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) (Public Law 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: July 1, 2009.

G. Jeffrey Herndon,

Acting 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 in paragraph (a) by revising the introductory text and by alphabetically adding the following commodities to the table to read as follows:

§180.564 Indoxacarb; tolerances for residues.

(a) *General.* 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 indoxacarb, (S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno[1,2-*e*][1,3,4] [oxadiazine-4a(3*H*)-carboxylate, and 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(3*H*)-carboxylate.

Commodity	Parts per million
* * * * *	
Beet, garden, roots	0.30
Beet, garden, tops	6.0
Bushberry subgroup 13–07B	1.5
* * * * *	

* * * * *

[FR Doc. E9–16368 Filed 7–9–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0461; FRL–8422–5]

Mandipropamid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of mandipropamid in or on hops, dried cones. Syngenta Crop Protection, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective July 10, 2009. Objections and requests for hearings must be received on or before September 8, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0461. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rose Mary Kearns, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5611; e-mail address: *kearns.rosemary@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0461 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before September 8, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0461, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of June 13, 2008, (73 FR 33814) (FRL–8367–3), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8F7342) by Syngenta Crop Protection, Inc., 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.637 be amended by establishing tolerances for residues of the fungicide mandipropamid [4-chloro-N-[2-[3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-a-(2-propynyloxy)-benzeneacetamide], regulated chemical, in or on hops, at 50 parts per million (ppm). That notice referenced a summary of the petition prepared by Syngenta Crop Protection, Inc, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has changed the requested commodity ''hops'' to ''hop, dried cones.'' The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of mandipropamid on hop, dried cones at 50 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Mandipropamid has low or minimal acute toxicity via the oral, dermal, and inhalation routes of exposure. It is minimally irritating to the eye and non-irritating to the skin. It is also negative for skin sensitization.

Liver toxicity was the primary effect and was observed in rats, mice, and dogs. In the 24–month rat study, nephrotoxicity was observed in males only. The lack of liver toxicity in this long-term study was probably due to the lower doses when compared with the 90–day study. In a 90–day rat study, there was slight hepatotoxicity in both

sexes; there was the suggestion of effects on the liver in the 90–day mouse study in which increased liver weights in both sexes and microscopic pathology were observed. In the 90–day dog study liver effects included increased cholesterol, increased liver weights and liver enzymes (alkaline phosphatase activity, alanine aminotransferase) and increased pigment in hepatocytes and Kupffer cells in both sexes. Additionally, centrilobular hepatocyte vacuolation in females was observed. In the combined chronic/carcinogenicity rat study, no effects on the liver were noted at doses up to and including the highest dose tested (HDT) of 61/70 mg/kg/day (M/F); however, increased nephrotoxicity occurred in males. No liver effects were observed in the mouse carcinogenicity study at doses up to 223/285 mg/kg/day (M/F). The following effects on the liver were present in the 1–year dog study: Increased incidence and severity of microscopic pigment in the liver and increased alkaline phosphatase activity in both sexes, as well as increased alanine aminotransferase activity in males. Therefore, effects on the liver of rats, mice and dogs appear within 90–days (also in the 1–year dog study); whereas, in the 24–month rat study, only nephrotoxicity was observed and, in the 18–month mouse study, only decreased body weight and food utilization was noted.

There was no evidence of teratogenicity or indications of increased neonatal sensitivity in the developmental and reproduction toxicity studies. In the rat and rabbit developmental toxicity studies, there were no treatment-related maternal or developmental effects observed up to the limit dose of 1,000 mg/kg/day. In the 2-generation rat reproduction study, the only parental/systemic effects were decreased body weights, body weight gains, food consumption and food utilization in males. No effects on reproduction were observed at any dose. Offspring effects were decreased pup body weights in both sexes, but this effect occurred at doses which also caused effects in parental animals.

Dermal exposure to mandipropamid for 28–days in the rat did not result in systemic or dermal toxicity up to the limit dose of 1000 mg/kg/day. There was no evidence of developmental effects, neurotoxicity, mutagenicity or carcinogenicity after exposure to mandipropamid.

Specific information on the studies received and the nature of the adverse effects caused by mandipropamid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the final rule published in the **Federal Register** of January 16, 2008, (73 FR 2812) (FRL–8346–6).

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-, intermediate-, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for mandipropamid used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of January 16, 2008.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to mandipropamid, EPA considered exposure under the petitioned-for tolerance as well as all existing mandipropamid tolerances in (40 CFR 180.637). EPA assessed dietary exposures from mandipropamid in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

No such effects were identified in the toxicological studies for mandipropamid; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA used tolerance level residues and assumed 100 percent of all crops are treated 100 percent crop treated (PCT).

iii. *Cancer*. EPA has determined that mandipropamid classified as ''not likely to be carcinogenic to humans'' based on the absence of treatment-related increases in tumors in rat and mouse carcinogenicity studies. Therefore, there is no cancer risk associated with the proposed use of mandipropamid.

iv. *Anticipated residue and PCT information*. EPA did not use anticipated residue and/or PCT information in the dietary assessment for mandipropamid. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

EPA did not use PCT information in assessing dietary exposure to mandipropamid.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for mandipropamid in drinking water. These simulation models take into

account data on the physical, chemical, and fate/transport characteristics of mandipropamid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

The Agency used the FIRST (Version 1.1.0) model for estimation of surface water and the Screening Concentration in Ground Water (SCI–GROW, Version 2.3) model, for estimation of ground water to determine estimated drinking water concentrations (EDWC) of mandipropamid.

For chronic exposures for non-cancer assessment the EDWCs are estimated to be 36.5 ppb for surface water and 2.4 ppb for ground water.

Modeled estimates of surface water drinking water concentrations were directly entered into the dietary exposure model.

For chronic dietary risk assessment, the water concentration of value 36.5 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Mandipropamid is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found mandipropamid to share a common mechanism of toxicity with any other substances, and mandipropamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that mandipropamid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(c) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. There is no evidence (quantitative or qualitative) of increased susceptibility and no residual uncertainties with regard to prenatal toxicity following *in utero* exposure to rats or rabbits (developmental studies) and pre and/or post-natal exposures to rats (reproduction study).

3. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for mandipropamid is not complete because an immunotoxicity study is required. Despite this data gap, EPA has concluded that the database is adequate to assess the pre- and postnatal toxicity of mandipropamid and that there is no need for an additional database uncertainty factor to account for the missing study.

EPA began requiring functional immunotoxicity testing of all food and nonfood use pesticides on December 26, 2007. This study is not yet available for mandipropamid. EPA has evaluated the available mandipropamid toxicity studies for evidence of potential immunotoxicity, including hematology, gross organ weights for spleen and thymus, clinical chemistry and histopathology, to determine if an additional database uncertainty factor is needed to account for potential immunotoxicity. The overall weight of evidence suggests that mandipropamid does not directly target the immune system. Therefore, the Agency does not believe that conducting a functional immunotoxicity study will result in a lower POD than the currently selected for overall risk assessment, and therefore, a database uncertainty (UFDB) is not needed to account for the lack of this study.

ii. There is no indication that mandipropamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that mandipropamid results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to mandipropamid in drinking water. These assessments will not underestimate the exposure and risks posed by mandipropamid.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. No adverse effect resulting from a single-oral exposure was identified and no acute dietary endpoint was selected. Therefore, mandipropamid is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to mandipropamid from food and water will utilize 30% of the cPAD for (children 1–2 years of age) the population group receiving the greatest exposure. There are no residential uses for mandipropamid.

3. *Short-term risk*. Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Mandipropamid is not registered for any use patterns that would result in

residential exposure. Therefore, a short-term aggregate risk assessment was not needed.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Mandipropamid is not registered for any use patterns that would result in intermediate-term residential exposure. Therefore, an intermediate-term aggregate risk was not needed.

5. *Aggregate cancer risk for U.S. population*. Based on the absence of treatment-related increases in tumors in rat and mouse carcinogenicity studies with mandipropamid, EPA concludes that mandipropamid does not pose a cancer risk.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to mandipropamid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (liquid chromatography with tandem mass spectrometry (LC/MS/MS)) is available to enforce tolerances for mandipropamid. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no specific Codex, Canadian, or Mexican maximum residue limits (MRLs) for mandipropamid.

C. Revisions to Petitioned-For Tolerances

EPA changed the requested commodity ''hops'' to ''hop, dried cones'' to harmonize with accepted tolerance terminology.

V. Conclusion

Therefore, tolerances are established for residues of mandipropamid, [4-chloro-N-[2-[3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-a-(2-propynyloxy)-benzeneacetamide in or on hop, dried cones at 50 ppm.

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) (Public Law 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: June 23, 2009.

Daniel J. Rosenblatt,

Acting 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 180.637 is amended by alphabetically adding the following commodity to the table in paragraph (a) to read as follows:

§180.637 Mandipropamid; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Hop, dried cones	50
* * * * *	

* * * * *

[FR Doc. E9–16369 Filed 7–9–09; 8:45 am]
BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043–4043–01]

RIN 0648–XO54

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper–grouper Fishery of the South Atlantic; Closure of the 2009 Commercial Fishery for Golden Tilefish in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for golden tilefish in the exclusive economic zone (EEZ) of the South Atlantic. In addition, 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 provisions of the closure (restriction to the bag and possession limits and prohibition of sale or purchase) apply regardless of whether the golden tilefish are harvested in state waters or the South Atlantic EEZ. NMFS has determined that the quota for the commercial fishery for golden tilefish will have been reached by July 15, 2009. This closure is necessary to protect the golden tilefish resource.

DATES: Closure is effective 12:01 a.m., local time, July 15, 2009, through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Catherine Bruger, telephone 727–824–5305, fax 727–824–5308, e–mail *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 (Magnuson–Stevens Act) by regulations at 50 CFR part 622. Those regulations, found at 50 CFR 622.42(e)(2), set the commercial quota for golden tilefish in the South Atlantic at 295,000 lb (133,810 kg) for the current fishing year, January 1 through December 31, 2009.

Under 50 CFR 622.43(a), NMFS is required to close the commercial 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 with the Office of the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 295,000 lb (133,810 kg) for golden tilefish will be reached on or before July 15, 2009. Accordingly, NMFS is closing the commercial fishery for golden tilefish in the South Atlantic EEZ from 12:01 a.m., local time, on July 15, 2009, through December 31, 2009.

During the closure, the applicable bag 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. In addition, 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, those provisions of the closure for golden tilefish apply regardless of whether the fish are harvested in state waters or the South Atlantic EEZ. The operator of a vessel with golden tilefish in excess of the bag or possession limit aboard must have landed such golden tilefish prior to 12:01 a.m., local time, July 15, 2009, and all sale or purchase of golden tilefish must occur prior to 12:01 a.m., local time, July 15, 2009. The prohibition on sale or purchase does not apply to sale or purchase of golden tilefish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 15, 2009, and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already 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 the fishery 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: July 7, 2009.

Kristen C. Koch,

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

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