

event/demonstration permit applications can be obtained and where completed applications shall be submitted, whether by mail or in person. The relocation of the Division of Park Programs to a nearby park location does not substantially change the function of the special event/demonstration application process. It does not create additional or change permit requirements in the Code of Federal Regulations. This technical amendment also conforms to the long-standing administrative practice that applications directed to the Regional Director go to the Division of Park Programs. Further, this technical amendment updates the name of the NPS permit program office. The Office of Public Affairs no longer administers the NCR special event/demonstration program; that responsibility was transferred to the Division of Park Programs. Although under the management of NAMA, the Division of Park Programs continues to manage this permit program for nine NCR parks.

*No Public Comment Period/ Immediate Effective Date:* The Department of the Interior has determined that the public notice and comment provisions of the Administrative Procedures Act (APA) 5 U.S.C. 553(b), do not apply to this rule because of a good cause exception under 5 U.S.C. 553(b)(3)(B). This exception allows an agency to suspend the notice-and-comment requirement when an agency finds for good cause that those requirements are impracticable, unnecessary, and contrary to the public interest. This rule changes the address for submitting applications; it makes no other substantive changes. Failure to immediately publish this change would be impracticable and would otherwise lead to confusion as to where applications should be submitted, which would undermine the ability of persons and groups to engage in permitted demonstrations and special events.

For these reasons public comment is unnecessary and good cause exists for immediately publishing the final rule. For the same reasons, we have determined that there is good cause for making the final rule effective immediately, as allowed under the APA 5 U.S.C. 553(d), and 318 DM 4.7B(1)(i).

#### List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the reasons stated in the preamble, the National Park Service amends 36 CFR part 7 as follows:

### PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority for part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, DC Code 10–137 (2001) and DC Code 50–2201.07 (2001).

■ 2. In § 7.96, in paragraph (g) (3), revise the first two sentences to read as follows:

#### § 7.96 National Capital Region.

\* \* \* \* \*

(g) \* \* \*

(3) *Permit applications.* Permit applications may be obtained at the Division of Park Programs, National Mall and Memorial Parks, 900 Ohio Drive SW., Washington, DC 20024. Applicants shall submit permit applications in writing on a form provided by the National Park Service so as to be received by the Regional Director at the Division of Park Programs at least 48 hours in advance of any proposed demonstration or special event. \* \* \*

\* \* \* \* \*

Dated: March 14, 2011.

**Will Shafroth,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2011–7146 Filed 3–25–11; 8:45 am]

**BILLING CODE 4312–JK–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 49

[EPA–R09–OAR–2007–0296, FRL–9259–9]

#### Approval and Promulgation of Gila River Indian Community's Tribal Implementation Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a Tribal implementation plan (TIP) submitted by the Gila River Indian Community (GRIC or Tribe) on February 21, 2007, as supplemented and amended on July 11, 2007, June 22, 2009, and July 17, 2010, and as described in our August 12, 2010 proposal. The TIP includes general and emergency authorities, ambient air quality standards, permitting requirements for minor sources of air pollution, enforcement authorities, procedures for administrative appeals and judicial review in Tribal court, requirements for area sources of fugitive

dust and fugitive particulate matter, general prohibitory rules, and source category-specific emission limitations and standards. These provisions establish a base TIP that is suitable for the GRIC's reservation and regulatory capacities and that meets all applicable minimum requirements of the Clean Air Act (CAA or Act) and EPA regulations. The effect of this action is to make the approved portions of the GRIC TIP federally enforceable under the CAA and to further protect air quality within the exterior boundaries of the GRIC reservation.

**DATES:** This final rule is effective April 27, 2011. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 27, 2011.

**ADDRESSES:** EPA has established a docket for this action under EPA–R09–OAR–2007–0296. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports) and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Air Planning Office, Environmental Protection Agency, Region 9 Office, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 947–4192 or [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov). **SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we”, “us”, and “our” refer to EPA.

#### Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 2011. Under CAA section 307(d)(7)(b), only an objection to this final action that was raised with reasonable specificity during the public comment period can be raised during judicial review. This section also authorizes the convening of a proceeding for reconsideration in specified circumstances. Filing a petition requesting that the Administrator reconsider this final rule does not affect the finality of this action

for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

### I. Summary of the Proposed Action

The GRIC reservation is located in south-central Arizona, adjacent to the Phoenix Metropolitan Area, in Pinal and Maricopa Counties. On August 12, 2010 (75 FR 48880), EPA proposed to approve a TIP submitted by the GRIC on February 21, 2007, as supplemented and amended on July 11, 2007, June 22, 2009, and July 17, 2010, and as described in the proposal. The TIP includes general and emergency authorities, ambient air quality standards, permitting requirements for minor sources of air pollution, enforcement authorities, procedures for administrative appeals and judicial review in Tribal court, requirements for area sources of fugitive dust and fugitive particulate matter, general prohibitory rules, and source category-specific emission limitations and standards.

The TIP is one of four regulatory programs that comprise the GRIC's Air Quality Management Plan (AQMP).<sup>1</sup> We proposed to approve only those portions of the GRIC AQMP that constitute a TIP containing severable elements of an implementation plan under section 110 of the CAA, as discussed in this notice and in our August 12, 2010 proposal. These severable plan elements establish a base TIP that is suitable for the GRIC's reservation and regulatory capacities and that meets all applicable minimum requirements of the CAA, the Tribal Authority Rule in 40 CFR part 49 (TAR), and other applicable CAA regulations.

For a more detailed description of the TIP, our evaluation of the TIP and supplemental information, and our rationale for our proposed action, please see the August 12, 2010 proposed rule and related Technical Support Document, both of which can be found in the docket for today's action.

### II. EPA's Response to Comments

Our August 12, 2010 proposed rule provided for a 30-day comment period, which ended on September 13, 2010. We received two public comment letters expressing only support for our

proposed action. The two letters of support that we received can be found in the docket for today's action.

### III. Final Action

Under CAA sections 110(o), 110(k)(3) and 301(d), EPA is fully approving the TIP submitted by the GRIC DEQ on February 21, 2007, as supplemented and amended on July 11, 2007, June 22, 2009, and July 17, 2010, and as described in our August 12, 2010 proposal (75 FR 48880). For the reasons set forth in this document and in the August 12, 2010 proposed rule, we conclude that the TIP meets the applicable requirements of CAA section 110, EPA's implementing regulations, CAA section 301(d) and the TAR in 40 CFR part 49. The TIP includes the following severable elements of an implementation plan under section 110 of the CAA:

- General authorities that satisfy the requirement in CAA section 110(a)(2)(j) to meet applicable requirements of CAA section 121 (relating to consultation) and section 127 (relating to public notification), and that also satisfy the requirement in CAA section 110(a)(2)(M) to provide for consultation and participation by local political subdivisions affected by the plan;
- Emergency powers that satisfy the requirement in CAA section 110(a)(2)(G) to provide for authority comparable to the emergency powers in section 303 of the Act;
- Procedural requirements for preparation, adoption, submission to EPA, and revision of the TIP that satisfy the applicable requirements of CAA section 110(a)(2) and 40 CFR part 51, subpart F;
- Air quality standards and measurement methods that are consistent with the National Ambient Air Quality Standards in 40 CFR 50.4 through 50.8 and 50.10 through 50.12, as effective in October 2006;
- Legally enforceable procedures to regulate the construction, modification, and operation of "non-title V sources" ("minor sources") that establish a base program suitable to the GRIC's reservation and that satisfy the minimum requirements of CAA section 110(a)(2)(C) and 40 CFR 51.160 through 51.164;
- Requirements and procedures for enforcement consistent with CAA section 110(a)(2)(C) that provide necessary assurances that the Tribe will have adequate authority under Tribal law to carry out the TIP, as required by CAA section 110(a)(2)(E)(i);
- Requirements and procedures for administrative appeals, final administrative decisions, and judicial

review of final administrative decisions that establish adequate procedures for review of the Director's decisions under the TIP and that satisfy the applicable requirements of CAA sections 110(a)(2)(C) and 110(a)(2)(E)(i); and

- Area source emission limits, general prohibitory rules, and source category-specific emission limitations that satisfy EPA's enforceability requirements under CAA section 110(a)(2)(A).

EPA is approving these provisions as elements of a base TIP under CAA section 110 that is suitable to the GRIC's reservation and regulatory capacities.

We are not acting today on those elements of the GRIC AQMP that address requirements of CAA title V or any other program under the Act. We intend to take separate action on other CAA programs submitted by the GRIC DEQ, as appropriate.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action approves laws of an eligible Indian tribe as meeting Federal requirements and imposes no additional requirements beyond those imposed by Tribal law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). Because this rule approves pre-existing requirements under Tribal law and does not impose any additional enforceable duty beyond that required by Tribal law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." EPA has concluded that this rule will have tribal implications in that it will have substantial direct effects on the GRIC. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. EPA is

<sup>1</sup> The other three AQMP programs implement the New Source Performance Standards (NSPS) under CAA 111; the National Emission Standards for Hazardous Air Pollutants (NESHAP) under CAA 112; and title V operating permit requirements. We are not acting today on these other elements of the GRIC AQMP.

approving the GRIC's TIP at the request of the Tribe. Tribal law will not be preempted as the GRIC has already incorporated the TIP into Tribal Law on December 13, 2006. The Tribe has applied for, and fully supports, the approval of the TIP. This approval makes the TIP federally enforceable.

EPA worked and consulted with officials of the GRIC early in the process of developing these regulations to permit them to have meaningful and timely input into their development. In order to administer an approved TIP, tribes must be determined eligible (40 CFR part 49) for Treatment as State (TAS) for the purpose of administering a TIP. During the TAS eligibility process, the Tribe and EPA worked together to ensure that the appropriate information was submitted to EPA. GRIC and EPA also worked together throughout the process of development and Tribal adoption of the TIP. The Tribe and EPA also entered into a criminal enforcement MOA.

This action does not have Federalism implications because it does not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action approves Tribal rules implementing a TIP over areas within the exterior boundaries of the Gila River Indian Community's reservation, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This action does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994). This action also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing TIP submissions, EPA's role is to approve an eligible tribe's submission, provided that it meets the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the tribe to use voluntary consensus standards (VCS),

EPA has no authority to disapprove a TIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a TIP submission, to use VCS in place of a TIP provision that otherwise satisfies the requirements of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 action 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Indians, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 19, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

Part 49 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 49—[AMENDED]**

■ 1. The authority citation for part 49 continues to read as follows:

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

#### **Subpart L—Implementation Plans for Tribes—Region IX**

■ 2. Subpart L of part 49 is amended by adding an undesignated center heading and § 49.5511 to read as follows:

Implementation Plan for the Gila River Indian Community

#### **§ 49.5511 Identification of plan.**

(a) *Purpose and scope.* This section contains the approved implementation plan for the Gila River Indian Community dated August 2008. The plan consists of programs and procedures that cover general and emergency authorities, ambient air quality standards, permitting requirements for minor sources of air pollution, enforcement authorities, procedures for administrative appeals and judicial review in Tribal court, requirements for area sources of fugitive dust and fugitive particulate matter, general prohibitory rules, and source category-specific emission limitations and standards.

(b) *Incorporation by reference.*

(1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**.

(2) EPA Region IX certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan as of January 19, 2011.

(3) Copies of the materials incorporated by reference may be inspected at the Region IX Office of EPA at 75 Hawthorne Street, San Francisco, CA 94105-3901 or call 415-947-4192; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 or call 202-566-1742; and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) *EPA-approved regulations.*

EPA-APPROVED GILA RIVER INDIAN COMMUNITY TRIBAL REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Gila River Indian Community, Tribal Implementation Plan, Part I, General Provisions, Sections 1–3.	Definitions, General Authority, Procedures for Preparation, Adoption, and Submittal of the Air Quality Management Program.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Gila River Indian Community, Tribal Implementation Plan, Part I, General Provisions, Section 4.	Adoption of National Ambient Air Quality Standards as Community Standards.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Note: several revisions to the NAAQS have occurred since the adoption of the TIP. Title V regulations are not approved into the TIP.
Gila River Indian Community, Tribal Implementation Plan, Part II, Permit Requirements.	Definitions, Applicability of Permit Requirements, Non-Title V Permit Requirements, Permit Revisions at a Non-Title V Source, Continuous Emissions Monitoring, Stack Height Limitation, Confidentiality of Information, Permit Fees.	August 20, 2008 .....	3/29/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Gila River Indian Community, Tribal Implementation Plan, Part III, Enforcement Ordinances.	Civil Enforcement, Criminal Enforcement, Citizen Suits.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Gila River Indian Community, Tribal Implementation Plan, Part IV, Administrative Appeals.	General Provisions, Definitions, Administrative Appeals Procedures, Final Administrative Decision: Review, Judicial Review of Final Administrative Decisions.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Gila River Indian Community, Tribal Implementation Plan, Part V, Area Source Emission Limits, Sections 1–2.	Open Burning, General Requirements for Fugitive Dust-Producing Activities.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Gila River Indian Community, Tribal Implementation Plan, Part VI, Generally Applicable Individual Source Requirements for Existing and New Sources, Sections 1–3.	Visible Emissions; VOC Usage, Storage, and Handling; Degreasing and Solvent Metal Cleaning.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Gila River Indian Community, Tribal Implementation Plan, Part VII, Source/Category Specific Emission Limits for Existing and New Sources, Sections 1–3.	Secondary Aluminum Production, Aerospace Manufacturing and Rework Operations, Non-metallic Mineral Mining and Processing.	August 20, 2008 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	

(d) Nonregulatory.

Name of nonregulatory TIP provision	Tribal submittal date	EPA approval date	Explanations
Gila River Indian Community, Tribal Implementation Plan, Introductory Materials.	June 22, 2009 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	
Technical Amendments to Part II of the 2006 Air Quality Management Program Plan, Title 17 Chapter 9 of the Gila River Indian Community Law and Order Code.	June 22, 2009 .....	3/28/11 [INSERT <b>FEDERAL REGISTER</b> PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Minor NSR program support documents.

Name of nonregulatory TIP provision	Tribal submittal date	EPA approval date	Explanations
Minor New Source Review Demonstration ....	June 22, 2009 .....	3/28/11 [INSERT FEDERAL REGISTER PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Minor NSR program support documents.
Letter from Margaret Cook, Executive Director, GRIC DEQ, to Deborah Jordan, Air Division Director, EPA Region 9, Re: Gila River Indian Community Tribal Implementation Plan.	July 17, 2010 .....	3/28/11 [INSERT FEDERAL REGISTER PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Letter discussing intent of citizen suit provisions in Part III.

[FR Doc. 2011-7110 Filed 3-25-11; 8:45 am]  
 BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

[WC Docket No. 07-267; FCC 09-56]

**Forbearance Petition Filing Requirements**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** On August 6, 2009, the Commission published a final rule adopting procedural rules to govern petitions for forbearance filed pursuant to section 10 of the Communications Act of 1934, as amended. One section within that document could not take effect until the Office of Management and Budget (OMB) had approved the associated information collection requirements. OMB approved those information collection requirements on April 5, 2010, under OMB Control Number 3060-1138. This document confirms the effective date of that rule.

**DATES:** 47 CFR 1.54, published at 74 FR 39219, August 6, 2009, is effective March 28, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Reel, Competition Policy Division, Wireline Competition Bureau, at 202-418-1885 or e-mail: [Jonathan.Reel@fcc.gov](mailto:Jonathan.Reel@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This document announces that, on April 5, 2010, OMB approved, for a period of three years, the information collection requirements contained in the Commission's "complete as filed rule" for forbearance petitions under section 10 of the Communications Act of 1934, as amended. The Commission adopted that rule in its *Forbearance Procedures Order*. The rule is codified at 47 CFR 1.54. This notice confirms that the Commission received OMB approval for that collection on April 5, 2010 (OMB Control Number is 3060-1138).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. Questions concerning OMB Control Number 3060-1138 and its expiration date should be directed to Judith Boley-Herman, Federal Communications Commission, Room 1-B441, 445 12th Street, SW., Washington, DC.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2011-7236 Filed 3-25-11; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 101029427-0609-02]

RIN 0648-XA301

**Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer**

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

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS announces that the State of North Carolina is transferring a portion of its 2010 and 2011 commercial summer flounder quotas to the Commonwealth of Virginia. Vessels were authorized by Virginia to land summer flounder under safe harbor provisions, thereby requiring a quota transfer to account for an increase in Virginia's landings that would have otherwise accrued against the North Carolina quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

**DATES:** Effective March 23, 2011 through December 31, 2011.

**FOR FURTHER INFORMATION CONTACT:** Carly Knoell, Fishery Management Specialist, 978-281-9224.

**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 final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 106,013 lb (48,087 kg) of its 2011 commercial quota and 13,500 lb (6,123 kg) of its 2010 commercial quota to Virginia. This transfer was prompted by summer flounder landings of 18 North Carolina vessels that were granted safe harbor in Virginia due to mechanical problems and/or severe winter storm conditions between December 31, 2010, and March 1, 2011. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised summer flounder quotas for calendar year 2010 are: North Carolina, 3,344,731 lb (1,517,144 kg); and Virginia, 2,935,726 lb (1,331,623 kg). The revised summer flounder quotas for calendar year 2011 are: North Carolina, 4,662,739 lb (2,114,983 kg); and Virginia, 3,809,829 lb (1,728,109 kg).