

(ii) Provider or supplier not subject to additional requirements. For a provider or supplier that is not subject to additional requirements, the effective date is the date of the provider's or supplier's initial request for participation if on that date the provider or supplier met all Federal requirements.

(2) Special rule: Retroactive effective date. If a provider or supplier meets the requirements of paragraphs (d)(1) and (d)(1)(i) or (d)(1)(ii) of this section, the effective date may be retroactive for up to one year to encompass dates on which the provider or supplier furnished, to a Medicare beneficiary, covered services for which it has not been paid.

4. Section 489.53 is amended to revise the heading of paragraph (b) and paragraphs (c)(1) and (c)(2) to read as follows:

§ 489.53 Termination by HCFA.

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(b) Termination of agreements with certain hospitals. * * *

(c) Notice of termination—(1) Timing: Basic rule. Except as provided in paragraph (c)(2) of this section, HCFA gives the provider notice of termination at least 15 days before the effective date of termination of the provider agreement.

(2) Timing exceptions: Immediate jeopardy situations—(i) Hospital with emergency department. If HCFA finds that a hospital with an emergency department is in violation of § 489.24, paragraphs (a) through (e), and HCFA determines that the violation poses immediate jeopardy to the health or safety of individuals who present themselves to the hospital for emergency services, HCFA—

(A) Gives the hospital a preliminary notice indicating that its provider agreement will be terminated in 23 days if it does not correct the identified deficiencies or refute the finding; and

(B) Gives a final notice of termination, and concurrent notice to the public, at least 2, but not more than 4, days before the effective date of termination of the provider agreement.

(ii) Skilled nursing facilities (SNFs). For an SNF with deficiencies that pose immediate jeopardy to the health or safety of residents, HCFA gives notice at least 2 days before the effective date of termination of the provider agreement.

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PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM AND FOR DETERMINATIONS THAT AFFECT THE PARTICIPATION OF CERTAIN ICFs/MR AND CERTAIN NFs IN THE MEDICAID PROGRAM

E. Part 498 is amended as set forth below.

1. The authority citation for part 498 continues to read as follows:

Authority: Secs. 1102, and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 498.3 is amended to revise paragraph (a), republish the introductory text of paragraph (b) and add a paragraph (b)(14), revise the introductory text of paragraph (d) and add new paragraphs (d)(14) and (d)(15), to read as follows:

§ 498.3 Scope and applicability.

(a) Scope. This part sets forth procedures for reviewing initial determinations that HCFA makes with respect to the matters specified in paragraph (b) of this section, and that the OIG makes with respect to the matters specified in paragraph (c) of this section. It also specifies, in paragraph (d) of this section, administrative actions that are not subject to appeal under this part.

(b) Initial determinations by HCFA. HCFA makes initial determinations with respect to the following matters:

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(14) The effective date of a Medicare provider agreement or supplier approval.

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(d) Administrative actions that are not initial determinations. Administrative actions that are not initial determination (and therefore not subject to appeal under this part) include but are not limited to the following:

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(14) The choice of alternative sanction or remedy to be imposed on a provider or supplier.

(15) A decision by the State survey agency as to when to conduct an initial survey of a prospective provider or supplier.

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F. Technical correction.

§ 489.1 [Amended]

In § 489.11(c), the following changes are made:

a. At the end of paragraph (c)(1), the word "and" is added.

b. At the end of paragraph (c)(2), ";" and "" is removed and a period is inserted in its place.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance; and Program No. 93.778, Medical Assistance.)

Dated: September 20, 1996.

Bruce C. Vladeck, Administrator, Health Care Financing Administration.

Dated: December 27, 1996.

Donna E. Shalala, Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[Docket No. 960730210-7193-02; I.D. 050294D]

RIN 0648-XX65

Endangered and Threatened Species: Listing of Several Evolutionary Significant Units (ESUs) of West Coast Steelhead

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

ACTION: Final rule.

SUMMARY: On August 9, 1996, NMFS completed a comprehensive status review of west coast steelhead (Oncorhynchus mykiss, or O. mykiss) populations in Washington, Oregon, Idaho, and California, and identified 15 Evolutionarily Significant Units (ESUs) within this range. NMFS is now issuing a final rule to list two ESUs as endangered and three ESUs as threatened under the Endangered Species Act (ESA). The endangered steelhead ESUs are located in California (Southern California) and Washington (Upper Columbia River). The threatened steelhead ESUs are located in California (Central California Coast and South-Central California Coast) and Idaho, Washington, and Oregon (Snake River Basin). For the endangered ESUs, section 9(a) prohibitions will be effective 60 days from the publication of this final rule. For the threatened ESUs, NMFS will issue shortly protective regulations under section 4(d) of the ESA, which will apply section 9(a) prohibitions with certain exceptions.

NMFS has examined the relationship between hatchery and natural populations of steelhead in these ESUs, and has assessed whether any hatchery