

# 552.223-71 Nonconforming Hazardous Materials.

As prescribed in 523.303 (b), insert the following clause:

Nonconforming Hazardous Materials (Sep 1999)

(a) Nonconforming supplies that contain hazardous material or that may expose persons who handle or transport the supplies to hazardous material and which require replacement under the inspection and/or warranty clauses of this contract shall be reshipped to the Contractor at the Contractor's expense. The Contractor agrees to accept return of these nonconforming supplies and to pay all costs occasioned by their return.

(b) "Hazardous materials," 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).

(c) If the Contractor fails to provide acceptable disposition instructions for the nonconforming supplies within 10days from the date of the Government's request (or such longer period as may be agreed to between the Contracting Officer and the Contractor), or fails to accept return of the reshipped nonconforming supplies, such failure:

(1) May be interpreted as a willful failure to perform,

(2) May result in termination of the contract for default and

(3) Shall be considered by the Contracting Officer in determining the responsibility of the Contractor for any future award (see FAR9.104-3(b) and 9.406-2).

(d) Pending final resolution of any dispute, the Contractor shall promptly comply with the decision of the Contracting Officer.

(End of clause)

**Parent topic:** 552.223 [Reserved]