

DATES: Comments on the proposed rule should be submitted in writing at the address shown below on or before March 13, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Mr. Eric R. Mens, PDUSD(A&T)DP/DAR, IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 94-D007 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Mens, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed DFARS rule supplements an interim DFARS rule which the Director of Defense Procurement issued on December 29, 1994, to implement Section 818 of the National Defense Authorization Act for Fiscal year 1995 (Public Law 103-337). The interim DFARS rule imposed restrictions on the allowability of restructuring costs associated with a business combination undertaken by a defense contractor. While the interim rule provided policies and procedures for allowing appropriate contractor costs which involve external restructuring activities, it did not address the allowability of costs associated with internal restructuring activities.

This proposed DFARS rule states that contractor costs associated with internal restructuring activities are unallowable unless allowable in accordance with FAR Part 31 and DFARS Part 231; an audit of projected restructuring costs and savings is performed; and the ACO determines that overall reduced costs should result for DoD and negotiates an advance agreement with the contractor. Unlike restructuring costs associated with external restructuring activities, certification by the Under Secretary of Defense (Acquisition & Technology) concerning projected future savings for DoD is not required for reimbursement of the costs associated with internal restructuring activities.

B. Regulatory Flexibility Act

The proposed rule is not expected 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 are not subject to the contract cost principles in FAR Part 31 or DFARS Part 231. The contract cost principles normally apply where contract award exceeds \$500,000 and the price is based on certified cost

or pricing data. This proposed DFARS rule applies only to defense contractors which incur restructuring costs coincident to internal restructuring activities and are subject to the contract cost principles. Most contracts awarded to small entities are awarded on a competitive, fixed-price basis. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small business entities and other interested parties. Comments from small entities concerning the affected DFARS Subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94-D007 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the proposed rule does not impose any additional reporting or recordkeeping requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 231

Government Procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR Part 231 be amended as follows:

1. The authority citation for 48 CFR Part 231 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 231.205-70 is amended by adding a new paragraph (c) (4) to read as follows:

231.205-70 Restructuring costs.

* * * * *

(c) Limitations on cost allowability.

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(4) Restructuring costs associated with internal restructuring activities shall not be allowed unless—

(i) Such costs are allowable in accordance with FAR Part 31 and DFARS Part 231;

(ii) An audit of projected restructuring costs and restructuring savings is performed; and

(iii) The cognizant ACO reviews the audit report and the projected costs and projected savings, determines that overall reduced costs should result for

DoD, and negotiates an advance agreement with the contractor.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106-003-5003-01; I.D. 121994A]

RIN 0648-AH01

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule and proposed catch sharing plan.

SUMMARY: NMFS proposes to approve and implement a 1995 Catch Sharing Plan (Plan) in accordance with the Northern Pacific Halibut Act of 1982 (Halibut Act) to allocate the total allowable catch (TAC) of Pacific halibut among treaty Indian, non-Indian commercial, and non-Indian sport fisheries off the coasts of Washington, Oregon, and California (International Pacific Halibut Commission (IPHC) Statistical Area 2A). This proposed Plan is based on the recommendations of the Pacific Fishery Management Council (Council). This action is necessary to allocate the harvestable resources among the states in a manner that responds to the dynamics and growth in a sport fishery and growth in a tribal fishery. The action is intended to allocate harvestable resources among user groups under the provisions of the Halibut Act to carry out the objectives of the IPHC and the Council.

DATES: Comments on the Plan must be received on or before January 19, 1995; comments on the remainder of the proposed rule must be received on or before February 20, 1995.

ADDRESSES: Send comments to William Stelle, Jr., Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206-526-6140.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act of 1982 at 16 U.S.C. 773c provides that the Secretary of Commerce (Secretary) shall have general responsibility to carry out