

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). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), 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. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the

relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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 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: September 7, 2001.

Peter Caulkins,

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), 346(a) and 371.

2. Section 180.355 is amended by revising the term "commodity" in the introductory text to paragraph (a) to read "commodities" and by alphabetically adding the commodity "flax, seed" to the table in paragraph (a)(1) to read as follows:

§ 180.355 Bentazon; tolerances for residues.

(a) * * *

| Commodity | Parts per million |
|------------------|-------------------|
| * * * | * * * |
| Flax, seed | 1.0 |
| * * * | * * * |

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 000407096-0096-01; I.D. 090501C]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Implementation of Conditional Closures

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

ACTION: Implementation of conditional closures in the Gulf of Maine.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator) has determined that at least 1.67 million lb (759 metric tons (mt)) of Gulf of Maine (GOM) cod has been landed as of July 31, 2001. Therefore, pursuant to regulations governing the Northeast multispecies fishery, specific areas within this fishery will be closed. The intent of this action is to protect GOM cod resources.

DATES: Effective November 1, 2001, through January 31, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978-281-9279.

SUPPLEMENTARY INFORMATION: Regulations implementing the conditional Cashes Ledge and GOM Rolling Closure Areas in Framework Adjustment 33 (65 FR 21658, April 24, 2000) became effective on June 1, 2000. To help ensure that GOM cod landings remain within the target TAC established for the fishing year, Framework 33 provided a mechanism specified at 50 CFR 648.81(o) to close the area identified as the Cashes Ledge Closure Area from November 1 through November 30, and the area identified as Rolling Closure Area VI from January 1 through January 31 if the Regional Administrator determines that at least 50 percent of the average between the $F_{0.1}$ target total allowable catch (TAC) and the F_{max} target TAC (1.67 million lb (759 mt)) for the fishing years beginning May 1, 2000, and May 1, 2001) has been landed as of, or before, July 31. Last year, on September 5, 2000, NMFS announced (65 FR 53648) that the

conditional closures would become effective for the 2000 fishing year.

For the 2001 fishing year, which began on May 1, 2001, the New England Fishery Management Council (Council) voted to maintain the same GOM cod target TACs as in fishing year 2000 (for F_{\max} and $F_{0.1}$), because of uncertainty regarding 1999 and 2000 GOM cod discard levels (66 FR 15812, March 21, 2001). The intent of retaining the same GOM cod target TACs was to prevent an increase in the exploitation of GOM cod during the 2001 fishing year. The conditional closure of Cashes Ledge in November 2001, and a portion of Massachusetts Bay in January 2002, are therefore required, if preliminary landings data through July 31, 2001, indicate that more than 1.67 million lb (759 mt) of GOM cod has been landed. NMFS is required to publish notification in the **Federal Register** informing the public of the implementation of the conditional closures if GOM cod landings exceed those levels.

Based upon the best available scientific information, the Regional Administrator has determined that at least 1.67 million lb (759 mt) of GOM cod has been landed as of July 31, 2001.

Therefore, NMFS is implementing the conditional closure of the Cashes Ledge Closure Area, as described in § 648.81(h)(1), and Rolling Closure Area VI, as described in § 648.81(g)(1)(vi), to better ensure that GOM cod landings remain within the target TACs established for the 2001 fishing year. Pursuant to § 648.81(o), the Cashes Ledge Closure Area will be closed from November 1, 2001, through November 30, 2001, and Rolling Closure Area VI will be closed from January 1, 2002, through January 31, 2002, to all fishing vessels, and to fishing gear capable of catching Northeast multispecies, except as provided under § 648.81(h)(2) and (g)(2).

The coordinates of the closed areas are as follows:

CASHES LEDGE CLOSURE AREA

| Point | N. Lat. | W. Long. |
|-------|----------|----------|
| CL1 | 43°07' | 69°02' |
| CL2 | 42°49.5' | 68°46' |
| CL3 | 42°46.5' | 68°50.5' |
| CL4 | 42°43.5' | 68°58.5' |
| CL5 | 42°42.5' | 69°17.5' |
| CL6 | 42°49.5' | 69°26' |
| CL1 | 43°07' | 69°02' |

ROLLING CLOSURE AREA VI

| Point | N. Lat. | W. Long. |
|-------|---------|----------|
| GM1 | 42°00' | (2) |
| GM2 | 42°00' | (3) |
| GM3 | 42°00' | (4) |
| GM4 | 42°00' | 70°00' |
| GM8 | 42°30' | 70°00' |
| GM9 | 42°30' | (2) |

(1) or other intersecting line: (2) Massachusetts shoreline (3) Cape Cod shoreline on Cape Cod Bay (4) Cape Cod shoreline on the Atlantic Ocean

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: September 12, 2001.

Bruce C. Morehead,

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

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