

Subpart 23.10 - Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements

Parent topic: [Part 23 - Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace](#)

23.1000 Scope.

This subpart prescribes policies and procedures for obtaining information needed for Government-

- (a) Compliance with right-to-know laws and pollution prevention requirements;
- (b) Implementation of an environmental management system (EMS) at a Federal facility; and
- (c) Completion of facility compliance audits (FCAs) at a Federal facility.

23.1001 Authorities.

(a) Emergency Planning and Community Right-to-Know Act of 1986, [42 U.S.C.11001-11050](#) (EPCRA).

(b) Pollution Prevention Act of 1990, [42 U.S.C.13101-13109](#) (PPA).

(c) Executive Order 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management.

(d) Executive Order 13514 of October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance.

23.1002 Applicability.

The requirements of this subpart apply to facilities owned or operated by an agency in the customs territory of the United States.

23.1003 Definitions.

As used in this subpart-

Federal agency means an executive agency (see [2.101](#)).

23.1004 Requirements.

(a) Federal facilities are required to comply with-

(1) The emergency planning and toxic release reporting requirements in EPCRA and PPA; and

(2) The toxic chemical, and hazardous substance release and use reduction goals of sections 2(e) and 3(a)(vi) of Executive Order 13423.

(b) Pursuant to EPCRA, PPA, E.O. 13423, 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) Requirements in paragraph (a) of this section; and

(2) 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.