Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by adding Channel 280A and removing Channel 244A at Arthur.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–29872 Filed 11–30–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2628; MM Docket No. 00–195; RM–9973, RM–10193, RM–10194]

Radio Broadcasting Services; Clinton and Oliver Springs, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 65 FR 64924 (October 31, 2000), that proposed the allotment of Channel 291A to Clinton, Tennessee, this document grants a counterproposal to allot Channel 291A to Oliver Springs, Tennessee, and provides Oliver Springs with its first local competitive aural transmission service. The initial petition for rulemaking filed by Clyde Scott, Jr., D.B.A. EME Communications, that proposed allotting Channel 291A to Clinton as a fourth local aural transmission service, was denied. The coordinates for Channel 291A at Oliver Springs are 36–05–12 North Latitude and 84–21–25 West Longitude.

DATES: Effective December 24, 2001.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00–195, adopted October 31, 2001, and released November 9, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202 863–2893. facsimile 202 863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1.The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by adding Channel 291A at Oliver Springs.

Federal Communications Commission.

John A. Karousos

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–29871 Filed 11–30–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4515; Notice 4]

RIN 2127–AI57

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petitions for reconsideration; final rule.

SUMMARY: This document responds to petitions for reconsideration of the Federal motor vehicle safety standard that addresses occupant crash safety issues exclusive to electric vehicles: electrolyte spillage and electrical shock protection. We are making clarifying amendments regarding the application of the standard, and regarding the test conditions for battery state of charge and electrical isolation. We are denying a petition to specify an alternative performance requirement for electrical isolation.

DATES: The final rule is effective December 1, 2001.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Charles Hott, Office of Safety Performance Standards, NHTSA (202–366–0427). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: On September 27, 2000, the agency published a final rule establishing Federal Motor Vehicle Safety Standard No. 305 ''Electric-powered vehicles: Electrolyte spillage and electrical shock protection'' (65 FR 57980), effective October 1, 2001. On February 8, 2001, the effective date was delayed to December 1, 2001 (66 FR 9533).

Standard No. 305 applies to all electric vehicles (EVs) (except those covered by FMVSS No. 500 ''Low-Speed Vehicles'') that have a propulsion power source greater than 48 volts and a gross vehicle weight rating (GVWR) of 4536 kg (10,000 lbs) or less. The final rule was based on the Society of Automotive Engineers (SAE) J1766 ''Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing.'' The final rule contains provisions similar to those in the SAE recommended practice, with only those changes that were necessary to accommodate the regulatory text.

Standard No. 305 establishes performance criteria that must be met when an EV is subjected to the frontal impact test procedures of Standard No. 208 (including the 30-degree oblique impact test), the side impact test procedures of Standard No. 214, and the rear impact test procedure of Standard No. 301. No spillage of electrolyte into the occupant compartment is permitted. Electrolyte spillage outside the passenger compartment is limited to 5 liters for the 30-minute period after vehicle motion ceases, and throughout the post-crash rollover test. Battery modules must stay restrained in the vehicle without any component intruding into the occupant compartment. Electrical isolation between the chassis and high voltage system must be at least 500 ohms per nominal volt as determined by the SAE test procedure.

Petitions for Reconsideration

We received two petitions for reconsideration of Standard No. 305, one from General Motors Corporation (GM) and another from DaimlerChrysler Corporation (DC).

1. Petition Pertaining to S3, Application

GM believes that a change in the regulatory text of S3 Application is

needed to clarify the application of the standard. GM argued that the discussion in the preamble of the September 27, 2000 final rule indicates that the reference to ''48V'' in S3 is intended to mean ''48V nominal'' voltage rating. It noted that the preamble repeatedly refers to ''nominal voltage'' in explaining the agency's selection of 48V as the application breakpoint. GM explained that the practical necessity of this change stems in part from the emergence of 42 volt nominal voltage as the likely industry standard for automotive battery systems. Just as today's automotive batteries have a nominal voltage rating of 12V and an operating voltage that can be close to 14V, the emerging 42V nominal systems may have peak operating voltages that slightly exceed the 48V breakpoint specified in Standard No. 305. GM argued that the standard should be amended to clarify that Standard No. 305 is not intended to apply to these 42V battery systems, including 42V battery systems used to supplement propulsion power.

GM is correct that the 48 volts referred to in S3 is intended to be nominal voltage. As we stated in the preamble to the final rule, this breakpoint voltage was determined from SAE J1673, ''High Voltage Automotive Wiring Assembly Design;'' SAE J1797, ''Packaging of Electric Vehicle Battery Modules;'' and SAE Information Report 52232, ''Vehicle System Voltage—Initial Recommendations.'' All refer to nominal voltages. We agree with GM that the application section of Standard No. 305 should be modified to clearly state that the voltage specified is nominal voltage. Accordingly, we are granting GM's petition and amending S3 to add the word ''nominal'' after the words ''48 volts.''

2. Petition Pertaining to S7.1, Battery State of Charge

Paragraph S7.1 of Standard No. 305 specifies the state of charge of the batteries at the time of compliance testing. S7.1 specifies that the state-of-charge of the propulsion battery pack is at the maximum level recommended by the manufacturer, or at a level not less than 95 percent of the maximum capacity of the battery pack if the manufacturer does not provide a written recommendation. GM commented that, for certain vehicles, neither of these options is appropriate. GM asserted that hybrid EVs are being designed so that the propulsion battery pack is recharged exclusively by another onboard energy source, instead of by off-vehicle sources as surmised by the options in S7.1. Thus, there are no provisions to connect these hybrid EVs to an electrical charging port. GM stated that since vehicle owners will not have any means to charge directly the propulsion battery pack, there is no reason for the manufacturer to recommend a charging procedure or state-of-charge level in the operator's manual. GM further stated that the propulsion battery pack in these hybrid EVs is likely to be designed to operate within a state-of-charge range that is below 95 percent of the maximum capacity of the battery pack in order to maximize battery life.

We agree with GM's comment. Hybrid EVs already produced by Toyota and Honda do not contain any provision for charging the battery pack externally, and currently operate at a capacity of less than 95 percent. Accordingly, we are granting GM's petition, and amending S7.1 to specify that, in the case of a vehicle whose batteries are rechargeable only by an energy source on the vehicle, the battery state of charge for testing is ''any state of charge within the normal operating voltage, as defined by the vehicle manufacturer.''

3. Petition Pertaining to S7.6.1, Electrical Isolation Test Procedure

Paragraph S7.6.1 of Standard No. 305 specifies the procedures for the electrical isolation test. S7.6.1 specifies that, if a vehicle ''utilizes an automatic disconnect between the propulsion battery system and the traction system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.'' DC currently designs an automatic disconnect that is located entirely inside the battery container, and therefore, inaccessible to any measurement of electrical isolation without removal of the battery. DC stated that the intent of this design is to better confine the voltage to the inside of the battery compartment in an impact. DC argued that, in order to avoid being design restrictive, the measurement for electrical isolation should be made using a method that parallels SAE J1766.

GM provided supplemental information to support DC's petition, arguing that the present provision for measuring the voltage from the battery side of any contactors is overly design restrictive. GM reminded us that, in its response to the Notice of Proposed Rulemaking (NPRM) on Standard No. 305, it recommended that the agency clarify the measurement location in the regulatory text, and that Standard No. 305 contains the language GM suggested. GM now agrees with DC that Standard No. 305 should allow for the isolation measurement to be made from the traction side of the automatic disconnect in designs in which the disconnect is located inside the battery pack. GM stated that, like DC, it also has designs with an automatic disconnect that is located entirely inside the battery container, and that the intent of its design is also to better confine the voltage to the inside of the battery compartment after an impact.

GM related that it and other vehicle manufacturers have been marketing inherently safe battery-powered EVs since 1996. With respect to electrical safety, GM has designed its EV1 and S10 EVs in accordance with SAE J1766. The design strategy used has been to isolate the propulsion battery high voltage from the accessible areas of the vehicle if the system is compromised (e.g., loss of electric isolation, loss of interlock pilot line, loss of ground reference, etc.). According to GM, this approach of containing high voltage to the vehicle battery pack has been demonstrated in validation testing, and has been successful in the field.

GM argued that, by requiring the electrical isolation measurements to be made on the battery side of the contactors following the impact tests, it is probable that electrically-safe EVs would not comply with Standard No. 305 as presently written. In GM's view, it is possible that a side impact test could result in contact between the vehicle structure and one of the battery terminals. The automatic disconnect would immediately detect this condition and open the high voltage contactors (which are located inside the battery pack), removing all high voltage from the accessible areas of the vehicle. Although the high voltage is now referenced to the vehicle chassis ground, there is no accessibility to high voltage, and therefore no electric shock hazard.

Nevertheless, the present language of Standard No. 305 would prohibit this design. GM stated that its EVs' high voltage bus is designed to be electrically isolated from the vehicle chassis ground, primarily to add a level of fault tolerance to the electrical safety system (a ''bus,'' in electrical terms, is a location in an electrical system used to distribute electrical voltage/power). By itself, a loss of electrical isolation between a point on the high voltage bus and vehicle chassis ground is not an electrical safety hazard. If the loss of electrical isolation occurs, the high-voltage bus is purposely referenced to vehicle chassis ground. GM further stated that, with a chassis-referenced high-voltage bus, it would take at least one failure (access to the other side of the high voltage) to become an electric

safety hazard. With an isolated high voltage bus, which is the EV original equipment manufacturers' design standard in the U.S., at least two failures (access to two separate areas of the high voltage bus) are needed to create a possible electric safety hazard.

GM further argued that, in the event that electrical isolation is lost during a vehicle crash, containing the high voltage to the inaccessible battery pack has been demonstrated to be an effective method for ensuring EV safety.

GM believes that to ensure that there is no loss of electrical isolation during a vehicle impact, sufficient crush space must be provided. In frontal collisions, with batteries that are located away from the accessible underhood area of the vehicle, there is typically sufficient crush space to reduce chassis structural impingement into the battery module area. However, in side or rear collisions, depending on the location of the battery modules, there may be less crush space available. GM argued that, in smaller, lower mass vehicles, the problem of maintaining adequate crush space for preventing loss of electrical isolation, while meeting the manufacturer's driving range goals, becomes increasingly difficult. In its opinion, the present language of Standard No. 305 would require a reduction in the amount of energy storage on the vehicle, thus reducing its available range. GM related that most of the automotive manufacturers are considering the smaller, ''city cars'' as part of their EV product portfolio. If the electrical isolation measurements are made on the battery side of the contactors, there would be a reduction in range performance to achieve compliance with Standard No. 305. This reduction in range would essentially render ''city cars'' not viable.

To address these concerns, GM recommended that S5.3 and S7.6.1 be revised to read as follows:

S5.3 Electrical Isolation. Electrical isolation between the battery system and the vehicle electricity-conducting structure after each test must be not less than 500 ohms/volt. Alternatively, if the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system that is physically contained within the battery pack system, the measured voltage after each test must be less than or equal to 30 volts.

and

S7.6.1 Prior to any barrier test, the propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the ''on'' (traction (propulsion) system energized) position. If the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system that is physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the traction side of the automatic disconnect to the vehicle chassis. If the vehicle utilizes an automatic disconnect that is not physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

GM argued that the proposed modification of S7.6.1 to specify electrical isolation measurement from the traction side of the battery will meet the need of motor vehicle safety by safeguarding against electric shock hazards in EVs and would still be consistent with SAE J1766. In addition, it would be consistent with the test protocol that the agency validated in May 1998 in the 35 mph frontal crash test of an EV1.

DC's design with the automatic disconnect located inside the battery pack is similar to the design tested on GM's EV1. We agree with DC's and GM's assertions that this requirement, based on GM's comments to the NPRM, may now be overly design restrictive. In fact, NHTSA's own testing of EVs to date has measured electrical isolation from the traction side of the contactors. We believe that SAE J1766 is somewhat vague as to where the measurement should be taken. We agree with GM that a loss of electrical isolation between a point on the high voltage bus and the vehicle chassis ground is not an electrical safety hazard. Further, we do not believe that there would be any detriment to safety from taking the measurements on the traction side of the contactors, provided that the contactors are located inside the battery pack of the vehicle. We note that the same is not true if the contactors are located outside the battery pack. In that instance, there is an increased risk of someone coming in contact with high voltage caused by chaffed wires leading to the contactors if the isolation switch is located outside the battery pack. In that configuration, the measurement should be taken from the battery side of the contactors.

We are granting DC's and GM's petitions, and are amending S7.6.1 to add at the end of the existing text:

If the vehicle utilizes an automatic disconnect that is not physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

As noted earlier, GM also recommended changing S5.3, the electrical isolation requirement, to state that, for EVs which have an automatic disconnect located entirely in the battery pack, a voltage measurement of more than 30 volts would be required to perform the electrical isolation test. GM did not provide any rationale for why it sought this change. The GM recommendation would specify a minimum voltage above which the electrical isolation test procedure would be performed. We do not believe that specifying a minimum voltage to perform the electrical isolation test will add any safety benefit that is not already provided for in the standard. The standard now requires electrical isolation of 500 ohms/volt. This establishes an exposure of 0.002 ampere, which is at the threshold of sensation and well below a level of physiological concern. The GM recommendation would not change this exposure. In fact, if there is any voltage, the standard requires that the isolation test be performed. The GM recommendation would unnecessarily restrict the voltage over which the electrical isolation test could be conducted. Further, the GM recommendation would add requirements to the standard that need to be the subject of public notice and comment before they can be adopted. For the reasons discussed above, we see no justification at this time for requiring a change in S5.3 to specify a minimum voltage to perform the isolation test. Accordingly, we are denying this aspect of GM's petition for reconsideration of Standard No. 305.

Standard No. 305 is effective December 1, 2001. We have concluded that the minor amendments to Standard No. 305 effected by this notice should also be effective December 1, 2001, rather than 180 days after issuance of this notice. It is in the public interest to make the amendments effective on that date because they will facilitate compliance by manufacturers of EVs.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This document was not reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. In promulgating the final rule in September 2000, we discussed at some length the impact of that final rule, and concluded that the impacts of that rule were so minimal as not to warrant preparation of a full regulatory evaluation. Today's final rule merely clarifies that earlier final rule.

Regulatory Flexibility Act

We have also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* I certify that this rulemaking action does not have a significant economic impact upon a substantial number of small entities.

The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). This final rule merely clarifies the original final rule. When we analyzed the original final rule for the purposes of the Regulatory Flexibility Act, we concluded that the overall economic impact was not considered to be significant, and, accordingly, no regulatory flexibility analysis was prepared.

Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of 'regulatory policies that have federalism implications.' '' The E.O. defines this phrase to include regulations ''that have substantial direct effects 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.''

This final rule, which regulates the manufacture of certain motor vehicles, will not have 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, as specified in E.O. 13132. As noted above, it merely clarifies an earlier final rule.

National Environmental Policy Act

We have analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action will not have a significant effect upon the environment as it does not affect the present method of manufacturing electric vehicles.

Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103(b)(1), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million effect, we have not prepared an Unfunded Mandates assessment.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (the Act) requires agencies to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding our vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If we do not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation for not using such standards.

As we have explained in the preamble, this final rule is based upon SAE J1766 FEB96 ''Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing,'' and is substantially similar to it in its specifications for prohibition of electrolyte spillage in front, side, and rear impacts, and battery retention during such impacts, and electrical isolation.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 CFR 1.50.

2. In § 571.305, paragraphs S3, S7.1, and S7.6.1 are revised to read as follows:

§ 571.305 Standard No. 305; Electric-powered vehicles: electrolyte spillage and electrical shock protection.

* * * * *

S3 *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg or less, that use more than 48 nominal volts of electricity as propulsion power and whose speed attainable in 1.6 km on a paved level surface is more than 40 km/h.

* * * * *

S7.1 *Battery state of charge.* The battery system is at the level specified in the following paragraph (a), (b), or (c), as appropriate:

(a) At the maximum state of charge recommended by the manufacturer, as stated in the vehicle operator's manual or on a label that is permanently affixed to the vehicle;

(b) If the manufacturer has made no recommendation, at a state of charge of not less than 95 percent of the maximum capacity of the battery system; or

(c) If the batteries are rechargeable only by an energy source on the vehicle, at any state of charge within the normal operating voltage, as defined by the vehicle manufacturer.

* * * * *

S7.6.1 Prior to any barrier impact test, the propulsion battery system is connected to the vehicle's propulsion system, and the vehicle ignition is in the ''on'' (traction (propulsion) system energized) position. If the vehicle utilizes an automatic disconnect between the propulsion battery system and the traction system that is physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the traction side of the automatic disconnect to the vehicle chassis. If the vehicle utilizes an automatic disconnect that is not physically contained within the battery pack system, the electrical isolation measurement after the impact is made from the battery side of the automatic disconnect to the vehicle chassis.

* * * * *

Issued on: November 27, 2001.

Jeffrey W. Runge,

Administrator.

[FR Doc. 01–29901 Filed 11–30–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 112701B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Reopening of the Commercial Red Snapper Component

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

ACTION: Announcement of a reopening of a fishery.

SUMMARY: NMFS announces that the closed commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico will reopen. Reopening of the fishery is necessary because the 2001 annual quota for red snapper has not been reached.

DATES: The commercial fishery for red snapper will reopen at noon, local time, December 1, 2001, and will close at noon, local time, December 3, 2001. The fishery will remain closed until noon, local time, on February 1, 2002.

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 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 and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 4.65 million lb (2.11 million kg) for the current fishing year, January 1 through December 31, 2001. The red snapper commercial fishing season is split into two time periods, the first commencing at noon on February 1 with two-thirds of the annual quota (3.10 million lb (1.41 million kg)) available, and the second commencing at noon on October 1 with the remainder of the annual quota available. During the commercial season, the red snapper commercial fishery opens at noon on the first of each month and closes at noon on the 10th of each month, until the applicable commercial quotas are reached. The fall season was originally scheduled to be closed at noon, local time, on November 10, 2001, when NMFS projected the fall quota would be reached. However, inclement weather during the November 1-10 opening limited fishing activities for red snapper in some areas of the Gulf and, therefore, the fall quota was not reached.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 4.65 million lb (2.11 million kg) for red snapper will be reached when the fishery closes at noon on December 3, 2001. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until noon, local time, on February 1, 2002. The operator of a vessel with a valid reef fish permit having red snapper aboard must have landed and bartered, traded, or sold such red snapper prior to noon, local time, December 3, 2001.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of red snapper in or from the EEZ in the Gulf of Mexico, and the sale or purchase of red snapper taken from the EEZ is prohibited. In addition, the bag and possession limits for red snapper apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, without regard to where such red snapper were harvested. However, the bag and possession limits for red snapper apply only when the recreational quota for red snapper has not been reached and the bag and possession limit has not been reduced to zero. The prohibition on sale or purchase does not apply to sale or purchase of red snapper that were harvested, landed ashore, and sold prior to noon, local time, December 3, 2001, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Dated: November 28, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–29879 Filed 11–28–01; 2:21 pm]

BILLING CODE 3510–22–S