorities.**

(a) When both an EPA-designated item containing recovered material and a biobased product in a USDA-designated product category could be used for the same purposes, procure the EPA-designated item.

(b) Treat products from designated countries, as defined in part 25, as eligible for the preference for biobased products provided that those products—

(1) Meet the criteria for the definition of biobased product, except that the products need not meet the requirement that renewable agricultural materials or forestry materials in such product must be domestic; and

(2) Otherwise meet all requirements for participation in the preference program.

### **23.105 Exemptions.**

The following are excepted from the requirement to procure sustainable products:

(a) Contracts performed or supplies delivered outside of the United States, unless the agency head determines that such application is in the interest of the United States.

(b) Weapon systems.

(c) Energy-consuming products or systems designed or procured for combat or combat-related missions.

(d) Biobased products to be used in military equipment (products or systems designed or procured for combat or combat-related missions), spacecraft systems, or launch support equipment.

(e) Substitution is not required for class II substances identified as safe alternatives under 42 U.S.C. 7671k, or for products made with or containing such substances, and such substances may be used as substitutes for other class I or class II substances.

### **23.106 Restrictions.**

(a) Do not purchase class II substances, or products containing class II substances, for the purpose of any use prohibited under 42 U.S.C. 7671d(c) (40 CFR 82.84(a)(2)).

(b) Do not purchase products whose sale is prohibited under 42 U.S.C. 7671h, except when the products will be used by persons certified to service vehicles (40 CFR 82.84(a)(4)).

(c) Do not purchase nonessential products as defined under 42 U.S.C. 7671i (40 CFR 82.84(a)(4)).

### **23.107 Agency programs.**

(a) Each agency must implement the following:

(1) A program to promote the procurement of EPA-designated items that contain recovered material. This program applies to an item if the agency procures \$10,000 or more worth of the item in a fiscal year. The program must meet the minimum requirements at 40 CFR 247.6.

(2) A program to promote the procurement of biobased products in the USDA BioPreferred® Program. This program applies to a product if the agency procures \$10,000 or more worth of the product in a fiscal year. The program must meet the minimum requirements at 7 CFR 4270.5(b).

(b) Agencies may use their own specifications or commercial product descriptions; however, the solicitation and contract should specify that—

(1) EPA-designated items be composed of the highest percentage of recovered materials practicable or meet the EPA's minimum recovered material content standards.

(2) Biobased products in the BioPreferred® Program be composed of the highest percentage of biobased material practicable or meet the USDA's minimum biobased content standards.

### **23.108 Solicitation provisions and contract clauses.**

(a) *General.* Insert the clause at 52.223-23, Sustainable Products, in solicitations and contracts unless a written justification or exception (see 23.103(b) and 23.105, respectively) covers the entire acquisition.

(b) *Products containing recovered material.* Except for the acquisition of COTS items—

(1) Insert the provision at 52.223-4, Recovered Material Certification, in solicitations that require the delivery or specify the use of EPA-designated items; and

(2) Insert the clause at 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-designated Items, in solicitations and contracts exceeding \$200,000 that are for, or specify the use of, EPA-designated items containing recovered materials. If technical personnel advise that estimates can be verified, use the clause with its Alternate I.

(c) *Biobased products.*

(1) Insert the provision at 52.223-1, Biobased Product Certification, in solicitations, other than for acquisitions described at 23.105(d), that—

(i) Require the delivery or specify the use of biobased products in USDA-designated product categories; or

(ii) (Include the clause at 52.223-2.

(2) Insert the clause at 52.223-2, Reporting of Biobased Products Under Service and Construction Contracts, in service and construction solicitations and contracts, unless the contract will not involve the use of biobased products in USDA-designated product categories.

(d) *Products containing ozone-depleting substances.* Except for contracts for supplies that will be delivered outside the United States and its outlying areas, or contracts for services that will be performed outside the United States and its outlying areas, insert the following clauses:

(1) 52.223-11, Ozone-Depleting Substances, in solicitations and contracts that may include products that may contain or be manufactured with ozone-depleting substances.

(2) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in solicitations and contracts that include the maintenance, service, repair, or disposal of refrigeration equipment or air conditioners.

## **Subpart 23.2 - Energy Savings Performance Contracts**

### **23.200 Scope of subpart.**

This subpart prescribes policies and procedures for using an energy savings performance contract. This subpart applies to acquisitions in the United States and its outlying areas. Agencies conducting acquisitions outside of these areas should use their best efforts to comply with this subpart.

### **23.201 Definition.**

As used in this subpart—

*Energy savings performance contract*, pursuant to 42 U.S.C. 8287 and 10 CFR 436.31, means a contract that requires the contractor to—

- (1) Perform services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations;
- (2) Incur the costs of implementing the energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel in exchange for a predetermined share of the value of the energy savings directly resulting from implementation of such measures during the term of the contract; and
- (3) Guarantee future energy and cost savings to the Government.

### **23.202 Policy.**

(a) Agencies should make maximum use of the authority provided in the National Energy Conservation Policy Act (42 U.S.C. 8287) to use an energy savings performance contract (ESPC) when life-cycle, cost-effective to reduce energy use and cost in the agency's facilities and operations.

(b) To solicit and award an ESPC, use the procedures, selection method, and terms and conditions provided in 10 CFR part 436, subpart B.

(c) For more information see <https://energy.gov/eere/femp/energy-savings-performance-contracts-feder>

## **Subpart 23.3 - Material Safety**

### **23.300 Scope of subpart.**

This subpart prescribes policies and procedures for the following:

(a) Acquiring deliverable items, other than ammunition and explosives, that require the furnishing of data involving hazardous materials.

(b) Providing notification of radioactive materials prior to delivery.

**23.301 Definition.**

*Hazardous material* is defined in the latest version of Federal Standard No. 313, Material Safety Data, Transportation Data, and Disposal Data for Hazardous Materials Furnished to Government Activities.

**23.302 Hazardous material identification and safety data.**

(a) Offerors and contractors are required to submit hazardous materials data whenever the supplies being acquired are identified as hazardous materials. The latest version of Federal Standard No. 313 includes criteria for identification of hazardous materials.

(b) Safety Data Sheets (SDS's) are required—

(1) As specified in the latest version of Federal Standard No. 313, including revisions adopted during the term of the contract;

(2) For any other material designated by a Government technical representative as potentially hazardous and requiring safety controls.

(c) SDS's must be submitted—

(1) By the apparent successful offeror prior to contract award if hazardous materials are expected to be used during contract performance.

(2) For agencies other than the Department of Defense, again by the contractor with the supplies at the time of delivery.

(d) The contracting officer must provide a copy of all SDS's received to the safety officer or other designated individual.

**23.303 Notice of radioactive materials.**

(a) The clause at 52.223-7, Notice of Radioactive Materials, requires the contractor to notify the contracting officer prior to delivery of radioactive material.

(b) Upon receipt of the notice, the contracting officer must notify receiving activities so that appropriate safeguards can be taken.

(c) The clause permits the contracting officer to waive the notification if the contractor states that the notification on prior deliveries is still current. The contracting officer may waive the notice only after consultation with cognizant technical representatives.

(d) The contracting officer must specify in the clause at 52.223-7, the number of days in advance of delivery that the contractor will provide notification. The determination of the number of days should be done in coordination with the installation/facility radiation protection officer (RPO). The RPO is responsible for ensuring the proper license, authorization, or permit is obtained prior to receiving radioactive material.

### **23.304 Contract clauses.**

(a) (1) Insert the clause at 52.223-3, Hazardous Material Identification and Safety Data, in solicitations and contracts if the contract will require the delivery of hazardous materials as defined in 23.301.

(2) If the contract is awarded by an agency other than the Department of Defense, the contracting officer shall use the clause at 52.223-3 with its Alternate I..

(b) Insert the clause at 52.223-7, Notice of Radioactive Materials, in solicitations and contracts for supplies that are or that contain—

(1) Radioactive material requiring specific licensing under regulations issued pursuant to the Atomic Energy Act of 1954; or

(2) Radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such supplies include, but are not limited to, aircraft, ammunition, missiles, vehicles, electronic tubes, instrument panel gauges, compasses, and identification markers.

## **Subpart 23.4 - Pollution Prevention**

### **23.400 Scope of subpart.**

This subpart prescribes policies and procedures for obtaining information needed for Government compliance with the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001-11050 (EPCRA) and Pollution Prevention Act of 1990, 42 U.S.C. 13101-13109 (PPA).

### **23.401 Definitions.**

(a) As used in this subpart—

*Federal facility* means a facility owned or operated by a Federal agency in the customs territory of the United States.

*Pollution prevention* means any practice that—

(1) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(2) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, and contaminants. (42 U.S.C. 13102(5))

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

### **23.402 Emergency planning and toxic chemical release reporting.**

Contracts that require performance on a Federal facility must require the contractor to provide information necessary for the agency to comply with the emergency planning and toxic chemical release reporting requirements in EPCRA and PPA.

### **23.403 Contract clauses.**

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.

# Part 52 – Solicitation Provisions and Contract Clauses

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[52.223 \[Reserved\]](#)

[52.223-1 Biobased Product Certification.](#)

[52.223-2 Reporting of Biobased Products Under Service and Construction Contracts.](#)

[52.223-3 Hazardous Material Identification and Material Safety Data.](#)

[52.223-4 Recovered Material Certification.](#)

[52.223-5 Pollution Prevention and Right-to-Know Information.](#)

[52.223-6 \[Reserved\]](#)

[52.223-7 Notice of Radioactive Materials.](#)

[52.223-8 \[Reserved\]](#)

[52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Items.](#)

[52.223-10 \[Reserved\]](#)

[52.223-11 Ozone-Depleting Substances.](#)

[52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.](#)

[52.223-13 \[Reserved\]](#)

[52.223-14 \[Reserved\]](#)

[52.223-15 \[Reserved\]](#)

[52.223-16 \[Reserved\]](#)

[52.223-17 \[Reserved\]](#)

[52.223-18 \[Reserved\]](#)

[52.223-19 \[Reserved\]](#)

[52.223-20 \[Reserved\]](#)

[52.223-21 \[Reserved\]](#)

[52.223-22 \[Reserved\]](#)

[52.223-23 Sustainable Products and Services.](#)

**52.223 [Reserved]**

### **52.223-1 Biobased Product Certification.**

As prescribed in 23.108(c)(1), insert the following provision:

#### BIOBASED PRODUCT CERTIFICATION (DEVIATION JAN 2026)

As required by the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101(4)) and the Energy Policy Act of 2005 (7 U.S.C. 8102(a)(2)(F)), the Offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture at <https://www.biopREFERRED.gov/resources/categories.html> to be used or delivered in the performance of the contract, other than biobased products that are not purchased by the Offeror as a direct result of this contract, will comply with the applicable specifications or other contractual requirements.

(End of provision)

### **52.223-2 Reporting of Biobased Products Under Service and Construction Contracts.**

As prescribed in 23.108(c)(2), insert the following clause:

#### REPORTING OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (DEVIATION JAN 2026)

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

*Biobased product* a product determined by the U.S. Department of Agriculture (USDA) to be a commercial product or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials, or that is an intermediate ingredient or feedstock. The term includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging. (7 U.S.C. 8101) (7 CFR 3201.2).

*USDA-designated product category* a generic grouping of biobased products that are listed by USDA in a procurement guideline (7 CFR part 4270) and for which USDA has provided minimum biobased content standards (see <https://www.biopREFERRED.gov/resources/categories.html>).

(b) The Contractor shall report to <https://www.sam.gov>, with a copy to the Contracting Officer, on the product types and dollar value of any biobased products in USDA-designated product categories purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and

(1) Report to <https://www.sam.gov>, with a copy to the Contracting Officer, on the product types and dollar value of any biobased products in USDA-designated product categories purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and

(2) Submit this report no later than—

(i) October 31 of each year during contract performance; and

(ii) At the end of contract performance.

(End of clause)

**52.223-3 Hazardous Material Identification and Material Safety Data.**

As prescribed in 23.304(a)(1), insert the following clause:

**HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (DEVIATION JAN 2026)**

(a) *Hazardous material*, as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The Offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Safety Data Sheet submitted under this contract.

Material (If none, insert <i>None</i> )	Identification No.
_____	_____
_____	_____
_____	_____

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to—

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(End of clause)

*Alternate I* (DEVIATION JAN 2026). As prescribed in 23.304(a)(2), add the following paragraph (i) to the basic clause:

(i) Except as provided in paragraph (i)(2) the Contractor shall prepare and submit a sufficient number of Safety Data Sheets (SDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the SDS with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit SDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots, distribution centers or customer supply centers, the Contractor shall provide one copy of the SDS's in or on each shipping container. If affixed to the outside of each container, the SDS must be placed in a weather resistant envelope.

#### **52.223-4 Recovered Material Certification.**

As prescribed in 23.108(b)(1), insert the following provision:

##### RECOVERED MATERIAL CERTIFICATION (MAY 2008)

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, by signing this offer, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

(End of provision)

#### **52.223-5 Pollution Prevention and Right-to-Know Information.**

As prescribed in 23.403, insert the following clause:

POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2024)

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

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

(b) Federal facilities are required 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.

(End of clause)

**52.223-6 [Reserved]**

**52.223-7 Notice of Radioactive Materials.**

As prescribed in 23.304(b), insert the following clause:

NOTICE OF RADIOACTIVE MATERIALS (DEVIATION JAN 2026)

(a) The Contractor shall notify the Contracting Officer or designee, in writing, \_\_\_\_\_\*days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in title 10 of the Code of Federal Regulations, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the

materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved.

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall—

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

\* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions.

(End of clause)

#### **52.223-8 [Reserved]**

#### **52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Items.**

As prescribed in 23.108(b)(2), insert the following clause:

ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED  
ITEMS (MAY 2008)

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

*Postconsumer material* means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall-

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to \_\_\_\_\_ [*Contracting Officer complete in accordance with agency procedures*].

(End of clause)

*Alternate I* (May 2008). As prescribed in 23.108(b)(2), redesignate paragraph (b) of the basic clause as paragraph (c) and add the following paragraph (b) to the basic clause:

(b) The Contractor shall execute the following certification required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(i)(2)(C)):

Certification

I, \_\_\_\_\_ (*name of certifier*), am an officer or employee responsible for the performance of this contract and hereby certify that the percentage of recovered material content for EPA-designated items met the applicable contract specifications or other contractual requirements.

\_\_\_\_\_ [*Signature of the Officer or Employee*]

\_\_\_\_\_ [*Typed Name of the Officer or Employee*]

\_\_\_\_\_ [*Title*]

\_\_\_\_\_ [*Name of Company, Firm, or Organization*]

\_\_\_\_\_ [*Date*]

(End of certification)

**52.223-10 [Reserved]**

**52.223-11 Ozone-Depleting Substances.**

As prescribed in 23.108(d)(1), insert the following clause:

OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL  
HYDROFLUOROCARBONS (DEVIATION JAN 2026)

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

*Ozone-depleting substance* means any substance the Environmental Protection Agency designates in 40 CFR part 82 as—

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) *Requirement.* In accordance with 40 CFR 82.84(a)(5), the Contractor shall label products that contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j(b), (c), (d), and (e) and 40 CFR part 82, subpart E, as follows:

Warning: Contains (or manufactured with, if applicable) \*\_\_\_\_\_, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

\* The Contractor shall insert the name of the substance(s).

(End of clause)

**52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.**

As prescribed in 23.108(d)(2), insert the following clause:

MAINTENANCE, SERVICE, REPAIR, OR DISPOSAL OF REFRIGERATION EQUIPMENT AND  
AIR CONDITIONERS (DEVIATION JAN 2026)

In accordance with 40 CFR 82.84(a)(3), the Contractor shall comply with the applicable requirements of sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to this contract.

(End of clause)

**52.223-13 [Reserved]**

**52.223-14 [Reserved]**

**52.223-15 [Reserved]**

**52.223-16 [Reserved]**

**52.223-17 [Reserved]**

**52.223-18 [Reserved]**

**52.223-19 [Reserved]**

**52.223-20 [Reserved]**

**52.223-21 [Reserved]**

**52.223-22 [Reserved]**

**52.223-23 Sustainable Products and Services.**

As prescribed in 23.108(a), insert the following clause:

SUSTAINABLE PRODUCTS AND SERVICES (DEVIATION JAN 2026)

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

Sustainable product means—

(1) A product that contains recovered material designated by the EPA under the Comprehensive Procurement Guidelines (42 U.S.C. 6962) (40 CFR part 247) (<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>).

(2) An energy-efficient product or low standby power device (42 U.S.C. 8259b) (10 CFR part 436, subpart C) (<https://www.energy.gov/eere/femp/search-energy-efficient-products>, <https://www.energystar.gov/products?s=mega>, and <https://www.energy.gov/femp/low-standby-power-product-list>).

(3) A biobased product that meets the content requirements of the USDA under the BioPreferred® program 7 U.S.C. 8102) (7 CFR Part 4270) (<https://www.biopreferred.gov/>).

(4) A substance identified in the EPA's Significant New Alternatives Policy (SNAP) program as a safe alternative to an ozone-depleting substance (42 U.S.C. 7671l) (40

CFR part 82, subpart G) (<https://www.epa.gov/snap/unacceptable-and-acceptable-substitutes-tables>).

(b) *Requirements*. The Government has identified in the statement of work or elsewhere in the contract the sustainable products that are required during the performance of this contract. The Contractor shall ensure that it provides sustainable products as required by this contract, when the products are—

(1) Delivered to the Government;

(2) Furnished for use by the Government;

(3) Incorporated into the construction of a public building or public work; or

(c) Furnished for use in performing services under this contract, where the cost of the products is a direct cost to this contract.

(End of clause)