**DFARS Case 2020-D011**

**Replacement of Fluorinated Aqueous Film-Forming Foam**

**Final Rule**

**PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

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**SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.**

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(f) \* \* \*

(ix)~~(A)~~ *Part 223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace*.

**[(A)]** Use the clause at 252.223–7008, Prohibition of Hexavalent Chromium, as prescribed in 223.7306.

(B) Use the clause at 252.223-7009, Prohibition of Procurement of Fluorinated ~~Aqueous Film-Forming Foam~~ Fire-Fighting Agent for Use on Military Installations, as prescribed at 223.7404 to comply with section 322(b), (c), and (d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

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**PART 213—SIMPLIFIED ACQUISITION PROCEDURES**

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**SUBPART 213.2—ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD**

**213.201 General.**

(f) Notwithstanding FAR 13.201(f), apply the prohibition at 223.7402 to purchases at or below the micro-purchase threshold.

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**PART 223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace**

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**SUBPART 223.74—****PROHIBITION ON PROCUREMENT OF CERTAIN ITEMS CONTAINING Perfluoroalkyl OR Polyfluoroalkyl substances**

**223.7400 Scope of subpart**.

This subpart implements section 322(b), (c), and (d) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

**223.7401 Definition**.

As used in this subpart—

“Ocean-going vessel” means a vessel over 59 feet in length owned or operated by DoD or the U.S. Coast Guard, other than vessels that are chartered by the Armed Forces on a time or voyage basis.

**223.7402 Prohibition**.

~~After October 1, 2023, d~~**[D]**o not procure **[any fire-fighting agent]** ~~aqueous film-forming foam, which is used for fighting fires,~~ that contains in excess of one part per billion perfluoroalkyl substances or polyfluoroalkyl substances. Procurements of fire-fighting agent for use solely onboard ocean-going vessels are exempt from this prohibition.

**223.7403 Procedures**.

~~After October 1, 2023, contracting officers shall only issue a~~ ~~solicitation to procure fire-fighting foam in accordance with performance specification MIL-PRF-24385F(SH)~~ **[Contracting officers shall not issue a solicitation for any fire-fighting agent that contains perfluoroalkyl or polyfluoroalkyl substances in excess of one part per billion]**, unless the requiring activity provides documentation of the exemption at 223.7402. The contracting officer shall maintain the documentation in the contract file.

**223.7404 Contract clause**.

Use the clause at 252.223-7009, Prohibition of Procurement of Fluorinated ~~Aqueous Film-Forming Foam~~ Fire-Fighting Agent for Use on Military Installations, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, relating to fire-fighting on military installations.

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

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**252.223-7009 Prohibition of Procurement of Fluorinated ~~Aqueous Film-Forming Foam~~ Fire-Fighting Agent for Use on Military Installations.**

As prescribed in 223.7404, use the following clause:

PROHIBITION OF PROCUREMENT OF FLUORINATED ~~AQUEOUS FILM-FORMING FOAM~~ FIRE-FIGHTING AGENT FOR USE ON MILITARY INSTALLATIONS (~~FEB 2024~~**[MAR 2024]**)

(a) *Definitions*. As used in this clause, “perfluoroalkyl substances” and “polyfluoroalkyl substances” have the meanings given in section 322(f) of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

(b) *Prohibition*. The Contractor shall not provide or use under this contract any ~~aqueous film-forming foam~~ fire-fighting agent that contains perfluoroalkyl substances or polyfluoroalkyl substances in excess of one part per billion.

(c) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial products and commercial services, relating to fire-fighting on a military installation.

(End of clause)