

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0043; FRL-7180-1]

Pesticide Tolerance Nomenclature Changes; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: This document makes minor revisions to the terminology of certain commodity terms listed under 40 CFR part 180, subpart C. EPA is taking this action to establish a uniform listing of the commodity terms.

DATES: This document is effective June 21, 2002.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-9368; and e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|------------|--------------------------------|---|
| Industry | 111 112 311 32532 | Crop production Animal production Food manufacturing Pesticide manufacturing |

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

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgrstr/>. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml/180/Title_40/40cfr180_00.html, a beta site currently under development. To access an electronic copy of the commodity data base entitled *Food and Feed Commodity Vocabulary* go to: <http://www.epa.gov/pesticides/foodfeed/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-2002-0043. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

II. Background

A. What Does this Technical Amendment Do?

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary data base entitled *Food and Feed Commodity Vocabulary*. The data base was developed to consolidate all the major OPP commodity vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use

the "preferred commodity term" as listed in the aforementioned data base. This final rule is the second in a series of documents revising the terminology of commodity terms listed under 40 CFR part 180. This revision process will establish a uniform presentation of existing commodity terms under 40 CFR part 180. In this rule, EPA is making the following format changes to the terminology of commodity terms in 40 CFR part 180 to the extent the terminology is not already in this format:

1. The first letter of the commodity term is capitalized. All other letters, including the first letter of proper names, are changed to lower case.
2. Commodity terms are listed in the singular although there are the following exceptions: including the terms "leaves", "roots", "tops", "greens", "hulls", "vines", "fractions", "shoots", and "byproducts".
3. Hyphens are removed from commodity terms. Example - "Cattle, meat by-products" is revised to read "Cattle, meat byproducts".
4. Commodity terms are amended so that generic terms, such as "corn", "pea", "cattle", precede modifying terms, such as "field", "dry", "summer". Examples - "Corn, field"; "Pea, dry"; and "Squash, summer", not "field corn", "dry pea", or "Summer squash".
5. Abbreviated terms are replaced with the appropriate commodity terms. Examples - "Hog MBYP" is replaced with "hog, meat byproducts". K+CWHR is replaced with "kernal plus cob with husks removed".
6. Parenthesis are replaced with commas. Example - "Cattle meat byproducts (except kidney)" is replaced with "Cattle, meat byproducts, except kidney".
7. Combined commodity entries are listed separately. Examples - "Goat, kidney and liver" is revised to read as follows: "Goat, kidney", and "Goat, liver".
"Fat of cattle, goat, horse and sheep" is revised to read as follows: "Cattle, fat", "Goat, fat", "Horse, fat"; "Sheep, fat"
8. Crop group terms are revised to standardize with the "Food and Feed Vocabulary". Examples:
 - i. "Stonefruit group" is revised to read "Fruit, stone, group".
 - ii. "Cucurbit Vegetables Crop Group" is revised to read "Vegetable, cucurbit, group".
 - iii. "Brassica (cole) leafy vegetables" is revised to read "Vegetable, brassica leafy, group".

B. Why is this Technical Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical amendment final without prior proposal and opportunity for comment, because today's action revises commodity terms listed under 40 CFR part 180, subpart C, in a manner that clearly will have no impact on the meaning of the tolerance regulations. For example, today's action revises commodity terms so that most are in singular (e.g., "peach") instead of the plural (e.g., "peaches"). A complete description of the types of changes that are being made has been provided above. EPA has determined that there is no need to public comment on such ministerial changes and thus that there is good cause under 5 U.S.C. 553(b)(B) for dispensing with public comment. While EPA believes that it has correctly identified all instances where these above-listed revisions need to be made, the Agency would appreciate readers notifying EPA of discrepancies, omissions, or technical problems by submitting them to the address or e-mail under **FOR FURTHER INFORMATION CONTACT**. These will be corrected in a future rule.

III. Regulatory Assessment Requirements

This final rule implements technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a "significant regulatory action" subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this 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). 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.*, or 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). 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); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). 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). Since the action does 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 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.

IV. 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: June 11, 2002.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I, part 180, subpart C 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 374.

Part 180, Subpart C [Amended]

2. In the following table, change the term exactly as it appears in the "Existing Term" column to read exactly like the term in the "New Term" column wherever they appear in subpart

C and realphabetize the entry where appropriate:

| Existing Term | New Term | Existing Term | New Term | Existing Term | New Term |
|-----------------------|------------------|------------------|-----------------|------------------|-----------------|
| | | Kidney of cattle | Cattle, kidney | Safflower (meal) | Safflower, meal |
| | | Kidney, cattle | Cattle, kidney | Safflower seed | Safflower, seed |
| Animal feeds | Animal feed | Kidney, goat | Goat, kidney | Safflower seeds | Safflower, seed |
| Artichoke (globe) | Artichoke, globe | Kidney, hog | Hog, kidney | Squash (summer) | Squash, summer |
| Barley (grain) | Barley, grain | Kidney, horse | Horse, kidney | Squash (winter) | Squash, winter |
| Barley grain | Barley, grain | Kidney, sheep | Sheep, kidney | Sweet corn | Corn, sweet |
| Barley (hay) | Barley, hay | Kiwi fruit | Kiwifruit | Taniers | Tanier |
| Bean (succulent) | Bean, succulent | Kumquats | Kumquat | Taro (corms) | Taro, corm |
| Berry (crop group 13) | Berry group | Lentils, hay | Lentil, hay | Timothy (forage) | Timothy, forage |
| Bluegrass hay | Bluegrass, hay | Lespedeza hay | Lespedeza, hay | Timothy (hay) | Timothy, hay |
| Cherries | Cherry | Lettuce (head) | Lettuce, head | Turnip greens | Turnip, greens |
| Chestnuts | Chestnut | Lettuce (leaf) | Lettuce, leaf | Turnip roots | Turnip, roots |
| Chili peppers | Pepper, chili | Macadamia nut | Nut, macadamia | Turnips (roots) | Turnip, roots |
| Chinese cabbage | Cabbage, chinese | Mamey sapote | Sapote, mamey | Turnips | Turnip |
| Cowpeas | Cowpea | Muskmelons | Muskmelon | Vetch hay | Vetch, hay |
| Crabapples | Crabapple | Mustard, greens | Mustard greens | Wheat (forage) | Wheat, forage |
| Dried Hops | Hop, dried cones | Mustard green | Mustard greens | Wheat (grain) | Wheat, grain |
| Elderberries | Eldeberry | Mustard seed | Mustard, seed | Wheat (hay) | Wheat, hay |
| Figs, dried | Fig, dried fruit | Oats | Oat | Wheat (straw) | Wheat, straw |
| Figs | Fig | Oysters | Oyster | Wheat bran | Wheat, bran |
| Filberts | Filbert | Papayas | Papaya | Wheat flour | Wheat, flour |
| Flax seed | Flax, seed | Parsley, leaf | Parsley, leaves | Wheat forage | Wheat, forage |
| Galangal root | Galangal, roots | Parsnips (root) | Parsnip, root | Wheat grain | Wheat, grain |
| Goat kidney | Goat, kidney | Parsnips | Parsnip | Wheat hay | Wheat, hay |
| Globe artichoke | Artichoke, globe | Passion fruit | Passionfruit | Wheat straw | Wheat, straw |
| Grapefruit oil | Grapefruit, oil | Pineapples | Pineapple | | |
| Grass hay | Grass, hay | Plums | Plum | | |
| Greens, turnip | Turnip, greens | Pome fruit | Fruit, pome | | |
| Huckleberries | Huckleberry | Quinces | Quince | | |
| | | Radishes | Radish | | |

3. In the following table, change the term exactly as it appears in the "Existing Term" column to read exactly like the term in the "New Term" column wherever they appear in subpart C and realphabetize the entry where appropriate:

| Existing Term | New Term |
|-----------------------------------|-----------------------------------|
| Apple, dried pomace | Apple, dry pomace |
| Artichoke, Jerusalem, postharvest | Artichoke, jerusalem, postharvest |
| Beet, garden, root | Beet, garden, roots |
| Beet, garden (roots) | Beet, garden, roots |
| Beet, garden (tops) | Beet, garden, tops |
| Beet, sugar (roots) | Beet, sugar, roots |

| Existing Term | New Term |
|---|---------------------------------------|
| Beet, sugar (tops) | Beet, sugar, tops |
| Beet, sugar, pulp (dried) | Beet, sugar, dried pulp |
| Bean, lima (succulent form) | Bean, lima, succulent |
| Bean, lima (succulent) | Bean, lima, succulent |
| Bermuda grass, forage | Bermudagrass, forage |
| Bermuda grass, hay | Bermudagrass, hay |
| Birdseed mixtures, postharvest | Birdseed, mixtures, postharvest |
| Birdsfoot trefoil, forage | Trefoil, birdsfoot, forage |
| Birdsfoot trefoil, hay | Trefoil, birdsfoot, hay |
| Brazil nuts, postharvest | Nut, brazil, postharvest |
| Caneberries crop subgroup | Caneberry subgroup |
| Corn, field, stove | Corn, field, stover |
| Corn, forage (field) | Corn, field, forage |
| Corn, forage, field | Corn, field, forage |
| Corn, forage, pop | Corn, pop, forage |
| Corn, forage, sweet | Corn, sweet, forage |
| Chicory, red (tops) (also known as radicchio) | Radicchio |
| Citrus pulp, dried | Citrus, dried pulp |
| Citrus, pulp (dried) | Citrus, dried pulp |
| Citrus fruits (except mandarins) | Fruit, citrus, except mandarin |
| Citrus fruits crop group | Fruit, citrus, group |
| Citrus fruits group | Fruit, citrus, group |
| Citrus fruits | Fruit, citrus |
| Citrus pulp, dried, postharvest | Citrus, dried pulp, postharvest |
| Dried citrus pulp | Citrus, dried pulp |
| Field corn forage | Corn, field, forage |
| Field corn grain | Corn, field, grain |
| Field corn stover (fodder) | Corn, field, stover |
| Fruit group, vegetable | Vegetable, fruiting, group |
| Fruit, citrus, crop group 10 | Fruit, citrus, group |
| Fruit, pome, crop group 11 | Fruit, pome, group |
| Fruit, stone, except plum prune, fresh | Fruit, stone, except fresh prune plum |
| Fruit, stone, group (except plums) | Fruit, stone, group, except plum |
| Goat meat byproducts | Goat, meat byproducts |
| Grape, raisin waste | Grape, raisin, waste |
| Grapefruit pulp, dried | Grapefruit, dried pulp |
| Grass, canary, annual, seed | Canarygrass, annual, seed |
| Grass (forage) | Grass, forage |

| Existing Term | New Term |
|---------------------------------------|--------------------------------------|
| Grass forage | Grass, forage |
| Grass, forage, fodder, and hay, group | Grass, forage, fodder and hay, group |
| Grain sorghum, postharvest | Sorghum, grain, postharvest |
| Leafy greens, subgroup | Leafy greens subgroup |
| Leafy Brassica greens crop subgroup | Brassica, leafy greens, subgroup |
| Leaf petioles crop subgroup | Leafy petioles subgroup |
| Legume vegetable foliage | Vegetable, legume, foliage |
| Legume vegetable, cannery waste | Vegetable, legume, cannery waste |
| Pea, black-eyed, postharvest | Pea, blackeyed, postharvest |
| Peanut soapstock | Peanut, soapstock |
| Peanuts | Peanut |
| Plum (fresh prunes) | Plum, prune, fresh |
| Plums (fresh prunes) | Plum, prune, fresh |
| Pome fruits crop group | Fruit, pome, group |
| Pome fruits group | Fruit, pome, group |
| Prune, dried | Plum, prune, dried |
| Prunes, dried | Plum, prune, dried |
| Prunes (dried) | Plum, prune, dried |
| Prunes, fresh | Plum, prune, fresh |
| Prunes | Plum, prune |
| Sorghum, bran | Sorghum, grain, bran |
| Sorghum, grain (milo) | Sorghum, grain, grain |
| Sorghum, grain forage | Sorghum, grain, forage |
| Sorghum, grain, fodder (stover) | Sorghum, grain, stover |
| Soybean hulls | Soybean, hulls |
| Soybean seed | Soybean, seed |
| Soybean meal | Soybean, meal |
| Soybean soapstock | Soybean, soapstock |
| Soybean straw | Soybean, straw |
| Soybeans | Soybean |
| Sugar beet, dried pulp | Beet, sugar, dried pulp |
| Sugar beet, pulp, dried | Beet, sugar, dried pulp |
| Sugar beet, molasses | Beet, sugar, molasses |
| Sugar beet (roots) | Beet, sugar, roots |
| Sugar beet, roots | Beet, sugar, roots |
| Sugar beets, tops | Beet, sugar, tops |
| Sugarbeet tops | Beet, sugar, tops |
| Sugarbeet, top | Beet, sugar, tops |

| Existing Term | New Term |
|---------------------------------------|-------------------------------|
| Sugarbeet, tops | Beet, sugar, tops |
| Sugarbeet, root | Beet, sugar, roots |
| Sugarbeet, roots | Beet, sugar, roots |
| Sugarbeet molasses | Beet, sugar, molasses |
| Sugar beet | Beet, sugar |
| Sugar cane, cane | Sugarcane, cane |
| Sugar-cane | Sugarcane |
| Sugarcane forage | Sugarcane, forage |
| Sunflower meal | Sunflower, meal |
| Sunflower oil | Sunflower, oil |
| Sunflower seed | Sunflower, seed |
| Sunflower seeds | Sunflower, seed |
| Sunflower, hulls | Sunflower, seed, hulls |
| Sweet corn, forage | Corn, sweet, forage |
| Tomato (products) concentrated | Tomato, concentrated products |
| Tomato products, concentrated | Tomato, concentrated products |
| Tomato paste | Tomato, paste |
| Tomato pomace, dried | Tomato, dry pomace |
| Tomato puree | Tomato, puree |
| Tree nut group | Nut, tree, group |
| Tree nuts group (except almond hulls) | Nut, tree, group |
| Tree nuts group | Nut, tree, group |

§§ 180.106, 180.121, 180.182, 180.205, 180.254, 180.298, 180.317, 180.328, 180.377, 180.378, 180.379, and 180.381 [Amended]

4. The tables to §§ 180.106(a), 180.121(a)(3), 180.182(a)(1), 180.205(b), 180.254(c), 180.298(a)(1), 180.317(a), 180.328(a), 180.377(a)(1), 180.378(b), 180.379(a)(1), and 180.381(a), are amended by changing the term "Artichoke" to read "Artichoke, globe".

5. Section 180.275 is amended by removing from the table in paragraph (a)(1) the term entry "Cherry (sweet and sour)" and by adding the following entries alphabetically:

§ 180.275 Chlorothalonil; tolerances for residues.

| Commodity | Parts per million |
|---------------------|-------------------|
| Cherry, sweet | 0.5 |

| Commodity | Parts per million |
|--------------------|-------------------|
| Cherry, tart | 0.5 |

6. Section 180.412 is amended by removing from the table in paragraph (a) the entry for the term "Cherry (sweet and sour)" and by adding alphabetically the following entries:

§ 180.412 Sethoxydim; tolerances for residues.

| Commodity | Parts per million | Expiration/Revocation Date |
|--------------------|-------------------|----------------------------|
| Cherry, sweet ... | 0.2 | None |
| Cherry, tart | 0.2 | None |

7. Section 180.443 is amended by deleting from the table in paragraph (a) the entry for the term "Cherry (sweet and sour)" and by adding the following entries:

§ 180.443 Myclobutanil; tolerances for residues.

| Commodity | Parts per million |
|---------------------|-------------------|
| Cherry, sweet | 5.0 |
| Cherry, tart | 5.0 |

[FR Doc. 02-15464 Filed 6-20-02; 8:45 a.m.]

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