

(N-(7-fluoro-3,4-dihydro-3-oxo-4-prop-2-ynyl-2H-1,4-benzoxazin-6-yl)cyclohex-1-ene-1-carboxamide-2-carboxylic acid), in or on fish, freshwater at 1.5 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCa in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCa, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCa. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply

to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 28, 2010.

Lois Rossi,
Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.568 is amended by alphabetically adding the following commodity to the table in paragraph (a) to read as follows:

§ 180.568 Flumioxazin; tolerances for residues.

(a) * * *

| Commodity | Parts per million |
|------------------------|-------------------|
| * * * * * | |
| Fish, freshwater | 1.5 |
| * * * * * | |

* * * * *
[FR Doc. 2010-28132 Filed 11-9-10; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF ENERGY

48 CFR Parts 919, 922, 923, 924, 925, 926, and 952

RIN 1991-AB87

Acquisition Regulation: Socioeconomic Programs

AGENCY: Department of Energy.
ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) Socioeconomic Programs to make changes to conform to the Federal Acquisition Regulation (FAR), remove out-of-date coverage, and update references. Today’s rule does not alter substantive rights or obligations under current law.

DATES: *Effective Date:* December 10, 2010.

FOR FURTHER INFORMATION CONTACT: Barbara Binney at (202) 287-1340 or by e-mail, barbara.binney@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Comments and Responses
- III. Procedural Requirements
 - A. Review Under Executive Order 12866
 - B. Review Under Executive Order 12988
 - C. Review Under the Regulatory Flexibility Act
 - D. Review Under the Paperwork Reduction Act
 - E. Review Under the National Environmental Policy Act
 - F. Review Under Executive Order 13132
 - G. Review Under the Unfunded Mandates Reform Act of 1995
 - H. Review Under the Treasury and General Government Appropriations Act, 1999
 - I. Review Under Executive Order 13211
 - J. Review Under the Treasury and General Government Appropriations Act, 2001
 - K. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
 - L. Approval by the Office of the Secretary of Energy

I. Background

This final rule amends the existing Department of Energy Acquisition Regulation (DEAR) Subchapter D—Socioeconomic Programs. The purpose of this rule is to update DEAR Subchapter D—Socioeconomic Programs to conform it to the FAR. Changes are to DEAR parts 919, 922, 923, 925, 926, and 952. A new part 924 is added to the DEAR. There are no DEAR parts 920 or 921. DEAR parts 919

and 926 will have another proposed rule to cover additional changes. None of today's changes are substantive or of a nature to cause any significant expense for DOE or its contractors.

II. Discussion

DOE published a notice of proposed rulemaking on June 15, 2010 (75 FR 33752), with a public comment period ending on July 15, 2010. DOE received no comments.

DOE amends the DEAR as follows:

1. Section 919.201 is amended to remove "DOE" in the first sentence of paragraph (c) and adding in its place "Department of Energy (DOE)".

2. A new section 919.502 is added and the title of section 919.502-2 is revised to "Total small business set-asides" to conform to the FAR.

3. Section 919.503 is amended to revise the heading to "Setting aside a class of acquisitions for small business" and by removing "SBA" and adding in its place "Small Business Administration (SBA)" in the first sentence.

4. Section 919.7 is amended to revise the title heading to read "The Small Business Subcontracting Program" to conform to the FAR.

5. Sections 919.7007, 919.7009, 919.7010, and 919.7011 are amended to revise the punctuation in the introductory text to remove the "." and adding in its place "—".

6. Subpart 922.6 is removed and reserved. This subpart implemented detailed instructions on protests of eligibility determinations (FAR 22.608) that were deleted from the FAR on December 20, 1996, 61 FR 67410.

7. Part 923 is amended by revising the heading to read Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug Free Workplace.

8. Subpart 923.5 is amended by adding a new section 923.500 Scope of subpart. This section clarifies that for contracts performed at DOE sites, in lieu of FAR Subpart 23.5, contracting activities shall use 923.570, Workplace Substance Abuse Programs at DOE Sites.

9. Section 923.570-1 is amended by renumbering paragraph (a) and removing paragraph (b) in its entirety. By adding the new section 923.500, paragraph (b) at 923.570-1 is not needed.

10. Section 923.570-3 is amended by correcting the clause reference in paragraph (a) to 970.5223-4, Workplace Substance Abuse Programs at DOE Sites.

11. Section 923.7003 is amended by adding a new paragraph (h) to add a prescription on when to use the existing clauses at 952.223-75, Preservation of

Individual Occupational Radiation Exposure Records, in contracts containing 952.223-71, Integration of Environment, Safety, and Health into Work Planning and Execution, or 952.223-72, Radiation Protection and Nuclear Criticality.

12. Part 924 is a new part being added titled Part 924—Protection of Privacy and Freedom of Information. This new part provides the cross reference to DOE's regulations at 10 CFR part 1008, which implement the procedures prescribed at FAR 24.103.

13. Section 925.103(b)(2)(ii) is added to prescribe the DOE procedures for proposed additions to the list of nonavailable items at FAR 25.104 list.

14. Section 925.202 is renamed "Exceptions" to conform with the FAR.

15. Section 925.202(b) is redesignated "925.202(a)(2)" and "FAR 25.202(a)(3)" in the first sentence is changed to read "48 CFR 25.202(a)(2), if the cost of the materials is not expected to exceed \$100,000" to conform with the FAR and make the paragraph more concise.

16. Subpart 925.9 is redesignated to read "925.10" and the title is amended to read "Additional Foreign Acquisition Regulations" to conform to the FAR.

17. Section 925.901 is redesignated to read "925.1001 Waiver of right to examination of records."

18. Section 925.901(c) is redesignated to read "925.1001(b) Determination and findings." Additionally, the first sentence is revised to read "A determination and finding required at 48 CFR 25.1001(b) shall be forwarded to either the Director, Office of Contract Management, Office of Procurement and Assistance Management, or for the National Nuclear Security Administration (NNSA), to the Director, Office of Acquisition and Supply Management, for coordination of the Secretary's approval."

19. Section 926.7001 is amended by removing "Department of Energy" and adding in its place "Department of Energy (DOE)" in the first sentence in paragraph (a), changing the punctuation in paragraph (c) and revising paragraph (e) to read "48 CFR subpart 15.6 and subpart 915.6" to conform with the FAR.

20. Sections 926.7005, 926.7006, and 926.7102 are amended by revising the punctuation.

21. Sections 952.223-76 and 952.223-77 are amended to update the clauses to references to DOE Orders and Manuals.

22. Sections 952.226-70 and 952.226-72 are amended by revising the two clause titles of the subcontracting plan to reflect the correct name, Small Business Subcontracting Plan.

23. Sections 952.226-70, 952.226-71, 952.226-72, 952.226-73 are amended to revise the clauses' punctuation.

24. Throughout, sections were amended as follows: removing "FAR" or "DEAR" and adding "48 CFR"; removing "(FAR)", "DEAR", or "48 CFR"; revising the punctuation; and capitalizing Offeror, Contractor, Contractor's and Contracting Officer.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this rule is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the United States Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or if it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis for any regulation for which a general notice or rulemaking is required, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). This rule updates references in the DEAR that apply to public contracts and does not impose any additional requirements on small businesses. Today's rule does not alter any substantive rights or obligations and, consequently, today's rule will not have a significant cost or administrative impact on contractors, including small entities. On the basis of the foregoing, DOE certifies that this rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

D. Review Under the Paperwork Reduction Act

This final rule does not impose a collection of information requirement subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Existing burdens associated with the collection of certain contractor data under the DEAR have been cleared under OMB control number 1910-4100.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR part 1021, subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR are strictly procedural (categorical exclusion A6). Therefore, today's rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or

regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order requires agencies to have an accountability process to ensure meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires a Federal agency to perform a written assessment of costs and benefits of any rule imposing a Federal mandate with costs to State, local or tribal governments, or to the private sector, of \$100 million or more. This rule does not impose any federal mandate on state, local or tribal governments or on the private sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277), requires Federal agencies to issue a Family Policymaking Assessment for any rulemaking or policy that may affect family well-being. This rule will have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355, (May 22, 2001), requires Federal agencies to prepare and submit to Office of Information and Regulatory Affairs of the Office of Management and Budget, a Statement of Energy Effects for any

proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, the Department will report to Congress promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(3).

L. Approval by the Office of the Secretary of Energy Issuance of today's rule has been approved by the Office of the Secretary

List of Subjects in 48 CFR Parts 919, 922, 923, 924, 925, 926, and 952

Government procurement.

Issued in Washington, DC, on October 27, 2010.

Patrick M. Ferraro,
Acting Director, Office of Procurement and Assistance Management, Department of Energy.

Joseph F. Waddell,
Director, Office of Acquisition and Supply Management, National Nuclear Security Administration.

■ For the reasons set out in the preamble, the Department of Energy amends Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below.

■ 1. The authority citation for parts 919 and 926 is revised to read as follows:

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PART 919—SMALL BUSINESS PROGRAMS

919.201 [Amended]

■ 2. Section 919.201 is amended by removing “DOE” and adding in its place “Department of Energy (DOE)” in the first sentence in paragraph (c).

■ 3. Section 919.502 is added to part 919 to read as follows:

919.502 Setting aside acquisitions.

■ 4. Section 919.502–2 heading is revised to read:

919.502–2 Total small business set-asides.

* * * * *

■ 5. Section 919.503 is amended by revising the heading as set forth below and by removing “SBA” and adding in its place “Small Business Administration (SBA)” in the first sentence.

919.503 Setting aside a class of acquisitions for small business.

* * * * *

Subpart 919.7—The Small Business Subcontracting Program

■ 6. Subpart 919.7 heading is revised to read as set forth above.

919.7007 [Amended]

■ 7. Section 919.7007 is amended by removing the “:” in paragraph (a)

introductory text and adding in its place “—”.

919.7009 [Amended]

■ 8. Section 919.7009 is amended by removing the “:” in the introductory text and adding in its place “—”.

919.7010 [Amended]

■ 9. Section 919.7010 is amended by removing the “:” in the introductory text and adding in its place “—”.

919.7011 [Amended]

■ 10. Section 919.7011 is amended by removing the “:” in paragraphs (a) introductory text and (a)(1) and adding in its place “—”.

919.501, 919.705–6, 919.805–2 [Amended]

■ 11. In the table below, for each section indicated in the left column, remove the word indicated in the middle column from wherever it appears in the section, and add the word in the right column:

| Section | Remove | Add |
|------------------|------------------------------|---------------------|
| 919.501(g) | “FAR 19.501(g),” | “48 CFR 19.501,”. |
| 919.705–6 | “FAR” | “48 CFR”. |
| 919.805–2 | “the FAR” | “48 CFR chapter 1”. |
| 919.805–2 | “13 CFR 124.311(e)(1)” | “13 CFR part 124”. |

919.7008, 919.7010, 919.7011, 919.7012 [Amended]

■ 12. In the table below, for each section indicated in the left column, remove the word indicated in the right column from wherever it appears in the section:

| Section | Remove |
|------------------------|-----------|
| 919.7008(a) | “48 CFR”. |
| 919.7010(c) and (k) .. | “48 CFR”. |
| 919.7011(b) | “48 CFR”. |
| 919.7012(a) | “48 CFR”. |

■ 13. The authority citation for parts 922, 923, and 925 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

PART 922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

922.103–5 [Amended]

■ 14. Section 922.103–5 is amended by removing “FAR” in 3 places and adding in its place “48 CFR”.

Subpart 922.6—[Removed and Reserved]

■ 15. Subpart 922.6 is removed and reserved.

922.800 [Amended]

■ 16. Section 922.800 is amended by removing “(FAR)”.

PART 923—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 17. The heading for part 923 is revised to read as set forth above.

■ 18. Add a new section 923.500 to subpart 923.5 to read as follows:

923.500 Scope of subpart.

For contracts performed at DOE sites, in lieu of 48 CFR subpart 23.5, contracting activities shall use 923.570, Workplace Substance Abuse Programs at DOE Sites.

■ 19. Section 923.570–1 is revised to read as follows:

923.570–1 Applicability.

The policies, criteria, and procedure specified in 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, apply to contracts for work performed at sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, where such work—

(a) Has a value of \$25,000 or more; and

(b) Has been determined by DOE to involve—

(1) Access to or handling of classified information or special nuclear materials;

(2) High risk of danger to life, the environment, public health and safety or national security; or

(3) The transportation of hazardous materials to or from a DOE site.

■ 20. Section 923.570–3 is amended by removing “970.5223” in paragraph (a) and adding in its place “970.5223–4”.

■ 21. Section 923.7003 is amended by adding a new paragraph (h) to read as follows:

923.7003 Contract clauses.

* * * * *

(h) The contracting officer shall insert the clause at 952.223–75, Preservation of Individual Occupational Radiation

Exposure Records, in contracts containing 952.223-71, Integration of Environment, Safety, and Health into Work Planning and Execution, or 952.223-72, Radiation Protection and Nuclear Criticality.

■ 22. Add a new part 924 to Subchapter D to read as follows:

PART 924—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 924.1—Protection of Individual Privacy

Sec. 924.103 Procedures.

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

Subpart 924.1—Protection of Individual Privacy

924.103 Procedures.

(b)(2) The Department of Energy rules and regulations on Privacy Act are implemented under 10 CFR part 1008.

PART 925—FOREIGN ACQUISITION

■ 23. Section 925.103 is amended by: ■ a. Removing “FAR” in paragraph (a) and adding in its place “48 CFR”; and ■ b. Adding a new paragraph (b)(2)(ii) to read as follows:

925.103 Exceptions.

* * * * *

(b)(2)(ii) Proposals to add an article to the list of nonavailable articles at 48 CFR 25.104, with appropriate justifications, shall be submitted for approval by the Senior Procurement Executive and submission to the appropriate council.

■ 24. Section 925.202 is revised to read as follows:

925.202 Exceptions.

(a)(2) Contracting officers may make the determination required by 48 CFR 25.202(a)(2), if the cost of the materials is not expected to exceed \$100,000.

Subpart 925.9—[Removed and Reserved]

■ 25. Subpart 925.9 is removed and reserved.

■ 26. Add a new subpart 925.10 consisting of 925.1001 to part 925 to read as follows:

Subpart 925.10—Additional Foreign Acquisition Regulations

925.1001 Waiver of right to examination of records.

(b) *Determination and findings.* A determination and findings required by 48 CFR 25.1001(b) shall be forwarded to either the Director, Office of Contract

Management, Office of Procurement and Assistance Management, or for the National Nuclear Security Administration (NNSA), to the Director, Office of Acquisition and Supply Management, for coordination of the Secretary’s approval.

PART 926—OTHER SOCIOECONOMIC PROGRAMS

926.7001 [Amended]

■ 27. Section 926.7001 is amended by: ■ a. Removing “Department of Energy” and adding in its place “Department of Energy (DOE)” in the first sentence in paragraph (a); ■ b. Removing the “:” in paragraph (c) introductory text and adding in its place “—”; and ■ c. Removing “(FAR) 48 CFR 15.6 and (DEAR) 48 CFR 915.6” in paragraph (e) and adding in its place “48 CFR subpart 15.6 and subpart 915.6”.

926.7005 [Amended]

■ 28. Section 926.7005 is amended by removing the “:” in paragraph (b)(1) introductory text and adding in its place “—”.

926.7006 [Amended]

■ 29. Section 926.7006 is amended by: ■ a. Removing the “:” in paragraph (a) introductory text and adding in its place “—”; and ■ b. Removing “(FAR)” in paragraph (c) second sentence.

926.7007 [Amended]

■ 30. Section 926.7007 is amended by: ■ a. Removing “48 CFR” in paragraph (d); and ■ b. Removing “(FAR)” in paragraph (e).

926.7102 [Amended]

■ 31. Section 926.7102 is amended by removing the “,” and adding in its place “,” at the end of paragraphs (1) and (2).

926.7104 [Amended]

■ 32. Section 926.7104 is amended by removing “48 CFR (DEAR)”.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 33. The authority citation for part 952 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.* and 50 U.S.C. 2401 *et seq.*

■ 34. Section 952.223-76 clause is amended by revising the date of the clause and revising paragraphs (d)(1)(i), (d)(2)(i) and (d)(3)(i) to read as follows:

952.223-76 Conditional payment of fee or profit—safeguarding restricted data and other classified information and protection of worker safety and health.

* * * * *

CONDITIONAL PAYMENT OF FEE OR PROFIT—SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION AND PROTECTION OF WORKER SAFETY AND HEALTH (DEC 2010)

(d) * * * (1) * * * (i) Type A accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

* * * * * (2) * * * (i) Type B accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

* * * * * (3) * * * (i) Failure to implement effective corrective actions to address deficiencies/non-compliance documented through external (e.g., Federal) oversight and/or reported per DOE Manual 231.1-2, Occurrence Reporting and Processing of Operations Information, or its successor, requirements, or internal oversight of DOE Order 470.2B, Independent Oversight and Performance Assurance Program, or its successor, requirements.

* * * * * ■ 35. Section 952.223-77 is amended by revising the date of the clause and revising paragraphs (c)(1)(i), (c)(2)(i) and (c)(3)(i) to read as follows:

952.223-77 Conditional payment of fee or profit—protection of worker safety and health.

* * * * *

CONDITIONAL PAYMENT OF FEE OR PROFIT—PROTECTION OF WORKER SAFETY AND HEALTH (DEC 2010)

* * * * *

(c) * * * (1) * * * (i) Type A accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

* * * * * (2) * * * (i) Type B accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

* * * * * (3) * * * (i) Failure to implement effective corrective actions to address deficiencies/non-compliance documented through external (e.g., Federal) oversight and/or reported per DOE Manual 231.1-2, Occurrence Reporting and Processing of Operations Information, or its successor, requirements, or internal oversight of DOE Order 470.2B, Independent Oversight and Performance Assurance Program, or its successor, requirements.

* * * * *

952.226-70 [Amended]

- 36. Section 952.226-70 is amended by:
 - a. Removing the “:” in paragraphs (a) introductory text and (a)(1) and adding in its place “—”; and
 - b. Removing “Small, Small Disadvantaged and Women-Owned Subcontracting Plan” in paragraphs (c) and (d) and adding in its place “Small Business Subcontracting Plan”.

952.226-71 [Amended]

- 37. Section 952.226-71 is amended by removing the “:” in paragraphs (a) introductory text and (a)(1) and adding in its place “—”.

952.226-72 [Amended]

- 38. Section 952.226-72 is amended by:
 - a. Removing the “:” in paragraphs (a) introductory text and (a)(1) and adding in its place “—”;
 - b. Removing the “:” in paragraph (b) and adding in its place “—”;
 - c. Adding “and” in paragraph (b)(2) after the “;”;
 - d. Removing “Small, Small Disadvantaged and Women-Owned Subcontracting Plan” in paragraph (c)(2) and adding in its place “Small Business Subcontracting Plan”.

952.226-73 [Amended]

- 39. Section 952.226-73 is amended by:

- a. Removing the “:” in paragraph (a)(1) and adding in its place “—”; and
- b. Removing the “:” in paragraph (a)(1)(i) and adding in its place “;”.

952.226-74 [Amended]

- 40. Section 952.226-74 is amended by removing “48 CFR (DEAR)” before “926.7104” in the introductory text.

952.219-70, 952.225-70, 952.226-70, 952.226-72, 952.226-73, and 952.226-74 [Amended]

- 41. In the table below, for each section indicated in the left column, remove the word indicated in the middle column from wherever it appears in the section, and add the word in the right column:

| Section | Remove | Add |
|--|-----------------------|------------------------|
| 952.219-70 in the provision second sentence | “contractor’s” | “Contractor’s”. |
| 952.225-70(b) introductory text | “contractor” | “Contractor”. |
| 952.226-70(c) | “offeror” | “Offeror”. |
| 952.226-70(c) | “offeror’s” | “Offeror’s”. |
| 952.226-72(b) introductory text | “contractor” | “Contractor”. |
| 952.226-72(c)(1) | “contractor” | “Contractor”. |
| 952.226-72(c)(1) | “contracting officer” | “Contracting Officer”. |
| 952.226-72(c)(2) | “contractor’s” | “Contractor’s”. |
| 952.226-73(a) introductory text, and (b) in 2 places | “offeror” | “Offeror”. |
| 952.226-73(b) | “contracting officer” | “Contracting Officer”. |
| 952.226-74(b) at its second occurrence | “contractor” | “Contractor”. |

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205-0289-02]

RIN 0648-XZ70

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; notification of trip limit reduction in Area 1A of the Atlantic Herring Fishery.

SUMMARY: NMFS announces that, effective 1200 hours, November 8, 2010, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring), per trip or calendar day, in or from Management Area 1A (Area 1A) until January 1, 2011, except

for transiting purposes described in this document.

DATES: Effective 1200 hours, November 8, 2010, through December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, (978) 675-2179.

SUPPLEMENTARY INFORMATION: Regulations governing the herring fishery are found at 50 CFR part 648 and require annual specification of optimum yield, domestic and foreign fishing, and management area TACs. Herring specifications for 2010-2012 published on August 12, 2010 (75 FR 48874). The 2010 total TAC is 91,200 mt, allocated to the herring management areas as follows: 26,546 mt to Area 1A, 4,362 mt to Area 1B; 22,146 mt to Area 2; and 38,146 mt to Area 3.

Regulations at § 648.201(a) require NMFS to monitor catch from the herring fishery in each of the herring management areas, using dealer reports, state data, and other available information, to determine when the catch of herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to prohibit, through publication in the **Federal Register**, herring vessel permit holders from fishing for, catching, possessing,

transferring, or landing more than 2,000 lb (907.2 kg) of herring, per trip or calendar day, in or from the specified management area for the remainder of the closure period, with the exception of transiting as described below.

This action announces that NMFS has determined, based upon dealer reports and other available information, that 95 percent of the herring TAC allocated to Area 1A (25,219 mt) for the 2010 fishing year is projected to be harvested on November 8, 2010. Therefore, effective 1200 hrs local time, November 8, 2010, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring, per trip or calendar day, in or from Area 1A through December 31, 2010. Vessels transiting Area 1A with more than 2,000 lb (907.2 kg) of herring on board may do so, provided such herring was not caught in Area 1A and that all fishing gear is stowed and not available for immediate use, as required by § 648.23(b). Federally permitted dealers are also advised, effective November 8, 2010, that they may not purchase herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hrs local time, December 31, 2010.

Beginning on January 1, 2011, a new TAC in Area 1A will become effective.