

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-2002-0043; FRL-7180-2]

**Pesticide Tolerance Nomenclature Changes; Proposed Technical Amendment****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

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

**DATES:** Comments, identified by docket ID number OPP-2002-0043, must be received on or before June 16, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:**

Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9368; fax number: (703) 308-9368; e-mail address: [jamerson.hoyt@epa.gov](mailto:jamerson.hoyt@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:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturer (NAICS 311)
- Pesticide manufacturer (NAICS 32532)

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 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 Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2002-0043. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/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/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made

available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

*C. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this

unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP-2002-0043. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number OPP-2002-0043. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office

of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2002-0043.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP-2002-0043. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.A.1.

## II. Background

### A. What Action is the Agency Taking?

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 is the third in a series of documents revising the terminology of commodity terms listed under 40 CFR part 180. Final rules, revising pesticide tolerance nomenclature, were published in the **Federal Register** on June 19, 2002 (67 FR 41802) (FRL-6835-2) and June 21, 2002 (67 FR 42392) (FRL-7180-1). 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 terminology of the 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: "leaves", "roots", "tops", "greens", "hulls", "vines", "fractions", "shoots", and "byproducts".

3. Commodity terms are amended so that generic terms, such as "corn" and "pea", precede modifying terms, such as "field", "dry" and "summer".

4. Abbreviated terms are replaced with the appropriate commodity terms. Examples - "K=CWHR" is replaced with "kernel plus cob with husks removed" and "POST-H" is replaced with "postharvest".

5. Parenthesis are replaced with commas. Example - "Cherry (sweet),

postharvest" is replaced with "Cherry, sweet, postharvest".

6. Crop group terms are revised to standardize with the "Food and Feed Vocabulary". Examples -

i. "Legume vegetables (succulent or dried) group", "Legume vegetable group (dry and succulent), and "Legume vegetables" are replaced with "Vegetable, legume, group 6".

ii. "Fruit, stone (cherry, peach, plum, prune) group" is replaced with "Fruit, stone, group 12".

iii. "Grass forage, fodder and hay" and "Grass, forage, fodder, and hay" are replaced with "Grass, forage, fodder and hay group 17".

iv. "Herbs and spices" is replaced with "Herb and spice group 19".

In addition to format changes to the commodity terms, this document also includes many revisions to the commodity terms. These revisions replace certain commodity terms that are no longer used by EPA with the appropriate matching term in the "Food and Feed Vocabulary". For example, "Clover, green" is replaced with "Clover, forage", "Peanut vines" is replaced with "Peanut, hay", "Swine, meat" is replaced with "Hog, meat", and "Bushnuts" is replaced with "Nut, macadamia".

This document also proposes the deletion of certain terms that are not needed to identify the tolerance commodities. Examples -

i. The term "preharvest" ("pre-H" or "(PRE-H)") is not needed since tolerances and exemptions established under part 180 apply to residues from only preharvest application, unless otherwise specified, in accordance with 40 CFR 180.1(i).

ii. The term "preslaughter" ("(PRE-S)" or "(PRE-S appli)") is not needed since tolerances and exemptions established under part 180 apply to residues from preslaughter application to livestock, unless otherwise specified.

iii. The terms "nutmeat" and "nutmeats" when used in association with the tree nut crops or peanut are not needed. For tree nut crops, nutmeat and almond hulls are the only edible portions of the crop consumed. Therefore, OPP's Food and Feed Vocabulary uses the commodity terms "Almond", "Pecan", "Walnut", etc. for the tree nuts and the commodity term "Peanut" is used in place of "Peanut, nutmeat". Since almond hulls are fed to livestock, tolerances may be established for "Almond, hulls".

## III. Statutory and Executive Order Reviews

This document proposes technical amendments to the Code of Federal

Regulations which have no substantive impact on the underlying regulations, and do 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 proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed 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). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action proposes technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations. This technical amendment

will not have any negative economic impact on any entities, including small entities. 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 proposed 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 section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed 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 proposed 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 proposed rule.

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

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

Dated: April 9, 2003.

**James Jones**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is proposed to be 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.

#### § 180.301 [Amended]

2. In § 180.301, the table to paragraph (a) is amended by changing the term "Corn, fresh, including sweet corn (K=CWHR)" to read "Corn, sweet, kernel plus cob with husks removed" and by realphabetizing the entry into the table.

3. In 180.491, the table to paragraph (a)(3) is revised to read as follows:

#### § 180.491 Propylene oxide; tolerances for residues.

(a) \* \* \*  
(3) \* \* \*

Commodity	Parts per million
Cocoa bean, bean .....	300
Gum, edible .....	300
Nutmeat, processed, except peanuts .....	300
Spices, processed .....	300

#### § 180.495 [Amended]

4. In § 180.495, the table to paragraph (a) is amended by changing the entry "Poultry, eggs" to read "Egg" and by realphabetizing the entry into the table.

#### Subpart C— [Amended]

5. Subpart C is amended as follows:  
i. By removing the following terms wherever they appear in subpart C:

- a. (Pre-H)
- b. pre-H
- c. (PRE-H)
- d. (negligible residue)
- e. , nutmeat
- f. , nutmeats
- g. nut meat
- h. nutmeat
- i. nutmeats
- j. (nutmeats)
- k. (nuts)
- l. (= N in whole milk)
- m. (PRE-S appli)
- n. (pre-s)

ii. In the following table, by changing the term exactly as it appears in the

Existing Term column to read exactly like the term in the New Term column wherever it appears in subpart C, and by realphabetizing the new term where necessary.

Existing Term	New Term
Almond, meat	Almond
Amaranth, grain	Amaranth, grain, grain
Animal feed, nongrass, group	Animal feed, nongrass, group 18
Animal feed, nongrass, group, except alfalfa	Animal feed, nongrass, group 18, except alfalfa
Aspirated grain fractions	Grain, aspirated fractions
Banana, pulp with peel removed	Banana, pulp
Banana, whole	Banana
Bean, dry	Bean, dry, seed
Bean, green, postharvest	Bean, succulent, postharvest
Bean, guar	Guar, seed
Bean, lima (green)	Bean, lima, succulent
Bean, mung, dry	Bean, mung, seed
Bean, snap	Bean, snap, succulent
Bean, snap, postharvest	Bean, snap, succulent, postharvest
Bean vine forage	Bean, forage
Beeswax	Honeycomb
Beet	Beet, garden
Beet, greens	Beet, garden, tops
Beet greens (alone)	Beet, garden, tops
Beet, roots	Beet, garden, roots
Beet, sugar, pulp	Beet, sugar, dried pulp
Beet, sugar, pulp (dried and/or dehydrated)	Beet, sugar, dried pulp
Beet, sugar, without tops	Beet, sugar, roots
Beet, tops	Beet, garden, tops

Existing Term	New Term
Black walnut meats	Walnut, black
Berry group	Berry group 13
Brassica, head and stem, subgroup	Brassica, head and stem, subgroup 5A
Brassica, head stem subgroup (5-A)	Brassica, head and stem, subgroup 5A
Brassica, head and stem, subgroup, excluding cabbage	Brassica, head and stem, subgroup 5A, except cabbage
Brassica, leafy greens, subgroup	Brassica, leafy greens, subgroup 5B
Brassica, leafy greens, subgroup (Crop Subgroup 5-B)	Leafy greens subgroup 4A
Brassica vegetables crop group	Vegetable, brassica, leafy, group 5
Buckwheat, postharvest	Buckwheat, grain, postharvest
Buckwheat	Buckwheat, grain
Bushberry subgroup	Bushberry subgroup 13B
Bushnuts	Nut, macadamia
Canarygrass, annual, seed	Grass, canary, annual, seed
Canberries	Caneberry subgroup
Caneberries subgroup	Caneberry subgroup 13A
Caneberry crop subgroup	Caneberry subgroup 13A
Caneberry subgroup	Caneberry subgroup 13A
Canola	Canola, seed
Carambola	Starfruit
Carrot	Carrot, roots
Carrots	Carrot, roots
Carrot, postharvest	Carrot, roots, postharvest
Cattle, milk	Milk
Cherry, sour	Cherry, tart
Cherry (sour)	Cherry, tart
Cherry (sweet), postharvest	Cherry, sweet, postharvest

Existing Term	New Term
Chickpea	Chickpea, seed
Chickpeas	Chickpea, seed
Chick pea, seed (dry)	Chickpea, seed
Cilantro	Coriander
Cilantro, leaves	Coriander, leaves
Cipollini, bulb, postharvest	Onion, cipollini, bulb, postharvest
Citrus, pulp	Citrus, dried pulp
Citrus whole fruit	Citrus
Clover, chaff, grown for seed	Clover, seed screenings
Clover, fresh	Clover, forage
Clover, green	Clover, forage
Cocoa	Cocoa bean, dried bean
Cocoa bean	Cocoa bean, dried bean
Coffee	Coffee, bean
Copra	Coconut, copra
Copra, postharvest	Coconut, copra, postharvest
Corn, field, fodder	Corn, field, stover
Corn, field, forage (silage)	Corn, field, forage
Corn, field, milling fractions	Corn, field, milled byproducts
Corn, field, stover (fodder)	Corn, stover
Corn, fodder	Corn, stover
Corn, fodder (dry)	Corn, stover
Corn, fodder (field)	Corn, field, stover
Corn, fodder, field (dry)	Corn, field, stover
Corn, fodder, field (green)	Corn, field, stover
Corn, fodder, pop	Corn, pop, stover
Corn, fodder, sweet	Corn, sweet, stover
Corn, fresh	Corn, sweet, kernal plus cob with husks removed
Corn oil	Corn, field, refined oil
Corn, pop, fodder	Corn, pop, stover

Existing Term	New Term	Existing Term	New Term	Existing Term	New Term
Corn, pop, stover (fodder)	Corn, pop, stover	Fruit, stone, group, except plum	Fruit, stone, group 12, except plum	Grains, Cereal, Group	Grain, cereal, group 15
Corn, silage	Corn, field, forage	Fruit, stone, group, except plum and prune	Fruit, stone, group 12, except plum and plum, prune, fresh	Grass, canary, annual straw	Canarygrass, annual, hay
Corn, sweet, fodder	Corn, sweet, stover			Grass fodder	Grass, hay
Cottonseed	Cotton, undelinted seed	Fruit, stone, group, except fresh prune plum	Fruit, stone, group 12, except plum, prune, fresh	Grass forage, fodder and hay	Grass, forage, fodder and hay, group 17
Crambe	Crambe, seed			Grass, forage, fodder, and hay	Grass, forage, fodder and hay, group 17
Crop Group 16 (forage, stover and hay of Grain cereal)	Grain, cereal, forage, fodder and straw, Group 16	Forage, fodder, and straw of Grains, cereal crop group (forage)	Grain, cereal, forage, fodder and straw, group 16, forage	Grass, forage, fodder and hay, group	Grass, forage, fodder and hay, group 17
Crop Group 15 (Grain, cereal)	Grain, cereal, group 15	Forage, fodder, and straw of Grains, cereal crop group (hay)	Grain, cereal, forage, fodder and straw, group 16, hay	Grass, hay (pasture and rangeland)	Grass, hay
Crop Group 17 (grass, forage, and grass, hay)	Grass, forage, fodder and hay, group 17	Forage, fodder, and straw of Grains, cereal crop group (stover)	Grain, cereal, forage, fodder and straw, group 16, stover	Grass, seed cleanings (including hulls)	Grass, seed screenings
Dandelions	Dandelion, leaves	Forage, fodder, and straw of Grains, cereal crop group (straw)	Grain, cereal, forage, fodder and straw, group 16, straw	Grass, seed straw (including chaff)	Grass, straw, grown for seed
Egg, whole	Egg			Head and stem Brassica crop subgroup	Brassica, head and stem, subgroup 5A
Field corn, fodder	Corn, field, stover	Garbanzo bean	Chickpea, seed	Herb and spice group	Herb and spice group 19
Filberts (hazelnuts)	Hazelnut	Ginseng	Ginseng, root	Herbs and spices	Herbs and spices group 19
Filbert (Hazelnuts), postharvest	Hazelnut, postharvest	Ginseng, dried	Ginseng, dried root	Herb subgroup	Herb subgroup 19A
Flaxseed	Flax, seed	Ginseng root, fresh	Ginseng, root	Herbs subgroup	Herb subgroup 19A
Flaxseed meal	Flax, meal	Grain, aspirated grain fractions	Grain, aspirated fractions	Hop, fresh	Hop, vine
Foliage of legume vegetables	Vegetable, foliage of legume, group 7	Grain, cereal crop group (grain)	Grain, cereal, group 15	Hop, green	, kernel plus cob with husks removed
Foliage of legume vegetables crop group (foliage)	Vegetable, foliage of legume, group 7	Grain, cereal forage, fodder and straw, group	Grain, cereal, forage, fodder and straw, group 16	(inc. sweet K=CWHR)	, kernel plus cob with husks removed
Foliage of legume vegetables (except soybean)	Vegetable, foliage of legume, except soybean, subgroup 7A	Grain, cereal, group	Grain, cereal, group 15	(inc. sweet K=CWHR)	, kernel plus cob with husks removed
Fruit, citrus, group	Fruit, citrus, group 10	Grain, cereal, group, except wheat	Grain, cereal, group 15, except wheat	(including sweet K=CWHR)	, kernel plus cob with husks removed
Fruit, pome, crop group	Fruit, pome, group 11	Grain, cereal, group (except barley, field corn, grain sorghum, oats, and wheat)	Grain, cereal, group 15, except barley, field corn, grain sorghum, oat, and wheat	Leafy greens crop subgroup	Leafy greens subgroup 4A
Fruit, pome, group	Fruit, pome, group 11	Grains, Cereal, Forage, Fodder, and Straw, group	Grain, cereal, forage, fodder and straw, group 16	Leafy greens subgroup	Leafy greens subgroup 4A
Fruit, stone (cherry, peach, plum, prune), group	Fruit, stone, group 12			Leafy petioles subgroup	Leafy petioles subgroup 4B
Fruit, stone, group	Fruit, stone, group 12				
Fruit, stone, group 12, except cherries	Fruit, stone, group 12, except cherries				

Existing Term	New Term	Existing Term	New Term	Existing Term	New Term
Leafy vegetable (except Brassica) crop group	Vegetable, leafy, except brassica, group 4	Nut, tree, group (except Almond, hulls)	Nut, tree, group 14	Raisin waste	Grape, raisin, waste
Leafy vegetable (except Brassica) vegetables group	Vegetable, leafy, except brassica, group 4	Oat, fodder	Oat, straw	Rape forage	Rapeseed, forage
Leafy vegetables (except brassica) group (except spinach)	Vegetable, leafy, except brassica, group 4, except spinach	Oat, forage, green	Oat, forage	Rapeseed	Rapeseed, seed
Leaves of root and tuber vegetables (human food or animal feed) group	Vegetable, leaves of root and tuber, group 2	Oat, green forage	Oat, forage	Rape seed	Rapeseed, seed
Legume vegetable group foliage (except soybean, forage and soybean, hay)	Vegetable, foliage of legume, except soybean, subgroup 7A	Orange	Orange, sweet	Rice	Rice, grain
Legume vegetable group (dry or succulent)	Vegetable, legume, group 6	Oranges	Orange, sweet	Rice, fodder	Rice, straw
Legume vegetable group (dry and succulent)	Vegetable, legume, group 6	Parsley	Parsley, leaves	(roots PRE-H)	, roots
Legume vegetable (succulent or dried) group	Vegetable, legume, group 6	Parsley, root	Parsley, turnip rooted, roots	Rye, fodder	Rye, straw
Legume vegetables	Vegetable, legume, group 6	Pea and bean, dried shelled, except soybean, subgroup	Pea and bean, dried shelled, except soybean, subgroup 6C	Rye, forage, green	Rye, forage
Legume vegetables crop group, seed	Vegetable, legume, group 6	Pea and bean, succulent shelled, subgroup	Pea and bean, succulent shelled, subgroup 6B	Rye, green forage	Rye, forage
Legume vegetables (succulent or dried) group	Vegetable, legume, group 6	Peach (including nectarines)	Peach	Rye, hay	Rye, forage
Legume vegetable (succulent or dried group, excluding soybeans)	Vegetable, legume, group 6, except soybean	Pea, dried	Pea, dry, seed	Safflower	Safflower, seed
Lentils	Lentil, seed	Pea, dry	Pea, dry, seed	Sorghum, aspirated grain fractions	Grain, aspirated fractions
Mandarins	Tangerines	Pea, forage	Pea, field vines	Sorghum forage	Sorghum, forage
Melon subgroup	Melon subgroup 9A	Pea, hay	Pea, field, hay	Sorghum, forage	Sorghum, grain, forage
Mustard, Chinese	Mustard greens	Peanut forage	Peanut, hay	Sorghum grain	Sorghum, grain
Nongrass animal feed (forage, fodder, straw, and hay)	Animal feed, nongrass, group 18 group	Peanut, oil	Peanut, refined oil	Sorghum, green forage	Sorghum, forage, hay
Nut, tree crop group	Nut tree, group 14	Peanut, shells	Peanut, hulls	Sorghum, milling fraction	Sorghum, grain, flour
Nut, tree, group	Nut, tree, group 14	Pea, southern, blackeyed	Pea, blackeyed	Sorghum, milling fractions (except flour)	Sorghum, grain, bran
		Peanut, vines	Peanut, hay	Sorghum (milo)	Sorghum, grain
		Peanut forage and hay	Peanut, hay	Sorghum, stover	Sorghum, grain, stover
		Pigeon peas	Pea, pigeon, seed	Sorghum, hay	Sorghum, forage, hay
		Pineapple bran (wet and dry)	Pineapple, bran	Sorghum, fodder	Sorghum, grain, stover
		Pistachio nut	Pistachio	Soybean grain	Soybean, seed
		Pistachio nuts	Pistachio	Soybean, oil	Soybean, refined oil
		Plum, dried	Plum, prune, dried	Spearmint	Spearmint, tops
		Potato, waste, dried	Potato, processed potato waste	Spearmint hay	Spearmint, hay
		(PRE- and POST-H)	, postharvest	Spice subgroup	Spice subgroup 19B
		Raisin	Grape, raisin	Spices subgroup	Spice subgroup 19B
		Raisins	Grape, raisin		

Existing Term	New Term	Existing Term	New Term	Existing Term	New Term
Squash/Cucumber subgroup	Squash/Cucumber subgroup 9B	Vegetable, brassica, leafy, group (except broccoli, cabbage, cauliflower, brussels sprouts, and mustard greens)	Vegetable, brassica, leafy, group 5, except broccoli, cabbage, cauliflower, brussels sprouts, and mustard greens	Vegetable, leaf petiole, subgroup	Leafy petioles subgroup 4B
Sugarbeet, pulp	Beet, sugar, dried pulp			Vegetable, leafy, except brassica, group	Vegetable, leafy, except brassica, group 4
Sugarcane	Sugarcane, cane			Vegetable, leafy, except brassica, group (Crop Group 4)	Vegetable, leafy, except brassica, group 4
Sunflower	Sunflower, seed	Vegetable, bulb, group	Vegetable, bulb, group 3		
Sunflowers	Sunflower, seed				
Sweet potato	Sweet potato, roots	Vegetable, cucurbit, crop group	Vegetable, cucurbit, group 9	Vegetable, leafy, except Brassica, group	Vegetable, leafy, except brassica, group 4
Swine, fat	Hog, fat	Vegetable, cucurbit, group	Vegetable, cucurbit, group 9		
Swine, kidney	Hog, kidney			Vegetable, leafy group, except brassica	Vegetable, leafy, except brassica, group 4
Swine, liver	Hog, liver	Vegetable, cucurbit, group (Crop Group 9)	Vegetable, cucurbit, group 9		
Swine, meat	Hog, meat			Vegetable, leaves of root and tuber, group	Vegetable, leaves of root and tuber, group 2
Swine, meat by-products	Hog, meat byproducts	Vegetable, cucurbit, melon, crop subgroup 9-A	Melon subgroup 9A		
Tomato, fresh	Tomato			Vegetable, leaves of root and tuber, group (except sugar beet tops)	Vegetable, leaves of root and tuber, group 2, except sugar beet
Tomato, fruit (tops PRE-H)	tops	Vegetable, foliage of legume, except soybean, subgroup	Vegetable, foliage of legume, except soybean, subgroup 7A		
Tree nut (crop group 14), nutmeat	Nut, tree, group 14	Vegetable, foliage of legume, group (except soybean, forage and hay)	Vegetable, foliage of legume, except soybean, subgroup 7A	Vegetable, legume, edible podded, subgroup	Vegetable, legume, edible podded, subgroup 6A
Tree nuts (crop group 14)	Nut, tree, group 14			Vegetables, legume, edible podded, subgroup	Vegetable, legume, edible podded, subgroup 6A
Tuberous and Corm, Vegetable Crop Subgroup	Vegetable, tuberous and corm, subgroup 1C	Vegetable, foliage of legume, group	Vegetable, foliage of legume, group 7	Vegetable, legume, group	Vegetable, legume, group 6
Turnip, greens, tops	Turnip, greens	Vegetable, fruiting Crop Group	Vegetable, fruiting, group 8	Vegetable, legume, group (except soybean)	Vegetable, legume, group 6, except soybean
Turnip, tops	Turnip, greens	Vegetable, fruiting, group (Crop Group 8)	Vegetable, fruiting, group 8		
Wheat, fodder	Wheat, straw			Vegetable, root and tuber, group	Vegetable, root and tuber, group 1
Wheat, fodder, green	Wheat, hay	Vegetable, fruiting (except cucurbits) group	Vegetable, fruiting, group 8	Vegetable, root, except sugar beet, subgroup	Vegetable, root, except sugar beet, subgroup 1B
Wheat, forage (green)	Wheat, forage	Vegetables, fruiting (except cucurbits), group	Vegetable, fruiting, group 8		
Wheat, forage, green	Wheat, forage	Vegetable, fruiting, group	Vegetable, fruiting, group 8	Vegetable, root (except sugar beet) subgroup	Vegetable, root, except sugar beet, subgroup 1B
Wheat, green fodder	Wheat, hay	Vegetable, fruiting, group	Vegetable, fruiting, group 8		
Wheat, green forage	Wheat, forage	Vegetable, fruiting group	Vegetable, fruiting, group 8	Vegetable, root and tuber, group (except sugar beet)	Vegetable, root and tuber, group 1, except sugar beet
Wheat, stover	Wheat, straw	Vegetable, fruiting, group (except cucurbits)	Vegetable, fruiting, group 8		
Vegetable, brassica, leafy, group	Vegetable, brassica, leafy, group 5	Vegetable, fruiting, except cucurbit	Vegetable, fruiting, group 8	Vegetable, root, subgroup	Vegetable, root, subgroup 1A
Vegetable, brassica, leafy group	Vegetable, brassica, leafy, group 5	Vegetable, fruiting, crop group	Vegetable, fruiting, group 8	Vegetable, tuberous and corm, except potato, subgroup	Vegetable, tuberous and corm, except potato, subgroup 1D

Existing Term	New Term
Vegetable, tuberous and corm, subgroup	Vegetable, tuberous and corm, subgroup 1C
Vegetable, tuberous and corm, subgroup (Crop Subgroup 1-C)	Vegetable, tuberous and corm, subgroup 1C
Yams	Yam, true, tuber

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 040703A]

RIN 0648-AN87

#### Fisheries of the South Atlantic; Pelagic Sargassum Habitat in the South Atlantic; Fishery Management Plan

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

**ACTION:** Notice of availability of a revised fishery management plan for the pelagic Sargassum habitat of the South Atlantic Region (FMP); request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (SAFMC) has submitted the subject FMP for review, approval, and implementation by NMFS. The FMP would: establish the management unit for Sargassum and stock status criteria for that management unit, designate essential fish habitat (EFH) and EFH habitat areas of particular concern (EFH-HAPC) for Sargassum, and establish harvesting restrictions for *Sargassum* taken in or from the exclusive economic zone (EEZ) off the southern Atlantic states.

**DATES:** Written comments must be received on or before June 16, 2003.

**ADDRESSES:** Comments on the FMP, which includes an Environmental Impact Statement, an Initial Regulatory Flexibility Analysis, a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727-522-5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of the FMP should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; Phone: 843-571-4366; fax: 843-769-4520; e-mail: [safmc@safmc.net](mailto:safmc@safmc.net).

**FOR FURTHER INFORMATION CONTACT:** Dr. Steve Branstetter, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act, requires each Regional Fishery Management Council to submit any fishery management plan or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish a notice in the **Federal Register** stating that the plan or amendment is available for public review and comment.

*Sargassum* is an abundant brown algae that occurs near the surface in warm waters of the western North Atlantic. Most *Sargassum* drifts between 2° N. and 40° N. lat. and 30° W. long. and the western edge of the Gulf Stream. The static standing crop of *Sargassum* is estimated to be 4 to 11 million metric tons (mt) or roughly 9 to 24 billion lb. *Sargassum* supports a diverse assemblage of marine organisms, including over 100 species of fish, fungi, micro- and macro-epiphytes, at least 145 species of invertebrates, five species of sea turtles, and numerous marine birds. *Sargassum* creates an unusual situation in regards to fishery management. As plants that may increase their biomass as much as 10 percent per day, floating mats or rafts of *Sargassum* represent a highly renewable natural resource that can be harvested or fished. *Sargassum* vegetation is considered a "fish" under the Magnuson-Stevens Act, and the harvest or take of this natural resource could be managed under a fishery management plan. Additionally, these mats or rafts of *Sargassum* vegetation provide habitat and protection for numerous species of vertebrates and invertebrates, including threatened or endangered sea turtles. Recognizing the importance of *Sargassum* as habitat, the SAFMC previously designated *Sargassum* as EFH and as EFH-HAPC for snapper-grouper species and coastal migratory pelagic (mackerel) species.

The SAFMC is concerned about the impacts of commercial harvest of this important resource. Over a 22-year period (1976-1997), 203.2 mt (448,000 lb) of *Sargassum* were harvested off the southern Atlantic states. The SAFMC has developed this FMP to protect and

manage *Sargassum* as a fishery resource and to conserve this resource as EFH off the U.S. Atlantic coast from the North Carolina/Virginia boundary through the east coast of Florida, including the Atlantic side of the Florida Keys. In analyzing the proposed actions and alternatives in the FMP, *Sargassum* is discussed as both a fishery resource and as habitat for other managed species. The reader is reminded that discussions of importance of *Sargassum* as EFH for other species, as designated in other FMPs, should not be confused with the SAFMC's designations of EFH for *Sargassum* as a fishery resource in this FMP.

The FMP would establish the management unit for *Sargassum* as the population of *Sargassum* occurring within the SAFMC's area of jurisdiction and within state waters of North Carolina, South Carolina, Georgia, and the east coast of Florida. Based on that management unit, the FMP would establish stock status criteria as the following: Maximum Sustainable Yield (MSY) would be designated as 100,000 mt (220,448,550 lb). This is the estimated static standing stock (carrying capacity) off North Carolina, the current area of commercial harvest. Optimum Yield (OY) would be designated as 2.268 mt (5,000 lb). This value represents the average harvest during the period 1990 through 1999. Overfishing would be defined as the rate of harvest which compromises the stock's ability to produce MSY. Overfishing would be determined by establishing a maximum fishing mortality threshold using a measure of the stock's intrinsic rate of increase ( $r$ ) as a proxy for a fishing mortality rate at MSY, where " $r$ " is estimated to be 9-18 units per year. This overfishing definition would be associated with an MSY of 456,250 to 912,500 mt (100,584,210 to 201,168,430 lb) per year, which is larger than the SAFMC's preferred alternative of 100,000 mt for MSY. The stock would be considered overfished if the stock was reduced below the minimum stock size threshold (MSST). MSST would be established as 25,000 mt (55,114,638 lb), which would be  $B_{MSY}/2$ , where  $B_{MSY}$  is defined as one-half the carrying capacity (MSY) of the harvest area.

In a broad interpretation of the EFH final rule (67 FR 2343, January 17, 2002), the SAFMC would designate EFH and EFH-HAPC as places/locations where *Sargassum* occurs in the SAFMC's area of jurisdiction, including state waters off North Carolina, South Carolina, Georgia, and the east coast of Florida, including the Gulf Stream where it occurs in the EEZ, and the