

■ Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.10 is amended by redesignating both paragraphs (a)(8)(ii)(A) and paragraph (a)(8)(ii)(B) as paragraphs (a)(8)(ii)(A) through (a)(8)(ii)(C), by revising paragraph (b) introductory text, and by republishing paragraph (c) to read as follows:

§ 199.10 Appeals and hearing procedures.

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(b) *Reconsideration.* Any party to the initial determination made by the CHAMPUS contractor, or a CHAMPUS peer review organization may request reconsideration.

* * * * *

(c) *Formal review.* Except as explained in this paragraph, any party to an initial determination made by OCHAMPUS, or a reconsideration determination made by the CHAMPUS contractor, may request a formal review by OCHAMPUS if the party is dissatisfied with the initial or reconsideration determination unless the initial or reconsideration determination is final under paragraph (b)(5) of this section; involves the sanctioning of a provider by the exclusion, suspension or termination of authorized provider status; involves a written decision issued pursuant to § 199.9(h)(1)(iv)(A) regarding the temporary suspension of claims processing; or involves a reconsideration determination by a CHAMPUS peer review organization. A hearing, but not a formal review level or appeal, may be available to a party to an initial determination involving the sanctioning of a provider or to a party to a written decision involving a temporary suspension of claims processing. A beneficiary (or an authorized representative of a beneficiary), but not a provider (except as provided in § 199.15), may request a hearing, but not a formal review, of a reconsideration determination made by a CHAMPUS peer review organization.

(1) *Requesting a formal review.* (i) *Written request required.* The request must be in writing, shall state the specific matter in dispute, shall include copies of the written determination (notice of reconsideration determination of OCHAMPUS initial determination) being appealed, and shall include any additional information or documents not submitted previously.

(ii) *Where to file.* The request shall be submitted to the Chief, Office of Appeals and Hearings, TRICARE Management Activity, 16401 East Centredtech Parkway, Aurora, Colorado 80011-9066.

(iii) *Allowed time to file.* The request shall be mailed within 60 days after the date of the notice of the reconsideration determination or OCHAMPUS initial determination being appealed.

(iv) *Official filing date.* A request for a formal review shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmark, it shall be deemed filed on the date received by OCHAMPUS.

(2) *The formal review process.* The purpose of the formal review is to determine whether the initial determination or reconsideration determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested or at the time of the initial determination, reconsideration, or formal review decision involving a provider request for approval as an authorized CHAMPUS provider. The formal review is performed by the Chief, Office of Appeals and Hearings, OCHAMPUS, or a designee, and is a thorough review of the case. The formal review determination shall be based on the information, upon which the initial determination and/or reconsideration determination was based, and any additional information the appealing party may submit or OCHAMPUS may obtain.

(3) *Timeliness of formal review determination.* The Chief, Office of Appeals and Hearings, OCHAMPUS, or a designee normally shall issue the formal review determination no later than 90 days from the date of receipt of the request for formal review by OCHAMPUS.

(4) *Notice of formal review determination.* The Chief, Office of Appeals and Hearings, OCHAMPUS, or a designee shall issue a written notice of the formal review determination to the appealing party at his or her last known address. The notice of the formal review determination must contain the following elements:

(i) A statement of the issue or issues under appeal.

(ii) The provisions of law, regulation, policies, and guidelines that apply to the issue or issues under appeal.

(iii) A discussion of the original and additional information that is relevant to the issue or issues under appeal.

(iv) Whether the formal review upholds the prior determination or determinations or reverses the prior

determination or determinations in whole or in part and the rationale for the action.

(v) A statement of the right to request a hearing in any case when the formal review determination is less than fully favorable, the issue is appealable, and the amount in dispute is \$300 or more.

(5) *Effect of formal review determination.* The formal review determination is final if one or more of the following exist:

(i) The issue is not appealable. (See paragraph (a)(6) of this section.)

(ii) The amount in dispute is less than \$300. (See paragraph (a)(7) of this section.)

(iii) Appeal rights have been offered but a request for hearing is not received by OCHAMPUS within 60 days of the date of the notice of the formal review determination.

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Dated: February 5, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[WT Docket No. 00-230; DA 04-75]

Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets

AGENCY: Federal Communications Commission.

ACTION: Final rule; delay of effective date.

SUMMARY: The effective date of various rules adopted in the Secondary Markets Proceeding, WT Docket No. 00-230, that was otherwise scheduled to become effective at an earlier date, has been delayed because this rule has been classified as a major rule subject to congressional review.

DATES: The effective date of the rules published on November 25, 2003 at 68 FR 66252, except for the amendments to §§ 1.913(a), 1.913(a)(3), 1.2002(d), 1.2003, 1.9003, 1.9020(e), 1.9030(e) and 1.9035(e), was delayed from January 26, 2004 to February 2, 2004.

FOR FURTHER INFORMATION CONTACT: Katherine M. Harris, Mobility Division, at 202-418-0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice*, DA 04-75, released on January

15, 2004. The full text of the *Public Notice* is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Federal Communications Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at <http://wireless.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365 or at bmillin@fcc.gov.

1. On October 6, 2003, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking*, 68 FR 66252 (November 25, 2003) in WT Docket No. 00-230, In the Matter of Markets (Secondary Markets Report and Order). A summary of the *Secondary Markets Report and Order* portion of the *Further Notice of Proposed Rulemaking* prescribed that, except for §§ 1.913(a), 1.913(a)(3), 1.948(j), 1.2002(d), 1.2003, 1.9003, 1.9020(e), 1.9030(e), and 1.9035(e) of the Commission's rules, the various rules adopted in the *Secondary Markets Report and Order* were to be effective January 26, 2004.

2. In order to comply with the requirements of the Congressional Review Act under the Contract with America Advancement Act of 1996, *see* 5 U.S.C. 801(a)(3), the effective date of the rules that otherwise currently were to become effective on January 26, 2004 was delayed to February 2, 2004. The effective dates of §§ 1.913(a), 1.913(a)(3), 1.948(j), 1.2002(d), 1.2003, 1.9003, 1.9020(e), 1.9030(e), and 1.9035(e) of the Commission's rules are not affected by this extension of the effective date for all other rules adopted in the *Secondary Markets Report and Order*.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 27

Communications common carriers, Radio.

Federal Communications Commission.

Katherine M. Harris,
Deputy Division Chief.

[FR Doc. 04-2640 Filed 2-11-04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 031017264-4034-03; I.D. 100103C]

RIN 0648-AR48

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Referendum Procedures for a Potential Gulf of Mexico Red Snapper Individual Fishing Quota Program

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

ACTION: Final rule; statement of procedure.

SUMMARY: NMFS issues this final rule to provide information about the schedule, procedures, and eligibility requirements for participating in referendums to determine whether an individual fishing quota (IFQ) program for the Gulf of Mexico commercial red snapper fishery should be prepared and, if so, whether it should subsequently be submitted to the Secretary of Commerce (Secretary) for review. The intended effect of this final rule is to implement the referendums consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This final rule is effective February 12, 2004.

ADDRESSES: Copies of supporting documentation for this final rule, which includes a regulatory impact review (RIR) and a Regulatory Flexibility Act Analysis (RFAA), are available from NMFS, Southeast Regional Office, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to Robert Sadler, Southeast Region, NMFS, at the above address, and to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727-570-5305, fax: 727-570-5583, e-mail: phil.steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico is

managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

Background

During the early to mid-1990s, the Council began development of an IFQ program for the commercial red snapper fishery in the Gulf of Mexico. Development of this program involved extensive interaction with the fishing industry, other stakeholders, and the public through numerous workshops, public hearings, and Council meetings. The program was approved by NMFS and was scheduled for implementation in 1996. However, Congressional action in late 1995 prohibited implementation of any new IFQ program in any U.S. fishery, including the Gulf of Mexico red snapper fishery, before October 2000. Subsequent Congressional action, passage of HR5666, incorporated this prohibition and related provisions into the 1996 amendments to the Magnuson-Stevens Act and ultimately extended the prohibition until October 1, 2002. However, HR5666 also provided authority to the Council to develop a profile for any fishery under its jurisdiction that may be considered for a quota management system.

Under section 407(c) of the Magnuson-Stevens Act, the Council is authorized to prepare and submit a plan amendment and regulations to implement an IFQ program for the commercial red snapper fishery, but only if certain conditions are met. First, the preparation of such a plan amendment and regulations must be approved in a referendum. If the result of the referendum is approval, the Council would be responsible for preparing any such plan amendment and regulations through the normal Council and rulemaking processes that would involve extensive opportunities for industry and public review and input at various Council meetings, public hearings, and during public comment periods on the plan amendment and regulations. Second, the submission of the plan amendment and regulations to the Secretary for review and approval or disapproval must be approved in a subsequent referendum. Both referendums must be conducted in accordance with Section 407(c)(2). Section 407(c)(2) also specifies that, "Prior to each referendum, the Secretary, in consultation with the Council, shall: (A) identify and notify all such persons