

May 30, 2022

Ms. Janet Fry, Director, Federal Acquisition Policy Division

Subject: OMB Control No. 9000–0107, Federal Acquisition Regulation Part 23 Requirements, FAR 52.223–7, Notice of Radioactive Material

Dear Ms. Fry,

The following comments are in response to the May 2, 2022, Federal Register notification (Vol. 87, No. 84, p. 25637-25638) inviting public input on the OMB Control No. 9000–0107, Federal Acquisition Regulation Part 23 Requirements.

Comment 1

FAR 52.223–7, Notice of Radioactive Material

In the following two portions of FAR 52.223-7 (Notice of Radioactive Material) there is specific mention to the value of “0.002 microcuries per gram”:

- (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 (OMB No.9000-0107).
- (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.

I’m concerned that I don’t believe the noted “0.002 microcuries per gram” value has a clear current regulatory basis for its inclusion in the FAR requirements.

The January 26, 2004 Federal Register (Vol. 69, No. 16, p. 2632-3696) contained a final rule from the Department of Transportation with regard to 49 CFR Parts 171, 172, 173, 174, 175, 176, 177 and 178 to insure compatibility with the regulations of the International Atomic Energy Agency. Specific content on page 3634 noted the following:

Issue 1: Nuclide-Specific Exemption Values

Background. In the April 30, 2002 NPRM, we proposed to adopt the nuclide-specific exemption activity concentrations and the nuclide-specific exemption consignment activities listed in TS-R-1. The objective of the proposal was to assure continued consistency between domestic and international regulations for the basic definition of Class 7 radioactive material, i.e., of radioactive material which is deemed hazardous enough to be subject to the HMR. The new exemption activity values would replace the previous activity concentration threshold of 70 becquerels per gram (2000 picocuries per gram) (70 Bq/g (2000 pCi/g)) that has long been used to decide whether a particular radioactive material is regulated by the HMR (i.e., to decide whether it is “radioactive for the purposes of transport”) the proposed exemption values include. This is in contrast to the previous use of a single threshold defined in terms of an activity concentration. In addition to nuclide-specific activity concentration thresholds proposed, nuclide-specific consignment activity thresholds such that consignments with activities below the latter thresholds would also not be considered “radioactive for the purposes of transport.”

I would note that the value of “2000 picocuries per gram” is mathematically equivalent to “0.002 microcuries per gram”. I’m concerned that the FAR 52.223-7 value of “0.002 microcuries per gram” was based on the Department of Transportation definition of what is “radioactive for the purposes of transport” – a value that has since been apparently replaced. I would suggest that it would be appropriate to contact the Department of Transportation and/or the Nuclear Regulatory Commission and discuss this topic.

For whatever radioactivity values that are utilized in FAR 52.223-7, I would suggest that they also be provided in units of becquerels, as a metric system equivalent.

Thank you for the opportunity to provide my personal comments on this topic.

Sincerely yours

Mr. Donovan Porterfield
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