

the amendments in this direct final rule. For these same reasons, DOT waives the 30-day delay in effective date for this rule pursuant to 5 U.S.C. 553(d)(3).

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. DOT 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. This rule does not constitute a major rule as defined in 5 U.S.C. 804(2).

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

Administrative practice and procedures, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons stated in the preamble, DOT amends 49 CFR part 40 and the specified DOT agency regulations as follows:

**PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS**

■ 1. The authority for part 40 continues to read as follows:

**Authority:** 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 54101 *et seq.*

■ 2. In § 40.35, revise paragraph (c)(2) and add paragraph (c)(3) to read as follows:

**§ 40.35 What training requirements must a collector meet for oral fluid collection?**

\* \* \* \* \*

(c) \* \* \*

(2) Another person must monitor and evaluate your performance, in person or by a means that provides real-time observation and interaction between you and the qualified collector, who must attest in writing that the mock collections are “error-free.” Except as provided in paragraph (c)(3) of this section, this person must be a qualified collector who has demonstrated necessary knowledge, skills, and abilities by—

(i) Regularly conducting DOT drug test collections for a period of at least one year;

(ii) Conducting collector training under this part for at least one year; or

(iii) Successfully completing a “train the trainer” course.

(3) As the person monitoring and evaluating the collector’s five mock collections pursuant to paragraphs (c)(1) and (2) of this section, you need not be a qualified oral fluid collector to do so if you meet the necessary knowledge, skills, and abilities in paragraph (c)(2)(ii) or (iii) until otherwise specified (one year after HHS publishes a **Federal Register** notification of the first certified oral fluid drug testing laboratory (HHS notification)). Furthermore, the one-year requirement in (c)(2)(ii) is not applicable until otherwise specified (one year after the HHS notification).

\* \* \* \* \*

■ 3. In § 40.73, add paragraph (a)(1) and a reserved paragraph (a)(2) and revise paragraph (c)(2) to read as follows:

**§ 40.73 How is an oral fluid specimen collected?**

\* \* \* \* \*

(a) \* \* \*

(1) As the oral fluid collector, you must not allow any person other than you, the employee, or a DOT agency representative to actually witness the testing process.

(2) [Reserved]

\* \* \* \* \*

(c) \* \* \*

(2) The collector must ensure the collection is performed correctly (*i.e.*, using the oral fluid device in the manner described by its manufacturer), that the collection device is working properly, and that a sufficient specimen volume is collected. Check the “Volume indicator(s) Observed” box in Step 2 of the Federal CCF to document that you observed the volume indicator(s) during the collection.

\* \* \* \* \*

Signed pursuant to authority delegated at 49 CFR 1.27(c) in Washington, DC.

**Subash Iyer,**

*Acting General Counsel.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 231215–0305; RTID 0648–XE044]**

**Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From Virginia to Rhode Island**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

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

**SUMMARY:** NMFS announces that the Commonwealth of Virginia is transferring a portion of its 2024 commercial summer flounder quota to the State of Rhode Island. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for Virginia and Rhode Island.

**DATES:** Effective June 20, 2024, through December 31, 2024.

**FOR FURTHER INFORMATION CONTACT:** Laura Deighan, Fishery Management Specialist, (978) 281–9184.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

Virginia is transferring 3,799 pounds (lb; 1,723 kilograms (kg)) to Rhode Island through a mutual agreement between the states. This transfer was requested to repay landings made by an

out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2024 are: Virginia, 1,895,757 lb (859,901 kg); and Rhode Island, 1,382,306 lb (627,003 kg).

**Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens

Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act and is exempted from review under Executive Order 12866.

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

Dated: June 14, 2024.

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