

This final rule is considered not "economically significant" as defined under Executive Order 12866 and, therefore, is not subject to Executive Order 13045.

*J. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, the EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 13084 requires the EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires the EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's amendments to the rule do not significantly or uniquely affect the communities of Indian tribal governments. The amendments issued today extend the compliance date for continuous web cleaning machines, and do not add any new requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Continuous web cleaning machines, Halogenated solvent cleaning machines, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 4, 1998.

**Carol M. Browner,**  
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 63—[AMENDED]**

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

**Subpart T—National Emission Standards for Halogenated Solvent Cleaning**

2. Section 63.460 is amended by revising paragraphs (c) and (d), and adding paragraph (g) to read as follows:

**§ 63.460 Applicability and designation of source.**

\* \* \* \* \*

(c) Except as provided in paragraph (g) of this section, each solvent cleaning machine subject to this subpart that commences construction or reconstruction after November 29, 1993 shall achieve compliance with the provisions of this subpart immediately upon start-up or by December 2, 1994, whichever is later.

(d) Except as provided in paragraph (g) of this section, each solvent cleaning machine subject to this subpart that commenced construction or reconstruction on or before November 29, 1993 shall achieve compliance with the provisions of this subpart no later than December 2, 1997.

\* \* \* \* \*

(g) Each continuous web cleaning machine subject to this subpart shall achieve compliance with the provisions of this subpart no later than December 2, 1999.

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**§ 63.470 [Removed and reserved].**

3. Part 63 is amended by removing and reserving section 63.470.

[FR Doc. 98-32991 Filed 12-10-98; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 72 and 73**

[FRL-6201-3]

RIN 2060-AH60

**Revisions to the Permits and Sulfur Dioxide Allowance System Regulations Under Title IV of the Clean Air Act: Allowance Transfer Deadline and Signature Requirements**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Title IV of the Clean Air Act (the Act), as amended by the Clean Air Act Amendments of 1990, authorizes

the Environmental Protection Agency (EPA or Agency) to establish the Acid Rain Program. The program sets emissions limitations to reduce acidic particles and deposition and their serious, adverse effects on natural resources, ecosystems, materials, visibility, and public health.

The allowance trading component of the Acid Rain Program allows utilities to achieve sulfur dioxide emissions reductions in the most cost-effective way. Allowances are traded among utilities and recorded in EPA's Allowance Tracking System for use in determining compliance at the end of each year. The Acid Rain Program's permitting and allowance trading, and emissions monitoring requirements are set forth in the "core" rules initially promulgated on January 11, 1993. This action amends certain provisions in the permitting and allowance trading rules for the purpose of improving the operation of the Allowance Tracking System and the allowance market, while still preserving the Act's environmental goals. The entities affected by this change fall under Standard Industrial Code 49 (Electric, Gas and Sanitary Services).

**EFFECTIVE DATE:** January 11, 1999.

**ADDRESSES:** *Docket.* Docket No. A-98-15, containing supporting information used in developing the proposed rule, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room 1500, 1st Floor, 401 M Street, S.W., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Donna Deneen, Permits and Allowance Market Branch, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460 (202-564-9089).

**SUPPLEMENTARY INFORMATION:** This preamble contains all of the responses to public comments received on the revisions finalized in today's action. There is no additional background information document.

The information in this preamble is organized as follows:

- I. Affected Entities
- II. Background
- III. Public Participation
- IV. Summary of Major Comments and Responses
  - A. Allowance Transfer Deadline
  - B. Signature Requirement for Transfer Requests
  - C. Impacts of Revisions on Acid Rain Permits
- V. Administrative Requirements
  - A. Docket

- B. Executive Order 12866
- C. Executive Order 12875: Enhancing Intergovernmental Partnerships
- D. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
- E. Unfunded Mandates Act
- F. Paperwork Reduction Act
- G. Regulatory Flexibility
- H. Applicability of Executive Order 13045: Children's Health Protection
- I. National Technology Transfer and Advancement Act
- J. Congressional Review Act

### I. Affected Entities

Entities potentially regulated by this action are fossil-fuel fired boilers or turbines that serve generators producing electricity, generate steam, or cogenerate electricity and steam. Regulated categories and entities include:

Category	Examples of regulated entities
Industry SIC 49—Electric, Gas and Sanitary Services.	Electric service providers, boilers from a wide range of industries.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 72.6 and § 74.2 and the exemptions in §§ 72.7, 72.8, and 72.14 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

### II. Background

On January 11, 1993, EPA promulgated the "core" regulations that implemented the major provisions of title IV of the Clean Air Act (CAA or the Act), as amended on November 15, 1990, including the Permits rule (40 CFR part 72) and the Sulfur Dioxide Allowance System rule (40 CFR part 73). Since promulgation, these rules have been applied to three compliance years, 1995, 1996, and 1997, for which affected units were required to meet the annual allowance holding requirements established by the rules. During this time, the Agency gained experience in implementing the requirements and also discovered ways that the operation of the Allowance Tracking System and allowance market could be improved.

On August 3, 1998, EPA proposed changes to certain provisions in 40 CFR parts 72 and 73 to make these improvements. (63 FR 41358 (1998)). These proposed changes were related to the allowance transfer deadline, compliance determinations, and the signature requirements for allowance transfer requests.<sup>1</sup>

The Agency received seven comment letters on the proposed revisions. All of the commenters strongly supported the revision to the allowance transfer deadline and the clarification of the signature requirements for allowance transfer requests. Today's action, therefore, finalizes these two revisions as proposed. EPA is not taking action at this time on the third proposed revision, which would allow deduction of allowances from other unit accounts after the allowance transfer deadline and on which EPA received adverse comment.

### III. Public Participation

Revisions to 40 CFR parts 72 and 73 were proposed on August 3, 1998. (63 FR 41358). The notice invited public comments, and copies of the proposed rule were made available to interested parties.

EPA offered to hold a public hearing upon request, but no such request was made and no hearing was held. EPA did, however, receive a request to extend the comment period 15 days from September 2, 1998 to September 17, 1998. A notice granting the request was published on August 24, 1998. 63 FR 45037 (1998).

### IV. Summary of Major Comments and Responses

EPA received seven comment letters regarding the proposed changes to the regulations. All of the commenters were representatives of utility companies or groups of utility companies. A copy of each comment letter received is included in the rulemaking docket.

All of the commenters supported the 30 day extension to the allowance transfer deadline and the clarification of the signature requirements on transfer forms. A summary of the comments received on these two revisions and the Agency responses are set forth in the following two sections.

#### A. Allowance Transfer Deadline

The "allowance transfer deadline" is the last day on which allowance transfers may be submitted to EPA for recordation in a compliance subaccount

for use in meeting a unit's sulfur dioxide (SO<sub>2</sub>) emissions limitation requirements for the year. 40 CFR 72.2 (definition of "allowance transfer deadline"). EPA proposed to extend the allowance transfer deadline from the current date of January 30 to March 1 (or February 29 in any leap year) to reflect the Agency's experience in operating the Allowance Tracking System and the technological advances that have been made regarding the submission of continuous emissions monitoring system (CEMS) data.

**Comments:** All seven commenters strongly supported the proposed extension of the allowance transfer deadline to March 1 (or February 29 in any leap year). Five of the commenters reiterated the arguments EPA made in the proposal for extending the date, while the other two commenters simply acknowledged support of the change.

**Response:** Because EPA received only supportive comments on its proposed change to the allowance transfer deadline, EPA is extending the allowance transfer deadline to the proposed date of March 1 (or February 29 in any leap year) in today's final rule. The reasons for extending the deadline are more fully explained in the preamble to the proposed rule. 63 FR 41358.

#### B. Signature Requirement for Transfer Requests

Under the core rules, § 73.50(b)(1) required authorized account representatives seeking recordation of an allowance transfer to submit a request for the transfer that contains, among other things, signatures of the authorized account representatives for both the transferor and the transferee accounts. In its August 3, 1998 proposed rulemaking, the Agency proposed to add § 73.50(b)(2) to clarify that the authorized account representative for a transferee account can meet the signature requirement by submitting, along with or in advance of a transfer request from the authorized account representative for any transferor account, a signed statement identifying the accounts into which any transfer of allowances is authorized, on or after the date of EPA's receipt of the statement. Receipt by EPA of the signed statement satisfies the transferee signature requirement for all contemporaneous or subsequent transfers into accounts identified in the statement. The specific language for the statement was set forth in proposed § 73.50(b)(2).

**Comments:** All seven commenters strongly supported the clarification of the signature requirements for transfer forms. One commenter noted that the

<sup>1</sup> In addition, the proposal revised § 73.34(c)(4) to eliminate the reference to the direct sales provisions, which were previously removed from part 73. 61 FR 28761, 28762 (1996).

Agency's proposal would simplify and streamline the allowance transfer process. The same commenter and one other stated that advance approval of allowance transfers would make more feasible the electronic submission of electronic transfers. The other five commenters simply acknowledged support of the revision.

**Response:** Because EPA received only supportive comments on its proposed revision to the signature requirements for allowance transfer requests, EPA is finalizing this rule revision (with the correction of a minor citation error in § 73.50(b)(2)(i)). The reasons for this revision are more fully explained in the preamble to the proposed rule. 63 FR 41363.

#### *C. Impacts of Revisions on Acid Rain Permits*

Today's revisions are designed so that the contents of existing acid rain permits and the State regulations required to issue acid rain permits do not have to be changed in order for the revisions to become effective. With the exception of a change in the definition of "allowance transfer deadline," all of today's revisions are made in 40 CFR part 73. As explained in the preamble to the proposed rule (63 FR 41364), it is unnecessary for State permitting authorities to revise the acid rain permits they have issued or regulations they have adopted to reflect today's final revisions to 40 CFR part 73.

Similarly, the revisions can go into effect without State permitting authorities revising acid rain permits or regulations to reflect the revised definition of "allowance transfer deadline" in 40 CFR part 72. Even if a State issued an acid rain permit before today's revision of the allowance transfer deadline becomes effective, the Agency will apply the revised deadline to the units covered by the permit in determining end-of-year compliance for all calendar years beginning with 1998. See 63 FR 41364.

While EPA will apply the revised allowance transfer deadline in § 72.2, State permitting authorities should revise their own regulations to reflect the new deadline after it is finalized. This will avoid any potential confusion on the part of regulated entities and the public as to when EPA determines end-of-year compliance.

#### **IV. Administrative Requirements**

##### *A. Docket*

A docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a

dynamic file since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify and locate documents readily so that they can effectively participate in the rulemaking process. Along with the preambles of the proposed and final rule (which include EPA responses to significant comments), the contents of the docket will serve as the record in case of judicial review to the extent provided in section 307(d)(7)(A) of the Act.

##### *B. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that today's rule is not a "significant regulatory action."

##### *C. Executive Order 12875: Enhancing Intergovernmental Partnerships*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or unless EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments,

and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a new mandate on State, local or tribal governments. It modifies an existing mandate in a way that imposes no additional duties and no additional costs on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

##### *D. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or unless EPA consults with those governments. If EPA complies by consulting, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely effect, or impose any substantial direct compliance costs on, the communities of Indian tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

##### *E. Unfunded Mandates Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local,

and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, before promulgating a proposed or final rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 205 generally requires that, before promulgating a rule for which a written statement must be prepared, EPA must identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator explains why that alternative was not adopted. Finally, section 203 requires that, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must have developed a small government agency plan. The plan must provide for notifying any potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because today's rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

Today's final revisions to parts 72 and 73 will potentially reduce the burden on regulated entities by streamlining the allowance transfer process and extending the allowance transfer deadline. The revisions will not otherwise have any significant impact on State, local, and tribal governments.

#### F. Paperwork Reduction Act

Today's final revisions to parts 72 and 73 will not impose any new information collection burden subject to the

Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). The extension of the allowance transfer deadline does not result in any new information requirements and the revisions made to the signature requirement simply clarify EPA's existing practice of accepting the signature of the authorized account representative for a transferee account in advance of an allowance transfer form. OMB has previously approved the relevant information collection requirements contained in parts 72 and 73 under the provisions of the Paperwork Reduction Act and has assigned OMB control number 2060-0258. 58 FR 3590, 3650 (1993).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the previously approved ICR may be obtained from the Director, Regulatory Information Division; EPA; 401 M St. SW (mail code 2137); Washington, DC 20460 or by calling (202) 564-2740. Include the ICR and/or OMB number in any correspondence.

#### G. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

As discussed above, today's final revisions will reduce the burden on regulated entities by streamlining and adding flexibility to the regulations. For these reasons, EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

#### H. Applicability of Executive Order 13045: Children's Health Protection

Executive Order 13045 (62 FR 19885, April 29, 1997) applies to any rule if EPA determines (1) that the rule is economically significant as defined under Executive Order 12866, and (2) that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

This final action is not subject to Executive Order 13045, because the action is not economically significant as defined by Executive Order 12866 and does not address an environmental health or safety risk having a disproportionate effect on children.

#### I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d)(15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, or business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's final rule does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the NTTAA.

#### J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective 30 days after publication in the **Federal Register**.

#### List of Subjects in 40 CFR Parts 72 and 73

Environmental protection, Acid rain, Administrative practice and procedure, Air pollution control, Compliance plans, Electric utilities, Penalties, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: December 4, 1998.

**Carol M. Browner,**  
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

#### PART 72—[AMENDED]

1. The authority citation for part 72 continues to read as follows:

**Authority:** 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 72.2 is amended by removing from the definition of "Allowance transfer deadline" the words "January 30 or, if January 30" and adding, in their place, the words "March 1 (or February 29 in any leap year) or, if such day."

#### PART 73—[AMENDED]

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

**Authority:** 42 U.S.C. 7601 and 7651, *et seq.*

4. Section 73.34 is amended by removing from paragraph (c)(4) the words "or direct sale pursuant to subpart E of this part".

5. Section 73.50 is amended by redesignating paragraph (b)(2) as (b)(3) and adding new paragraph (b)(2) as follows:

#### § 73.50 Scope and submission of transfers.

\* \* \* \* \*

(b) \* \* \*

(2)(i) The authorized account representative for the transferee account can meet the requirements in paragraphs (b)(1)(iii) and (iv) of this section by submitting, in a format prescribed by the Administrator, a statement signed by the authorized account representative and identifying each account into which any transfer of allowances, submitted on or after the date on which the Administrator receives such statement, is authorized. Such authorization shall be binding on

any authorized account representative for such account and shall apply to all transfers into the account that are submitted on or after such date of receipt, unless and until the Administrator receives a statement in a format prescribed by the Administrator and signed by the authorized account representative retracting the authorization for the account.

(ii) The statement under paragraph (b)(2)(i) of this section shall include the following: "By this signature, I authorize any transfer of allowances into each Allowance Tracking System account listed herein, except that I do not waive any remedies under 40 CFR part 73, or any other remedies under State or federal law, to obtain correction of any erroneous transfers into such accounts. This authorization shall be binding on any authorized account representative for such account unless and until a statement signed by the authorized account representative retracting this authorization for the account is received by the Administrator."

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[FR Doc. 98-32990 Filed 12-10-98; 8:45 am]  
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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 648

[Docket No. 971015246-7293-02; I.D. 120798A]

##### Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Virginia

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

**ACTION:** Commercial quota harvest.

**SUMMARY:** NMFS announces that the summer flounder commercial quota available to the Commonwealth of Virginia has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Virginia for the remainder of calendar year 1998, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the Commonwealth of Virginia that the quota has been harvested and to advise vessel permit holders and dealer permit

holders that no commercial quota is available for landing summer flounder in Virginia.

**DATES:** Effective 0001 hours, December 9, 1998, through December 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

#### SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The initial total commercial quota for summer flounder for the 1998 calendar year was set equal to 11,105,636 lb (5,037,432 kg) (62 FR 66304, December 18, 1997). The percent allocated to vessels landing summer flounder in Virginia is 21.31676 percent, or 2,368,569 lb (1,074,365 kg).

Section 648.100(e)(4) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In the calendar year 1997, a total of 2,305,985 lb (1,045,977 kg) were landed in Virginia, creating a 11,192 lb (5,077 kg) overage that was deducted from the amount allocated for landings in the state during 1998 (63 FR 23227, April 28, 1998). The resulting quota for Virginia is 2,357,377 lb (1,069,288 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of Virginia has attained its quota for 1998.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, December 9, 1998, further landings of summer flounder in Virginia by vessels holding commercial Federal