

The Councils are proposing to amend FAR 31.205-6(o) to alleviate this dilemma. This amendment would provide the contractor an option of measuring accrued PRB costs using criteria based on IRC 419 rather than FAS 106, thereby permitting the contractor to fund the entire tax deductible amount without having a portion disallowed because it did not meet the FAR's current measurement criteria. The Councils note that this amendment will not change the total measured PRB costs, *i.e.*, the total measured PRB costs over the life of the PRB plan would be the same whether the contractor chose to apply the criteria in FAS 106 or IRC 419.

The Councils note that the proposed rule may result in the Government paying higher PRB costs, since under the current rule some contractors may have chosen to fund the IRC amount rather than the full FAS amount in current and future accounting periods. Absent this proposed revision, the resulting difference will be an unallowable cost. However, the Councils are unable to estimate the specific cost impact because the number of contractors who may choose to use the proposed IRC 419 measurement option is unknown. Moreover, the Councils further note that there may be a cost impact if the rule remains unchanged. For example, in lieu of funding the lower IRC amount, contractors could decide to fund the full FAS amount (and forego the tax benefit), change from accrual to pay-as-you go accounting, or terminate their PRB plans rather than fund amounts that are not tax deductible.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most small entities do not accrue PRB costs for Government contract costing purposes.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously

approved under OMB Control Number 9000-0013.

### List of Subjects in 48 CFR Part 31

Government procurement.

Dated: October 24, 2007

Al Matera,

Director, Office of Acquisition Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 31 as set forth below:

1. The authority citation for 48 CFR part 31 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Amend section 31.205-6 by revising paragraphs (o)(2)(iii)(A) and (B) to read as follows:

#### 31.205-6 Compensation for personal services.

\* \* \* \* \*

(o) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(A) Measured and assigned in accordance with—

(1) Generally accepted accounting principles. However, the portion of PRB costs attributable to the transition obligation assigned to the current year that is in excess of the amount assignable under the delayed recognition methodology described in paragraphs 112 and 113 of Financial Accounting Standards Board Statement 106 is unallowable. The transition obligation is defined in Statement 106, paragraph 110; or

(2) The costs shall—

(i) Be measured using reasonable actuarial assumptions, which may include a healthcare inflation assumption;

(ii) Be assigned to accounting periods on the basis of the average future working lives of active employees covered by the PRB plan or a 15 year period, whichever period is longer; and

(iii) Exclude Federal income taxes, whether incurred by the fund or the contractor (including those taxes associated with any increase in PRB costs), unless the fund holding the plan assets is tax-exempt under the provisions of 26 U.S.C. 501(c);

(B) Paid to an insurer or trustee to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees. The assets shall be segregated in the trust, or otherwise effectively

restricted, so that they cannot be used by the employer for other purposes; and

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 600 and 635

RIN 0648-AU89

#### Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Amendment 2 to the Consolidated Highly Migratory Species Fishery Management Plan

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

**ACTION:** Proposed rule; reopening comment period.

**SUMMARY:** NMFS is reopening the comment period to provide additional opportunity for public comment on the draft Amendment 2 to the Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its July 27, 2007, proposed rule. More specifically, NMFS is interested in receiving comments on a modification to shark dealer weigh-out slips that would facilitate compliance with measures proposed in the draft Amendment 2 to the HMS FMP, which would require fishermen to land sharks with all fins naturally attached. Additionally, over the course of the comment period, NMFS has received suggestions on ways to modify the proposed measures to minimize impacts to fishermen. NMFS is interested in receiving additional comments regarding those suggestions. Furthermore, as is required under the current regulations and was proposed to be maintained in the July 27, 2007, proposed rule, any overharvests that occur in the 2007 or 2008 commercial shark fishery will be accounted for with the implementation of final Amendment 2 to the Consolidated HMS FMP. Thus, NMFS is reopening the comment period for 30 days to gather further public comment on these issues. The draft Amendment 2 to the Consolidated HMS FMP and its proposed rule also describe a range of other management measures that could impact fishermen and dealers for HMS fisheries.

**DATES:** The public comment period for receiving written comments on the July 27, 2007 (72 FR 41392), proposed rule

and the draft Amendment 2 to the Consolidated HMS FMP is reopened. Comments must be received by 5 p.m. on December 17, 2007.

**ADDRESSES:** You may submit comments, identified by 0648-AU89, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>
- Email to [ShkA2@noaa.gov](mailto:ShkA2@noaa.gov).
- Fax: 301-713-1917, Attn: Michael Clark
- Mail: Attn: Michael Clark, HMS Management Division (SF1), 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comment on Amendment 2."

Instructions: All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, PowerPoint, or Adobe PDF file formats only.

Copies of the draft Amendment 2 to the Consolidated HMS FMP and other relevant documents are available on the HMS Management Division's website at [www.nmfs.noaa.gov/sfa/hms](http://www.nmfs.noaa.gov/sfa/hms) or by contacting the HMS Management Division at 301-713-2347.

**FOR FURTHER INFORMATION CONTACT:** For more information concerning the draft Amendment 2 to the Consolidated HMS FMP and its proposed rule, contact: Michael Clark at 301-713-2347 or fax 301-713-1917; or Jackie Wilson at 240-338-3936 or fax 404-806-9188.

**SUPPLEMENTARY INFORMATION:** The Atlantic HMS fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The Consolidated HMS FMP, finalized in 2006, and amendments to that FMP are implemented by regulations at 50 CFR part 635.

On July 27, 2007 (72 FR 41392), NMFS published a proposed rule that requested comments on the draft Amendment 2 to the Consolidated HMS FMP, and scheduled 10 public hearings throughout August and September 2007 to receive comments from fishery participants and other members of the

public regarding the proposed rule and draft Amendment 2 to the Consolidated HMS FMP. On October 3, 2007 (72 FR 56330), the comment period was extended from October 15, 2007, to November 2, 2007.

At the October 2007 HMS Advisory Panel (AP) meeting, AP members asked a number of questions regarding the proposed measures that would require fishermen to land sharks with all fins naturally attached. Specifically, AP members asked how this requirement would relate to the Shark Finning Prohibition Act and its implementing regulations. In order to provide evidence that sharks were actually landed with their fins attached, NMFS is considering modifying shark dealer weigh-out slips so that dealers can document when they receive sharks landed with fins naturally attached. NMFS recently released a document that discusses this issue entitled "Clarification of the Proposed Rule Regarding Landing Sharks with the Fins Attached and the Shark Finning Prohibition Act," which is available on the HMS website (see **ADDRESSES**) and was distributed to the HMS listserve.

Throughout the comment period, NMFS has received thousands of comments on the full range of analyzed alternatives, including the status of the stocks, proposed quotas, proposed shark landing requirements, and the proposed list of allowable shark species for recreational anglers. NMFS has also received suggestions on modifying the proposed measures to minimize impacts on fishermen. Specifically, one group of commenters, including the Gulf of Mexico Fishery Management Council and the Atlantic States Marine Fisheries Commission, suggest implementing two regions (i.e., a Gulf of Mexico region and an Atlantic region). In general, these comments were made in light of the blacktip shark status in the Gulf of Mexico and the large overharvests in the Gulf of Mexico during 2007. NMFS has not fully analyzed the implications of the two regions versus the proposed one region or the status quo alternative of three regions. Nonetheless, NMFS welcomes additional comments on this suggestion.

Finally, NMFS is clarifying that any overharvests in 2007 or 2008 would be accounted for in final measures implementing Amendment 2 to the Consolidated HMS FMP, consistent with both the current and proposed regulations. NMFS continues to accept comments on any of the proposed measures and on those measures that comments were specifically requested, including the proposed list of species that recreational anglers would be

allowed to land, the amount of time proposed to provide notice of closures, and the 80 percent trigger for closing commercial shark fisheries.

In order to provide additional opportunities for public comment, NMFS is reopening the public comment period on the proposed rule and draft Amendment 2 to the Consolidated HMS FMP until 5 p.m., December 17, 2007.

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

Dated: November 9, 2007.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No.070717342-7504-01]

RIN 0648-AV42

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fishery; Proposed 2008-2010 Fishing Quotas for Atlantic Surfclams and Ocean Quahogs

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes quotas for the Atlantic surfclam and ocean quahog fisheries for 2008, 2009, and 2010. Regulations governing these fisheries require NMFS to publish the proposed quota specifications for the 2008-2010 fishing years and seek public comment on such proposed measures. The intent of this action is to propose allowable harvest levels of Atlantic surfclams and ocean quahogs from the Exclusive Economic Zone.

**DATES:** Comments must be received no later than 5 p.m., eastern standard time, on December 17, 2007.

**ADDRESSES:** Copies of supporting documents, including the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic