

**VI. Statutory and Executive Order Reviews**

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the

Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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).

**VII. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 1, 2012.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.564 is amended by adding the designation “(1)” after the heading “General” in paragraph (a), and by adding paragraph (a)(2) to read as follows:

**§ 180.564 Indoxacarb; tolerances for residues.**

(a) *General.* (1) \* \* \*

(2) Tolerances are established for residues of indoxacarb, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of indoxacarb, (S)-methyl-7-chloro-2,5-dihydro-2-[[[methoxycarbonyl]4-(trifluoromethoxy)-phenyl]amino]carbonyl]indeno[1,2e][1,3,4]oxadiazine-4a(3H)-carboxylate, its

R-enantiomer, (R)-methyl 7-chloro-2,5-dihydro-2-[[[methoxycarbonyl]4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno [1,2-e][1,3,4] oxadiazine-4a(3H)-carboxylate, and the metabolites: IN–JT333, methyl 7-chloro-2,5-dihydro-2-[[[4-(trifluoromethoxy)phenyl]amino]carbonyl]indeno[1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate; IN–KT319, (E)-methyl 5-chloro-2,3-dihydro-2-hydroxy-1-[[[methoxycarbonyl]4-(trifluoromethoxy)phenyl]amino]carbonyl]hydrazono]-1H-indene-2-carboxylate; IN–JU873, methyl 5-chloro-2,3-dihydro-2-hydroxy-1-[[[4-(trifluoromethoxy)-phenyl]amino]carbonyl]hydrazono]-1H-indene-2-carboxylate; IN–KG433, methyl 5-chloro-2,3-dihydro-2-hydroxy-1-[[[methoxycarbonyl]4-(trifluoromethoxy)phenyl]amino]carbonyl]-hydrazono]-1 2-carboxylate; and IN–KB687, methyl [4-(trifluoromethoxy)phenyl]carbamate, calculated as the stoichiometric equivalent of indoxacarb in the commodity.

Commodity	Parts per million
Egg .....	0.20
Poultry, fat .....	0.20
Poultry, meat .....	0.06
Poultry, meat byproducts .....	0.06

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 040205043–4043–01]

RIN 0648–XA989

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS closes the commercial sector for golden tilefish in the exclusive economic zone (EEZ) of the South Atlantic. This closure is necessary to protect the golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, February 17, 2012, until 12:01 a.m., local time, January 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bruger, telephone: 727-824-5305, email: [Catherine.Bruger@noaa.gov](mailto:Catherine.Bruger@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic 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.

The commercial quota for golden tilefish in the South Atlantic is 282,819 lb (128,284 kg) for the current fishing year, January 1 through December 31, 2012, as specified in 50 CFR 622.42(e)(2).

Under 50 CFR 622.43(a), NMFS is required to close the commercial sector for golden tilefish when its quota has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial quota for South Atlantic golden tilefish will have been reached by February 17, 2012. Accordingly, the commercial sector for South Atlantic golden tilefish is closed effective 12:01

a.m., local time, February 17, 2012, until 12:01 a.m., local time, January 1, 2013.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having golden tilefish onboard must have landed and bartered, traded, or sold such golden tilefish prior to 12:01 a.m., local time, February 17, 2012. During the closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1)(ii) and (d)(2), respectively, apply to all harvest or possession of golden tilefish in or from the South Atlantic EEZ, and the sale or purchase of golden tilefish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of golden tilefish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, February 17, 2012, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for golden tilefish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

#### **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately

implement this action to close the commercial sector for golden tilefish 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)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be 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 for public comment is contrary to the public interest because of the need to immediately implement this action to protect golden tilefish since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

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

Dated: February 10, 2012.

**Carrie Selberg,**

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

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