

227, and 303(r), the *Order* in CG Docket No. 02–278 is adopted and that the *Report and Order*, FCC 03–153, is modified as set forth herein.

The Fax Ban Coalition's Petition for Extension of Delay is granted to the extent discussed herein.

The effective date for the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given their express permission to receive unsolicited facsimile advertisements and the requirement that the sender of a facsimile advertisement first obtain the recipient's express permission in writing, as codified at 47 CFR 64.1200(a)(3)(i), is July 1, 2005, and that the *Order* is effective October 28, 2004.

The Commission will not send a copy of the *Order* pursuant to Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the adopted rules are rules of particular applicability.

#### List of Subjects in 47 CFR Part 64

Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–24125 Filed 10–27–04; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 04–3236, MM Docket No. 01–334, RM–10343]

#### Digital Television Broadcast Service; Green Bay, WI

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of CBS Broadcasting Inc., substitutes DTV channel 39c for DTV channel 56 at Green Bay, Wisconsin. See 66 FR 66867, December 27, 2001. DTV channel 39c can be allotted to Green Bay, Wisconsin, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 44–20–01 N. and 87–58–56 W. with a power of 1000, HAAT of 364 meters and with a DTV service population of 997 thousand. Since the community of Green Bay is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment. With this action, this proceeding is terminated.

**DATES:** Effective December 6, 2004.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01–334, adopted October 12, 2004, and released October 20, 2004. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 301–816–2820, facsimile 301–816–0169, or via e-mail [joshir@erols.com](mailto:joshir@erols.com).

This document does not contain [new or modified] information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this [Report & Order etc.] in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

#### PART 73—[AMENDED]

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

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

#### § 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under Wisconsin, is amended by removing DTV channel 56 and adding DTV channel 39c at Green Bay.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 04–24123 Filed 10–27–04; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Parts 221 and 235

[Docket No. FRA–2004–17529; Notice No. 2]

RIN 2130–AB61

#### Inflation Adjustment of the Maximum and Minimum Civil Monetary Penalties for Violation of a Railroad Safety Law or Regulation; Corrections

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** On May 28, 2004, FRA published a final rule, which increased the minimum and aggravated maximum civil monetary penalties it applies when assessing a civil penalty for a violation of railroad safety statutes and regulations under its authority. In preparing that final rule for publication, six minor typographical errors were made. These amendments correct the typographical errors published in the final rule.

**DATES:** The corrections to the final rule are effective on October 28, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Melissa L. Porter, Trial Attorney, Federal Railroad Administration, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20003, (202) 493–6034, [Melissa.Porter@fra.dot.gov](mailto:Melissa.Porter@fra.dot.gov).

**SUPPLEMENTARY INFORMATION:** The errors included in the final rule published on May 28, 2004 (69 FR 30591) consisted of twice listing incorrect appendices to be amended (appendix A to part 221 instead of appendix C; and appendix A to part 241 instead of appendix B), inserting the incorrect monetary amount in one amendment (to part 235), and listing the incorrect section to be amended in (§ 231.11 instead of § 233.11) another amendment. All of the typographical errors were obvious from their context. FRA is correcting these minor errors so that the final rule clearly conforms to FRA's intent.

#### List of Subjects in 49 CFR Parts 221 and 235

Railroad safety, Penalties.

#### The Final Rule

■ In accordance with the foregoing, 49 CFR parts 221, 233, 235, and 241, chapter II, subtitle B of title 49, Code of Federal Regulations are corrected by making the following correcting amendments:

**PART 221—[AMENDED]**

■ 1. The authority citation for part 221 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

**Appendix C to Part 221—[Amended]**

■ 2. Footnote 1 to appendix C of part 221 is amended by removing the numerical amount "\$20,000" and adding in its place the numerical amount "\$27,000".

**PART 235—[AMENDED]**

■ 3. The authority citation for part 235 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

**Appendix A to Part 235—[Amended]**

■ 4. Footnote 1 to appendix A of part 235 is amended by removing the numerical amount "\$20,000" and adding in its place the numerical amount "\$27,000".

Issued in Washington, DC, on October 22, 2004.

**Betty Monro,**

*Acting Administrator, Federal Railroad Administration.*

[FR Doc. 04-24147 Filed 10-27-04; 8:45 am]

BILLING CODE 4910-06-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[I.D. 101904A]

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Recreational Red Snapper Component**

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

**ACTION:** Closure of recreational fishery for red snapper.

**SUMMARY:** NMFS closes the recreational fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the annual recreational quota of 4.47 million lb (2.03 million kg) will be reached on October 31, 2004. This closure is necessary to protect the red snapper resource.

**DATES:** Closure is effective 12:01 a.m., local time, November 1, 2004, until

12:01 a.m., local time, on April 21, 2005.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, telephone 727-570-5784, 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 (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the recreational quota for red snapper in the Gulf of Mexico at 4.47 million lb (2.03 million kg) for the current fishing year, January 1 through December 31, 2004.

Under 50 CFR 622.43(a), NMFS is required to close the recreational 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 recreational quota of 4.47 million lb (2.03 million kg) for red snapper will be reached by October 31, 2004. Accordingly, the recreational fishery in the EEZ in the Gulf of Mexico for red snapper will remain closed until 12:01 a.m., local time, on April 21, 2005.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b)(1)(iii) and (b)(2) respectively, are zero. Also, in the Gulf of Mexico, on board a vessel for which a commercial permit for Gulf reef fish has been issued, the bag and possession limits for red snapper are zero, without regard to where such red snapper were harvested.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C 553(b)(3)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity to comment is contrary to the public interest because it requires time, thus delaying closure of

the fishery and increasing the chance of exceeding the quota. Similarly, there is a need to implement these measures in a timely fashion to prevent an overrun of the recreational quota of Gulf red snapper, given the capacity of the fishing fleet to harvest the quota quickly. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. Therefore, NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days.

Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is waived.

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

**Authority:** 16 U.S.C 1801 *et seq.*

Dated: October 21, 2004.

**Dean Swanson,**

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

[FR Doc. 04-24105 Filed 10-25-04; 4:26 pm]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[Docket No. 040804226-4278-02; I.D. 071904C]

RIN 0648-AR50

**50 CFR Part 648****Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 5**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework Adjustment 5 (Framework 5) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) that would allow for specification of annual Total Allowable Landings (TAL) for multiple years. The intent is to provide flexibility and efficiency to the management of the species. In addition, this final rule includes several administrative modifications to the existing regulations for clarification purposes.

**DATES:** This rule is effective November 29, 2004.

**ADDRESSES:** Copies of Framework 5, the Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA),