Commodity	Parts per million
Cattle, meat	0.05
Cattle, meat byproducts	0.05
Cotton, gin byproducts	55.0
Cotton, undelinted seed	2.0
Goat, fat	0.05
Goat, meat	0.05
Goat, meat byproducts	0.05
Horse, fat	0.05
Horse, meat	0.05
Horse, meat byproducts	0.05
Milk	0.01
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, meat byproducts	0.05

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0766; FRL–8126–1]

[RIN 2070–AJ28]

Pesticide Tolerance Crop Grouping Program; Proposed Expansion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing revisions to its pesticide tolerance crop grouping regulations, which allow establishment of tolerances for multiple related crops, based on data from a representative set of crops. The present revision would create a new crop group for edible fungi (mushrooms), expand existing crop groups by adding new commodities, establish new crop subgroups, and revise the representative crops in some groups. Additionally, EPA is revising the generic crop group regulation to add a subsection explaining how the Agency will implement revisions to crop groups. EPA expects these revisions to promote greater use of crop groupings for tolerance-setting purposes and, in particular, will assist in retaining or making available pesticides for minor crop uses. This is the first in a series of planned crop group updates expected to be proposed over the next several years.

DATES: Comments must be received on or before July 23, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0766, 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 Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket'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 telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0766. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., 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 either 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 Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Ramè Cromwell, Field and External Affairs Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9068; fax number: (703) 305–5884; e-mail address: *cromwell.rame@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. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI

information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. Tolerance-Setting Requirements and Petition from USDA IR-4 Program to Expand the Existing Crop Grouping System

EPA is authorized to establish tolerances for pesticide chemical residues in food under section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 346a). EPA establishes tolerances for each pesticide based on the potential risks to human health posed by that pesticide. A tolerance is the maximum permissible residue level established for pesticides in raw agricultural produce and processed foods. Tolerances are observed carefully by growers, pesticide users, processors, and food marketers. Food that contains residues of a pesticide for which there is no tolerance is considered to be adulterated. The U.S. Food and Drug Administration and the U.S. Department of Agriculture together enforce the EPA's tolerance limits. Adulterated food is not permitted in commerce.

To establish a tolerance, a petition is submitted to the Agency requesting the tolerance and furnishing information on the chemical identity and composition of the pesticide, its use pattern on the crop, toxicity data, and extensive residue data on the nature of the residue and the residue levels resulting from the proposed use pattern. The residue chemistry data requirements (40 CFR 158.240) have been identified as a limiting factor in making pesticide licensing and tolerance decisions for minor crops. This is particularly critical for low acreage minor crops where the expense and time investment for satisfying the residue chemistry requirements may preclude a registrant from petitioning the Agency for an individual crop tolerance for that use. A tolerance may be proposed for an individual commodity such as oranges or lemons, or for a group of related commodities in a crop group such as the citrus crop group.

The crop grouping regulations (40 CFR 180.41) enables the establishment of tolerances for a group of crops based on residue data for certain crops that are representative of the group. The crop grouping concept leads to an estimate of maximum level of residue that could occur on any crop within the group. The minimum data required for a group tolerance consists of residue data for all representative commodities for a group. For example, for Crop Group 12 the stone fruits group, the representative commodities are sweet cherry or tart cherry; peach; and plum or fresh prune (*Prunus domestica, Prunus* spp.). Crop group 12 includes the following commodities: Apricot; cherry; cherry, tart; nectarine; peach; plum; plum, chickasaw; plum, damsom; plum, Japanese; plumcot; prune (fresh). Once the group tolerance is established, the tolerance level applies to all agricultural commodities within the group. It is also possible to request a crop group tolerance with a particular member of the crop excluded. An example of exclusion to a crop group would be a tolerance for the Stone Fruit group 12, except peach. In this crop group residue data for cherry and plum are used to establish a group tolerance for the stone fruit group except peach.

This proposed rule builds on a related crop grouping system initially established via regulation on December 6, 1962 (27 FR 12100). That initial crop grouping scheme has been subsequently replaced and improved upon on two separate occasions (June 29, 1983 (48 FR 29855) and May 17, 1995 (60 FR 26626)). The May 1995 amendments established the current crop grouping scheme and presented the crop groups in tables. Subgroups were also created for 8 of the 19 crop groups, new commodities were added to existing groups and some representative commodities were revised. This provided petitioners with more flexibility in obtaining supporting residue data. During the rulemaking process for the 1995 amendments, EPA received comments requesting the inclusion of additional crop groups in the crop grouping scheme for crops such as oil seed crops, subtropical fruits, and tropical fruits. Those proposed changes were determined to be beyond the scope of the 1995 rulemaking. Nonetheless, EPA welcomed the opportunity to evaluate additional crop group and subgroup proposals submitted by interested parties for future consideration.

In 2002, a nation wide cooperative effort called the USDA Inter-regional Research Project No.4 (IR-4), along with the governments of Canada and Mexico held the first International Crop Grouping Symposium. One conclusion from the symposium was that EPA's crop group regulation should be updated to incorporate more than 500 ''orphan crops'' (both domestic and imported) which are not currently members of a crop group. The symposium also recommended that many of the existing crop groups in the crop group regulation be revised to facilitate harmonization of crop groups and simplification of commodity terminology for establishing Maximum Residue Levels (MRLs) internationally. The full proceedings from this symposium are available at *http://www.ir4.rutgers.edu/Other/USDACropGroupingSymposium.pdf.*

The International Crop Groupings Consulting Committee (ICGCC) was subsequently convened and is presently composed of over 180 crop, agrichemical and regulatory experts representing more than 40 countries, including the United States, Canada and the European Union (EU) members. The goal of the ICGCC is to harmonize international crop groupings and to that end, involves NAFTA. At the request of IR-4, the ICGCC reviews proposals for revised or new crop groups and develops crop petitions to submit to the EPA. The review process is conducted by an ICGCC workgroup which validates the crop group, subgroup, and commodities (including adding or deleting commodities), and provides

commodity information including cultural, nutritional, and medicinal information. The group makes MRL comparisons with Codex and EU crop classification and evaluates world production on relevant commodities. Within this process, growers and commodity experts provide valuable input on commodities and international members provide specific information on the commodities grown in their countries and regions which provides perspectives on harmonization approaches. The ICGCC prepares commodity monographs for each specific crop group as well as information tables for crop group comparison. The draft crop grouping petition is then examined by the workgroup and the final petition is submitted by USDA IR-4 to EPA for analysis.

Today's proposal is based upon three petitions developed by the ICGCC workgroup and submitted to EPA by IR-4. These petitions and the monographs supporting them have been included in the docket for the proposed rule. EPA expects that a series of additional petitions seeking amendments and changes to the crop groupings regulations (40 CFR 180.41) will originate from the ICGCC workgroup over the next few years.

EPA believes that this proposal is a burden-reducing regulation. It will provide for greater sharing of data by permitting the results from magnitude of residue field trial studies in one crop to be applied to other similar crops. The primary beneficiaries are minor crop producers and consumers. Minor crop producers will benefit because lower registration costs will encourage more products to be registered on minor crops, providing additional tools for pest control. Consumers are expected to benefit by having more affordable and abundant food products available. Secondary beneficiaries are pesticide registrants. Expanded markets for pesticide products will lead to increased sales. EPA's position is that data from representative crops will not underestimate the public exposure to pesticide residues through the consumption of treated crops. The IR-4 Project and EPA, which are publicly funded Federal government entities, will also more efficiently use some resources as a result of the rule. Revisions to the crop grouping scheme will result in no appreciable costs or negative impacts to consumers, minor crop producers, pesticide registrants, the environment, or human health. There is also a growing international need for harmonizing crop groupings as the benefits of work sharing become more apparent.

B. International Considerations

1. *NAFTA partner involvement in this proposal.* EPA's Chemistry Science Advisory Council (ChemSAC), an internal Agency peer review committee, provided a detailed analysis for each proposed crop group to Canada's Pest Management Regulatory Agency (PMRA), IR-4, and the government of Mexico for their review and comment and invited these parties to participate in the ChemSac meeting to finalize the report.

EPA scientists will present the amended crop grouping to PMRA's Science Management Committee (SMC) for their evaluation. EPA will provide a ''reviewer's guide'' describing the crop grouping amendments and explaining how to express the changes to the crop group in the **Federal Register** to IR-4 and PMRA in support of implementation and to inform the regulatory community.

2. *Relationship of this proposal to Codex activities.* In 2004 and 2005, Canada and the U.S. Codex delegation discussed possible opportunities that a linkage of the USDA IR-4 crop group initiative with ongoing limited revisions of the Codex system of Classification of Foods and Animal Feeds could bring to harmonizing MRL recommendations. In December 2005, the NAFTA TWG executive agreed that the United States and Canada should work together to advance incorporation of U.S. and Canadian bilateral activities on crop groups into the CCPR Codex work. Involvement by NAFTA TWG member countries in the Codex process will facilitate the adoption of the ICGCC crop groups, thereby providing a mechanism for developing residue data using representative crops at the international level. Standardization of commodity terminology within the global context and the adoption of Codex MRLs representative of the ICGCC Crop Groups will greatly facilitate international guideline harmonization. As a result of these efforts, minor crop growers will have easier access to crop protection tools by an improved extrapolation from representative crops to other crops in the same crop group, while a broader harmonization will minimize impediments to trade.

EPA believes that NAFTA partners will pursue such programmatic changes. PMRA will in parallel undertake to follow its procedures under the authority of Canada's Pest Control Products (PCP) Act (2002) to publish its regulatory directives. These regulatory documents will be used to update the Residue Chemistry Guidelines of each NAFTA member country. Once the new or updated crop groups become effective in the United States, Mexico will have them as a reference for the establishment of maximum residue limits in Mexico.

III. Specific Proposed Revisions

This section explains the proposed revisions to the crop group regulations.

A. Phasing out Pre-existing Crop Groups

Amending pre-existing crop groups may result in uncertainty as to the status of crop group tolerances established prior to such an amendment as well as confusion in distinguishing between groups established before and after the amendment. This problem is particularly acute when the amendment adds or removes commodities from the coverage of the crop group. To avoid potential confusion, EPA is proposing to amend the generic crop group regulations to include an explicit scheme for how revised crop groups will be organized in the regulations.

In brief, EPA is proposing that, when a crop group is amended in a manner that expands or contracts its coverage of commodities, EPA will (1) retain the pre-existing crop group in § 180.41; (2) insert the revised crop group immediately after the pre-existing crop group in the CFR; and (3) title the revised crop group in a way that clearly differentiates it from the pre-existing crop group.

Under the proposed nomenclature the revised crop group will retain roughly the same name and number as the pre-existing group except that the number will be followed by a hyphen and the final two digits of the year it is established. For example, today EPA is proposing to revise Crop Group 3: Bulb Vegetables (*Allium* spp.) Group. The revised group will be titled Crop Group 3-07: Bulb Vegetables Group. Dropping ''(*Allium* spp.)'' reflects the revised character of the group.

Where additions to a crop group make the pre-existing crop group name misleading, EPA will amend the name as well as the number. For example, today EPA is proposing to revise Crop Group 13: Berries Group. The revised group will be titled Crop Group 13-07: Berries and Small Fruit Group. This change is necessary because of the addition of commodities to this group.

Tolerances established for revised crop groups will include the new number (and new name, if applicable) so that it is apparent on the face of the tolerance regulation what commodities are covered. Similarly, it will be clear what tolerances for pre-existing crop

groups are covered since these existing tolerance regulations use the pre-existing crop group names.

Although EPA will initially retain pre-existing crop groups that have been superceded by revised crop groups, EPA will not establish new tolerances under the pre-existing groups. Further, EPA plans to eventually convert tolerances for any pre-existing crop groups to tolerances with the coverage of the revised crop group. This conversion will be effected both through the registration review process and in the course of preparing new risk assessments for a pesticide. To this end, EPA requests that petitioners for tolerances address this issue in their petitions. For example, assuming EPA adopts the amendment to Crop Group 3: Bulb Vegetables (*Allium* spp.) Group, any tolerance petition for a pesticide that has a Group 3 tolerance should include a request that the Group 3 tolerance be amended to a Group 3-07 tolerance, since the representative commodities are equivalent. When all crop group tolerances for a superceded crop group have been revised or removed, EPA will remove the superceded group from § 180.41.

B. Group 3-07: Bulb Vegetables Group

EPA is proposing to revise the bulb vegetables crop group in the following manner. EPA will retain the pre-existing Crop Group 3 and title the revised group as Crop Group 3-07.

1. *Add commodities*. EPA proposes to amend the existing Crop Group 3 from 7 to 25 commodities. The existing crop group consists of the following seven commodities: (1) Garlic (*Allium sativum L. var.sativum*); (2) Garlic, great-headed (elephant) (*Allium ampeloprasm L. var ampleloprasum*); (3) Leek (*Alliumporrum L.*); (4) Onion, dry bulb and green, (*Allium cepa L. var. cepa*); (5) Onion, Welsh, (*Allium fistulosm* L.); (6) Shallot, bulb (*Allium cepa var. aggregatum* G. Don); and (7) Shallot, fresh leaves (*Allium cepa var.aggregatum* G. Don).

The 18 commodities EPA proposes to add to the group are: (1) Chive, fresh leaves (*Allium schoenoprasum L.*); (2) Chive, Chinese, fresh leaves (*Allium tuberosum Rottler ex. Spreng.*); (3) Daylily, bulb (*Hemerocallis fulva L.*) (L. var. fulva); (4) Elegans hosta (*Hosta Sieboldiana (Hook) Engl*); (5) Fritillaria, bulb, (*Fritillaria L. fritillary*); (6) Fritillaria, leaves (*Fritillaria L. fritillary*); (7) Garlic, serpent, bulb, (*Allium sativum var. ophioscorodon*); (8) Kurrat (*Allium kurrat Schweinf. ex. K. Kause*) (9) Lady's leek (*Allium cernuum* Roth); (10) Lily, bulb (*Lilium* spp. (*Lilium Leichtlinii var maximowiczii, Lilium lancifolium*)); (11) Onion, Beltsville bunching (*Allium x proliferum* (Moench) Schrad. Ex. Willd); (12) Onion, Chinese, bulb (*Allium chinense* G. Don.); (13) Onion, fresh (*Allium fistulosum L. var. caespitosum Makino*); (14) Onion, macrostem (*Allium macrostemom* Bunge); (15) Onion, pearl (*Allium porrum var. sectivum*); (16) Onion, potato, bulb (*Allium cepa L. var. aggregatum* G. Don); (17) Onion, tree, tops (*Allium x proliferum* (Moench) Schrad. ex. Willd.); and (18) Wild leek (*Allium tricoccum* Aiton).

Commodities are being added to this crop group for several reasons. EPA is now able to place many minor or specialty crops that were considered ''orphan crops'' into an appropriate crop group. The publication of the ''Food and Feed Crops of the United States'' includes over 690 crops and provides the necessary information. Additionally, increased demand for these minor fruits and vegetables by U.S. growers and consumers, particularly immigrants, drives the need for pest control tools and thus the need to group crops. Increasing the variety of available pest control tools for a crop enables U.S. growers to develop integrated pest management programs (IPM), which can minimize pest resistance for these high cash value alternative crops.

2. *Change the names of representative commodities*. EPA proposes to change the names of the representative commodities for the crop group by designating onion, bulb and onion, green as the representative commodities. The representative commodities for the group are currently listed as onion, green and onion dry bulb. This change merely adopts current commodity name designations.

3. *Create crop subgroups*. EPA proposes to add two crop subgroups to the revised crop group. The subgroups are:

i. *Subgroup 3-07-A*. Bulb onion subgroup. *Representative crop*. Onion, bulb. Eleven commodities are included in this subgroup: Daylily, bulb; Fritillaria, bulb; Garlic, bulb; Garlic great-headed, bulb; Garlic, serpent, bulb; Lily, bulb; Onion, bulb; Onion, Chinese, bulb; Onion, pearl; Onion, potato, bulb; Shallot, bulb.

ii. *Subgroup 3-07-B*. Green onion subgroup. *Representative crop*. Onion, green. Fifteen commodities are included in this subgroup: Chive, fresh leaves; Chive, Chinese, fresh leaves; Elegans hosta; Fritillaria, leaves; Kurrat; Lady's leek; Leek; Leek, wild; Onion, Beltsville bunching; Onion, fresh; Onion, green; Onion, macrostem; Onion, tree, tops; Onion, Welsh; Shallots, fresh leaves.

Creation of subgroups provides flexibility in the establishment of crop group tolerances which can be important for international harmonization. EPA has determined that residue data on the designated representative crops will provide adequate information on residue levels in crops and subgroups. This determination is based on similarities in cultural practices, edible food portions (bulb vs. leaves), the fact that none of these crops are used as animal feed items, as well as existing data on residue levels in these crops.

4. *Change the format*. EPA proposes to convert the current narrative format of the existing group to tabular form. This format will make it easier to read and understand.

5. *Change the name*. EPA is proposing to drop the descriptor ''(*Allium* spp.)'' from the name because, commodities not in Allium spp. are now included in the group.

C. Crop Group 13-07: Berry and Small Fruit Group

EPA is proposing to revise and expand the berries crop group in the following manner. EPA will retain pre-existing Crop Group 13 and title the revised group as Crop Group 13-07.

1. *Add commodities*. Crop Group 13 currently contains the following 11 commodities: (1) Blackberries (*Rubus eubatus*); (2) Blueberry, highbush; (3) Blueberry, lowbush (*Vaccinium* spp.); (4) and (5) Currant, black and red(*Ribes nigrum* L., *Ribes rubrum* L.); (6) Elderberry (*Sambucus* spp.); (7) Gooseberry, (*Ribes* spp.); (8) Huckleberry, (*Gaylussacia* spp.); (9) Loganberry (*Rubus loganobaccus* L.H. Bailey); and (10) and (11) Raspberry, black and red (*Rubus cccidentalis* L., *Rubus strigosus* Michx., *Rubusidaeus* L.).

EPA proposes to expand Crop group 13 by adding 36 commodities as follows: (1) Amur River grape (*Vitis amurensis* Rupr (*Vitaceae*)); (2) Aronia berry (*Aronia* spp. (*Rosaceae*)); (3) Bayberry (*Myrica* spp. (*Myricaceae*)) (4) Bearberry (*Arctostaphylos uva-ursi* (L.) Spreng (*Ericaceae*)); (5) Bilberry (*Vaccinium myrtillus* L. (*Ericaceae*)); (6) Buffalo Currant (*Ribes aureum* Pursh. (*Grossulariaceae*)); (7) Buffaloberry (*Shepherdia argentea* (Pursh) Nutt.(*Eleagnaceae*)); (8) Che (*Cudrania tricuspidata* Bur. ex Lavallee (*Moraceae*)); (9) Chilean guava (*Myrtus ugni* Mol. (*Myrtaceae*)); (10) Chokecherry (*Prunus virginiana* L. (*Rosaceae)*); (11) Cloudberry (*Rubus chamaemorus* L. (*Rosaceae*)); (12) Cranberry (*Vaccinium macrocarpon* Aiton (*Ericaceae*)); (13) European barberry (*Berberis vulgaris* L. (*Berberidaceae*)); (14) Grape (*Vitis* spp.

(*Vitaceae*)); (15) Highbush cranberry, (*Viburnum opulus* L. var. *Americanum* Aiton (*Caprifoliaceae)*); (16) Honeysuckle, edible (*Lonicera caerula L. var. emphyllocalyx* Nakai (*Caprifoliaceae*)); (17) Jostaberry (*Ribes x nidigrolaria* Rud. Bauer & A. Bauer. *Grossulariaceae* (*Saxifragaceae*)); (18) Juneberry (including Saskatoon Berry)(*Amelanchier* spp. (*Rosaceae*)); (19) Kiwifruit, fuzzy (*Actinidia deliciosa* (A. Chev.) C.F. Liang & A.R. Ferguson (*Actinidaceae*)); (20) Kiwifruit, hardy (*Actinidia arguta* (Siebold & Zucc.) Planch. Ex Miq (*Actinidaceae*)); (21) Lingonberry (*Vaccinium vitis-idaea* L. (*Ericaceae*)); (22) Maypop (*Passiflora incarnata* L. (*Passifloraceae*)); (23) Mountain Pepper Berries (*Tasmannia lanceolata* (Poir.) A.C. Sm.(*Winteraceae*)); (24) (Mulberry (*Morus* spp. (*Moraceae*)); (25) Muntries (*Kunzea pomifera* F. Muell. (*Myrtaceae*)); (26) (Native currant (*Acrotriche depressa* R. Br. (*Epacridaceae*)); (27) Partridgeberry (*Mitchella repens* L. (*Rubiaceae*)); (28) Phalsa (*Grewia subinaequalis* DC. (*Tiliaceae*)); (29) Pincherry (*Prunus pensylvanica* L. f. (*Rosaceae*)); (30) Riberry (*Syzygium luehmannii (Myrtaceae)*); (31) Salal (*Gaultheria shallon* Pursh (*Ericaceae*)); (32) Schisandra berry (*Schisandra chinensis* (Turcz.) Baill. (*Schisandraceae*)); (33) Sea buckthorn (*Hippophae rhamnoides* L. (*Eleagnaceae)*); (34) Serviceberry (*Sorbus* spp. (*Rosaceae*)); (35) Strawberry (*Fragaria x ananassa* Duchesne, (*Rosaceae*)) and (36) Wild raspberry (*Rubus muelleri* Lefevre ex P.J. Mull (*Rosaceae*)).

The proposed addition of crops to this crop group is based on reasons similar to those for expanding the bulb vegetable group. Additionally, newer varieties of specialty berries and small fruits have become available for grower and homeowner use that were not previously in this crop group. These commodities have similarities in cultural practices, edible food portions (mostly berries) and residue levels.

2. *Change the crop group name.* EPA proposes to change the name of ''Crop Group 13: Berries Group'' to ''Crop Group 13-07: Berry and small fruit group.'' This name change reflects the addition of the new commodities to the group.

3. *Revise the existing subgroups.* EPA is proposing that revised Crop Group 13-07 have two subgroups. Subgroup 13-07-A is similar to existing Subgroup 13-A except that wild raspberry has been added. Wild raspberry, like the other members of this subgroup, is a member of the genus ''*Rubus* spp.,''and the members of this genus have a similar fruit structure and are cultivated as shrubs.

EPA proposes to revise the Bushberry subgroup 13-B by adding 9 additional commodities for a total of 16 as follows in the revised Bushberry subgroup 13-07-B: (1) Aronia berry (2) Blueberry, highbush, and cultivars and/or hybrids of these (3) Blueberry, lowbush (4) Buffalo currant (5) Chilean guava (6) Currrant, black and currant red (7) Elderberry (8) European barberry (9) Gooseberry (10) Highbush cranberry (11) Honeysuckle, edible (12) Huckleberry (13) Jostaberry (14) Native currant (15) Salal (16) Sea Buckthorn.

The crops proposed to be added to this subgroup are all maintained as bushes and all have edible exposed berries. They are all similar in plant biology and cultural practices and are likely to have similar pest problems and the need for pest control products with similar use patterns.

4. *Create new subgroups.* EPA proposes to add six new subgroups to revised Crop Group 13-07 as follows:

i. *Large shrub/tree berry subgroup 13-07-C.* (*Representative commodities.* Elderberry or Mulberry) Bayberry; Buffaloberry; Che; Chokeberry; Elderberry; Juneberry; Mountain pepper berries; Mulberry; Phalsa; Pinchberry; Riberry; Serviceberry.

ii. *Small fruit vine climbing subgroup 13-07-D.* (*Representative commodities.* Grape and Fuzzy kiwifruit) Amur river grape; Gooseberry; Grape; Kiwifruit, fuzzy; Kiwifruit, hardy; Maypop; Schisandra berry.

iii. *Small fruit vine climbing subgroup, except grape 13-07-E.* (*Representative commodity.* Fuzzy kiwifruit) Amur river grape; Gooseberry; Kiwifruit, fuzzy; Kiwifruit, hardy; Maypop; Schisandra berry.

iv. *Small fruit vine climbing subgroup except fuzzy kiwifruit, Grape 13-07-F.* (*Representative commodity.* Grape) Amur river grape; Grape; Kiwifruit, hardy; Maypop; Schisandra berry.

v. *Low growing berry subgroup 13-07-G.* (*Reprensentative commodity.* Strawberry) Bearberry; Bilberry; Blueberry, lowbush; Cloudberry; Cranberry; Lingonberry; Muntries; Partridgeberry; Strawberry.

vi. *Low growing berry subgroup, except strawberry 13-07-H.* (*Representative commodity.* Cranberry) Bearberry; Bilberry; Blueberry, lowbush; Cloudberry; Cranberry; Ligonberry; Muntries; Partridgeberry.

Creation of subgroups provides flexibility in the establishment of crop group tolerances which can be important for international harmonization. EPA has determined that residue data on the designated representative crops will provide adequate information on residue levels in crops and subgroups. This determination is based on similarities in cultural practices, edible food portions, geographical location, the fact that none of these crops are used as animal feed items, as well as existing data on residue levels in these crops.

5. *Revise the representative commodities.* EPA proposes to revise the representative crops for Crop Group 13-07 as follows: ''Any one blackberry or any one raspberry; and blueberry'' will be changed to ''Any one blackberry or any one raspberry; highbush blueberry; elderberry or mulberry; grape; fuzzy kiwifruit; and strawberry.'' As explained above, these commodities are representative of their respective subgroups and thus, in combination with other commodities, are representative of the entire group.

D. New Crop Group 21: Edible Fungi Group

EPA proposes to add a new crop group, entitled Edible Fungi, as Crop Group 21 and to include in this crop group 20 commodities in 12 fungi families. (1) Blewitt (*Lepista nuda*(Bull.:Fr.) Cooke (*Tricholomataceae*)); (2) Bunashimeji (*Hypsizygus marmoreus (Agaricaceae)*); (3) Chinese mushroom (*Volvariella volvacea* (Bull.) Singer (*Pluteaceae*)); (4) Enoke (*Flammulina velutipes* (Curt.) Singer (*Tricholomataceae*)); (5) Hime-Matsutake (*Agaricus blazei* Murill (*Agaricaceae*)); (6) Hirmeola (*Auricularia auricula (Auriculariaceae)*); (7) Maitake (*Grifola frondosa (Polyporaceae)*); (8) Morel (*Morchella* spp. (*Morchellaceae*)); (9) Nameko (*Pholiota nameko, (Strophariaceae)*); (10) Net Bearing (Dictyophora *Dictyophora indusiata (Phallaceae)*); (11) Oyster Mushroom (*Pleurotus ostreatus (Jacq.)* Kummer (*Tricholomataceae*)); (12) Pom Pom (*Hericium erinaceus (Hydnaceae)*); (13) Reishi Mushroom (*Ganoderma lucidum (Leyss. Fr.)* Karst. (*Ganodermataceae*)); (14) Rodmans (Agaricus, *Agaricus bitorquis (Quel.) Saccardo (Agaricaceae)*); (15) Shiitake mushroom (*Lentinula edodes (Berk.) Pegl. (Polyporaceae)*); (16) Shimeji (*Tricholoma conglobatum*, (*Tricholomataceae*)); (17) Stropharia (*Stropharia* spp. (*Strophariaceae*)) (18) Truffle *Tuber* spp. (*Tuberaceae*); (19) White button mushroom (*Agaricus bisporus* (Lange) *Imbach (Agaricaceae*)) and (20) White Jelly fungi (*Tremella fuciformis (Tremellaceae*)).

Edible Fungi Group 21 is proposed based on similarities in cultural edible food portions, residue levels,

geographical locations, pest problems, the fact that none of these crops are used as animal feed items and for international harmonization purposes. All members of this crop group are either grown in indoor structures under very strict environmentally controlled conditions or cultivated outdoors as a crop. This new crop group will have no crop subgroup associated with it. The commodities grown in this proposed crop group are principally grown in other countries. This crop group will provide the opportunity for domestic growers to produce these high value minor crops that are in demand, particularly from immigrant populations in the United States.

EPA proposes to define the representative commodities for the Edible Fungi Group 21 as: ''White button mushrooms and any one oyster mushroom or any one Shiitake mushroom.''

These proposed representative commodities were chosen based on their production and economic importance. The cultural practices, pest problems, and commercial production of the different edible fungi are also similar. Specialty mushrooms, which are expanding in the United States, will be represented by the oyster or shiitake mushroom.

E. Technical Corrections

EPA proposes that the misspelled commodity ''Onion, Welch'' in Crop Group 3 be corrected to ''Onion, Welsh''. This correction will be made in pre-existing Crop Group 3. Additionally, EPA is proposing to list the commodities in pre-existing Crop Group 3 in tabular form. EPA proposes to revise the commodity definitions under 40 CFR 180.1(g) pertaining to onions and adding an entry for garlic to clarify these definitions. The proposed changes are:

- Onion = Bulb onion, green onion, and garlic.
- Onion, bulb = Bulb onion; garlic; great headed garlic; serpent garlic; Chinese onion; pearl onion; potato onion; and shallot, bulb.
- Onion, green = Green onion; chive, fresh leaves; Chinese chive, fresh leaves; Kurrat; lady's leek; leek; wild leek; Beltsville bunching onion; fresh onion; tree onion, tops; welsh; and shallot, fresh leaves.
- Garlic = Garlic, Great headed garlic, and serpent garlic.

EPA proposes to revise the commodity definition in 40 CFR 180.1(g) for caneberries as follows:

- Caneberry = *Rubus* spp. (including blackberry; *Rubus caesius* (youngberry); *Rubus loganbaccus* (loganberry); *Rubus idaeus* (red and black raspberries); and varieties and/or hybrids of these).

This proposed amendment will correct the scientific names to the caneberry commodity definition and update the commodity terminology to conform to the ''EPA Food and Feed Commodity Vocabulary'' rules for commodity terminology.

EPA proposes to establish a new commodity definition in 40 CFR 180.1(g) for raspberry as follows:

Raspberry = *Rubus* spp. (including bababerry, black raspberry, blackcap, caneberry, framboise, frambueso, himbeere, keriberry, mayberry, red raspberry, thimbleberry, tulameen, yellow raspberry, and cultivars and/or hybrids of these).

This proposed commodity definition for raspberry will further clarify the cultivars of raspberry covered in the Caneberry subgroup.

EPA proposes to delete from § 180.41(b) the terms: Mushroom; grape; strawberry, and kiwifruit.

These commodities were listed as not being in a crop group, but are now proposed to become crop group members.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has designated this proposed rule as a not-significant regulatory action under section 3(f) of the Executive Order.

EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is contained in ''Economic Analysis Proposed Expansion of Crop Grouping Program.'' A copy of the analysis is available in the docket and is briefly summarized here.

This is a burden-reducing regulation. Crop grouping has saved money by permitting the results of pesticide exposure studies for one to be applied to other, similar crops. The regulation exploits the above opportunity for saving money by expanding certain crop groups to include more crops.

The primary beneficiaries of the regulation are minor crop producers and consumers. Specialty crop producers will benefit because lower registration costs will encourage more products to be registered on minor crops, providing additional tools pest control. Consumers will benefit by having a larger supply of imported and domestically produced specialty produce at potentially lower costs. Secondary beneficiaries are pesticide registrants, who benefit because expanded markets for pesticides products will lead to increased sales. The IR-4 Project and EPA, which are publicly funded Federal government entities, will also more efficiently use resources as a result of the rule. EPA will also benefit from broader operational efficiency gains, which result from fewer emergency pesticide use requests from specialty crop growers, the ability to conduct risk assessment based on crop grouping, greater ease of establishing import tolerances, greater capacity to assess risks of pesticides used on crops not grown in the United States, further harmonization of crop classification and nomenclature, harmonized commodity import and export standards and increased potential for resource sharing between EPA and other pesticide regulatory agencies. Revisions to the crop grouping program will result in no appreciable costs or negative impacts to consumers, specialty crop producers, pesticide registrants, the environment or human health.

Benefits of the proposed rule can be shown through an example of the impact of the proposed changes to Crop Group 3. The proposed rule expands Crop Group 3, Bulb Vegetables from 7 to 25 crops, an increase of 18 from the original crop group. The addition of these crops would greatly increase the efficiency of IR-4 and EPA in registering pesticides on specialty crops. Assuming that the crops added to the crop group require only one field trial to be granted a stand-alone registration (grown on a regional basis and few acres), to accomplish the same result without expanding Crop Group 3 would require 18 field trials, at a cost of $5.4 million ($300,000 per field trial) and the administrative costs of both the IR-4 testing process and the EPA review process. In addition, specialty crop producers will potentially gain access to important pest control tools on 18 bulb vegetable crops, consumers will benefit from the potential for a cheaper, more abundant and varied supply of bulb vegetables, and pesticide registrants will potentially enjoy greater sales.

B. Paperwork Reduction Act

This action does not contain any new information collection requirements that would need approval by OMB under the provisions of the Paper Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* However, the proposed rule is expected to reduce mandatory paperwork due to a reduction in required studies. The proposed rule will have the effect of reducing the number of residue

chemistry studies because fewer representative crops would need to be tested under a crop grouping scheme, than it would otherwise be required.

EPA is interested in your comments on the estimated reductions as presented in the Economic Analysis prepared for this proposed rule. Direct your comments to EPA using the public docket that has been established for this proposed rule as described in **ADDRESSES**. The Agency will consider and address comments received as it develops the final rule.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, the Agency hereby certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This proposed rule does not have any direct adverse impacts on small businesses, small non-profit organizations, or small local governments.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business according to the small business size standards established by the Small Business Administration (SBA); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact on of the proposed rule on small entities'' (5 U.S.C. sections 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden or otherwise has a positive economic effects on all of the small entities subject to the rule.

This proposed action provides regulatory relief and regulatory flexibility because the new or expanded crop groups ease the process for pesticide manufacturers to obtain pesticide tolerances on greater numbers of crops and make it likely that pesticides will be more widely available to growers for use on crops, particularly specialty crops.

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Accordingly, this rule is not subject to the requirements of sections 202, 203, 204, and 205 of UMRA.

E. Executive Order 13132

Pursuant to Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999), EPA has determined that this proposed rule does not have federalism implications, because it will not 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, as specified in the Order. Thus, Executive Order 13132 does not apply to this proposed rule.

F. Executive Order 13175

As required by Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000), EPA has determined that this proposed rule does not have tribal implications because it will not have any affect on tribal governments, 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, as specified in the Order. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) does not apply to this proposed rule because this action is not designated as an economically significant regulatory action as defined by Executive Order 12866 (see Unit IV.A.), nor does it establish an environmental standard, or otherwise have a disproportionate effect on children.

H. Executive Order 13211

This proposed 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) because it is not designated as an regulatory action as defined by Executive Order 12866 (see Unit IV.A.), nor is it likely to have any adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, and sampling procedures) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not impose any technical standards that would require EPA to consider any voluntary consensus standards.

J. Executive Order 12898

Under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), the Agency has not considered environmental justice-related issues because this proposed rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedures, Pesticides and pests.

Dated: May 10, 2007.

James B. Gulliford,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

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

2. In the table to § 180.1(g) by revising the entries for ''Caneberries,'' ''Onions,'' ''Onions (dry bulb only),'' and ''Onions, green,'' and by adding entries for ''Garlic,'' and ''Raspberry'' to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(g) * * *

A	B
	* * * * *
Caneberry	*Rubus* spp. (including blackberry; *Rubus caesius* (youngberry) *Rubus loganbaccus* (loganberry); *Rubus idaeus* (red and black raspberries); and varities and/or hybrids of these.
	* * * * *
Garlic	Garlic, great headed garlic, and serpent garlic.
	* * * * *
Onion	Bulb onion, green onion, and garlic.
Onion, bulb	Bulb onion: garlic; great headed garlic; serpent garlic; Chinese onion; pearl onion; potato onion; and shallot, bulb.
Onion, green	Green onion; lady's leek; leek; wild leek; Beltsville bunching onion; fresh onion; tree onion, tops; Welsh, onion; and shallot, fresh leaves.
	* * * * *
Raspberry	*Rubus* spp. (including bababerry, black raspberry, blackcap, caneberry, framboise, frambueso, himbeere, keriberry, mayberry, red raspberry, thimbleberry, tulameen, yellow raspberry, and cultivars and /or hybrids of these).
	* * * * *

3. In § 180.40 by redesignating paragraph (j) as paragraph (k) and by adding new paragraph (j) to read as follows:

§ 180.40 Tolerances for crop groups.

* * * * *

(j) When EPA amends a crop group in a manner that expands or contracts the commodities that are covered by the group, EPA will initially retain the pre-existing as well as the revised crop group in the CFR. The revised crop group will have the same number as the pre-existing crop group; however, the revised crop group number will be followed by a hyphen and the final two digits of the year in which it was established (e.g., if Crop Group 1 is amended in 2007, the revised group will be designated as Crop Group 1-07). If the pre-existing crop group had crop subgroups, these subgroups will be numbered in a similar fashion in the revised crop group. The name of the revised crop group will not be changed from the pre-existing crop group unless the revision so changes the composition of the crop group that the pre-existing name is no longer accurate. Once a revised crop group is established, EPA will no longer establish tolerances under the pre-existing crop group. At appropriate times, EPA will amend tolerances for crop groups that have been superseded by revised crop groups to conform the pre-existing crop group to the revised crop group. Once all of the tolerances for the pre-existing crop group have been updated, the pre-existing crop group will be removed from the CFR.

* * * * *

4. Section 180.41 is amended by removing the commodities: mushroom, grape, strawberry, and kiwifruit from paragraph (b); by revising paragraph (c)(3) and by redesignating paragraphs (c)(4) through (c)(19) as paragraphs (c)(5) through (c)(20), respectively, and by adding a new paragraph (c)(4) to read as follows:

§ 180.41 Crop group tables.

* * * * *

(c) * * *

(3) *Crop Group 3*. Bulb Vegetables (*Allium* spp.) Group.

(i) *Representative commodities*. Onion, green; and onion, dry bulb.

(ii) *Commodities*. The following is a list of all the commodities in Crop Group 3.

CROP GROUP 3: BULB VEGETABLE (ALLIUM SPP.) GROUP—COMMODITIES

Garlic, bulb (*Allium sativum*)
Garlic, great headed, (elephant) (*Allium ampeloprasum* var. *ampeloprasum*)
Leek (*Allium ampeloprasum*, *A. porrum, A. tricoccum*)
Onion, dry bulb and green (*Allium cepa, A. fistulosum*)
Onion, Welsh, (*Allium fistulosum*)
Shallot (*Allium cepa* var. *cepa*)

(4) *Crop Group 3-07*. Bulb Vegetables Group.

(i) *Representative commodities*. Onion, bulb and onion, green.

(ii) *Table*. The following Table 1 lists all the commodities listed in Crop Group 3-07 and identifies the related crop subgroups.

TABLE 1.—CROP GROUP 3-07: BULB VEGETABLE GROUP

Commodities	Related crop subgroups
Chive, fresh leaves *Allium schoenoprasum L.*	3-07-B
Chive, Chinese, fresh leaves *Allium tuberosum* Rottler ex Spreng	3-07-B
Daylily, bulb *Hemerocallis fulva* (L.) L. var. fulva	3-07-A
Elegans hosta *Hosta Sieboldiana (Hook.) Engl*	3-07-B
Fritillaria, bulb *Fritillaria L. fritillary*	3-07-A
Fritillaria, leaves *Fritillaria L. fritillary*	3-07-B
Garlic, bulb *Allium sativum* L. var. *sativum* (*A. sativum* Common Garlic Group)	3-07-A
Garlic, great headed, bulb *Allium ampeloprasum* L. var. *ampeloprasum* (*A. ampeloprasum* Great-headed Garlic Group)	3-07-A
Garlic, Serpent, bulb *Allium sativum* var. *ophioscorodon* (or *A. sativum* Ophioscorodon Group)	3-07-A
Kurrat *Allium kurrat Schweinf. Ex. K. Krause* (or *A. ampeloprasum* Kurrat Group)	3-07-B
Lady's leek *Allium cernuum* Roth	3-07-B
Leek *Allium porrum* L. (syn:*A. ampeloprasum L.* var. *porrum* (L.) J. Gay) (*A.ampeloprasum* Leek Group)	3-07-B

TABLE 1.—CROP GROUP 3-07: BULB VEGETABLE GROUP—Continued

Commodities	Related crop subgroups
Leek, wild *Allium tricoccum* Aiton	3-07-B
Lily, bulb *Lilium* spp. (*Lilium Leichtlinii* var *maximowiczii, Lilium lancifolium*)	3-07-A
Onion, Beltsville bunching *Allium x proliferum* (Moench) Schrad. (syn: *Allium fistulosum* L. x *A. cepa* L.)	3-07-B
Onion, bulb *Allium cepa* L. var. *cepa* (*A. cepa* Common Onion Group)	3-07-A
Onion, Chinese, bulb *Allium chinense* G. Don. (syn: *A. bakeri* Regel)	3-07-A
Onion, fresh *Allium fistulosum* L. var. *caespitosum* Makino	3-07-B
Onion, green *Allium cepa* L. var. *cepa* (*A. cepa* Common Onion Group)	3-07-B
Onion, macrostem *Allium macrostemom* Bunge	3-07-B
Onion, Pearl *Allium porrum* var. *sectivum* (or *A. ampeloprasum* Pearl Onion Group)	3-07-A
Onion, potato, bulb *Allium cepa L.* var. *aggregatum* G. Don. (*A. cepa* Aggregatum Group)	3-07-A
Onion, tree, tops *Allium x proliferum* (Moench) Schrad. ex Willd. (syn: *A. cepa* var. *proliferum* (Moench) Regel; *A. cepa* L. var. *bulbiferum* L.H. Bailey; *A. cepa* L. var. *viviparum* (Metz.) Alef.)	3-07-B
Onion, Welsh, tops *Allium fistulosum* L.	3-07-B
Shallot, bulb *Allium cepa* var. *aggregatum* G. Don	3-07-A
Shallot, fresh leaves *Allium cepa* var. *aggregatum* G. Don	3-07-B

(iii) *Table.* The following Table 2 identifies the crop subgroups for Crop Group 3-07, specifies the representative commodities for each subgroup and lists all the commodities included in each subgroup.

TABLE 2.—CROP GROUP 3-07: SUBGROUP LISTING

Representative commodities	Commodities
CROP SUBGROUP 3-07-A. Onion, bulb, subgroup	Daylily, bulb; Fritillaria, bulb; Garlic, bulb; Garlic, great-headed, bulb; Garlic, Serpent, bulb; Lily, bulb; Onion, bulb; Onion, Chinese, bulb; Onion, Pearl; Onion, potato, bulb; Shallot, bulb.
CROP SUBGROUP 3-07-B. Onion, green, subgroup	Chive, fresh leaves; Chive, Chinese, fresh leaves; Elegans hosta; Fritillaria, leaves; Kurrat; Lady's leek; Leek; Leek, wild; Onion, Beltsville bunching; Onion, fresh; Onion, green; Onion, macrostem; Onion, tree, tops; Welsh onion; Shallot, fresh leaves.

* * * * *

5. Section 180.41 is further amended by redesignating newly redesignated paragraphs (c)(15) through (c)(20) as paragraphs (c)(16) through (c)(21), respectively, and by adding a new paragraph (c)(15), and paragraph (c)(22) to read as follows:

§ 180.41 Crop group tables.

* * * * *

(c) * * *

(15) *Crop Group 13-07.* Berry and Small Fruit Crop Group.

(i) *Representative commodities.* Any one blackberry or any one raspberry; highbush blueberry; elderberry or mulberry; grape; kiwifruit, fuzzy; and strawberry.

(ii) *Table.* The following Table 1 lists all the commodities listed in Crop Group 13-07 and identifies the related crop subgroups.

TABLE 1.—CROP GROUP 13-07: BERRY AND SMALL FRUIT CROP GROUP

Commodities	Related crop subgroups
Amur river grape (*Vitis amurensis Rupr*)	13-07-D 13-07-E 13-07-F
Aronia berry (*Aronia* spp.)	13-07-B
Bayberry (*Myrica* spp.)	13-07-C
Bearberry (*Arctostaphylos uva-ursi*)	13-07-G 13-07-H
Bilberry (*Vaccinium myrtillus L.*)	13-07-G 13-07-H
Blackberry (*Rubus* spp.) (including Andean blackberry, arctic blackberry, bingleberry, black satin berry, boysenberry, brombeere, California blackberry, Chesterberry, Cherokee blackberry, Cheyenne blackberry, common blackberry, coryberry, darrowberry, dewberry, Dirksen thornless berry, evergreen blackberry, Himalayaberry, hullberry, lavacaberry, loganberry, lowberry, Lucretiaberry, mammoth blackberry, marionberry, mora, mures deronce, nectarberry, Northern dewberry, olallieberry, Oregon evergreen berry, phenomenalberry, rangeberry, ravenberry, rossberry, Shawnee blackberry, Southern dewberry, tayberry, youngberry, zarzamora, and cultivars and/or hybrids of these	13-07-A
Blueberry, highbush (*Vaccinium* spp.)	13-07-B
Blueberry, lowbush (*Vaccinium angustifolium* Aiton)	13-07-B
Buffalo currant (*Ribes aureum* Pursh)	13-07-B
Buffaloberry (*Shepherdia argentea* (Pursh) Nutt.)	13-07-C
Che (*Cudrania tricuspidata* Bur. Ex Lavallee	13-07-C
Chilean guava (*Myrtus ugni* Mol.)	13-07-B
Chokecherry (*Prunus virginiana* L.)	13-07-C

TABLE 1.—CROP GROUP 13-07: BERRY AND SMALL FRUIT CROP GROUP—Continued

Commodities	Related crop subgroups
Cloudberry (*Rubus chamaemorus* L.)	13-07-G
	13-07-H
Cranberry (*Vaccinium macrocarpon* Aiton)	13-07-G
	13-07-H
Currant, black (*Ribes nigrum* L.)	13-07-B
Currant, red (*Ribes rubrum* L.)	13-07-B
Elderberry (*Sambucus* spp.)	13-07-B
	13-07-C
European barberry (*Berberis vulgaris* L.)	13-07-B
Gooseberry (*Ribes* spp.)	13-07-B
	13-07-D
	13-07-E
Grape (*Vitis* spp.)	13-07-D
	13-07-F
Highbush cranberry (*Viburnum opulus* L. var. *Americanum* Aiton)	13-07-B
Honeysuckle, edible (*Lonicera caerula L. var. emphyllocalyx* Nakai, *Lonicera carrula L var. edulis Turcz. Ex herder*)	13-07-B
Huckleberry (*Gaylussacia* spp.)	13-07-B
Jostaberry (*Ribes x nidigrolaria* Rud. Bauer & A. Bauer)	13-07-B
Juneberry, Saskatoon berry (*Amelanchier* spp.)	13-07-B
	13-07-C
Kiwifruit, fuzzy (*Actinidia deliciosa* A. Chev.) C.F. Liang & A.R. Ferguson)	13-07-D
	13-07-E
Kiwifruit, hardy (*Actinidia arguta* (Siebold & Zucc.) Planch. Ex Miq)	13-07-D
	13-07-E
	13-07-F
Lingonberry (*Vaccinium vitis-idaea* L.)	13-07-B
	13-07-G
	13-07-H
Maypop (*Passiflora incarnata* L.)	13-07-E
	13-07-F
Mountain pepper berries (*Tasmannia lanceolata*)	13-07-C
Mulberry *Morus* spp.)	13-07-C
Muntries (*Kunzea pomifera*)	13-07-G
	13-07-H
Native currant (*Acrotriche depressa*)	13-07-B
Partridgeberry (*Mitchella repens* L.)	13-07-G
	13-07-H
Phalsa (*Grewia subinaequalis* DC.)	13-07-C
Pincherry (*Prunus pensylvanica* L.f.)	13-07-C
Raspberry, black and red (*Rubus* spp.)	13-07-A
Riberry (*Syzygium luehmannii*)	13-07-C
Salal (*Gaultheria shallon* Pursh)	13-07-B
	13-07-C
Schisandra berry (*Schisandra chinensis* (Turcz.) Baill	13-07-D
	13-07-E
Sea buckthorn (*Hippophae rhamnoides* L.)	13-07-B
Serviceberry (*Sorbus* spp.)	13-07-C
Strawberry (*Fragaria x ananassa* Duchesne)	13-07-G
Wild raspberry (*Rubus muelleri* Lefevre ex P.J. Mull)	13-07-A

(iii) *Table.* The following Table 2 identifies the crop subgroups for Crop Group 13-07, specifies the representative commodities for each subgroup and lists all the commodities included in each subgroup.

TABLE 2.—CROP GROUP 13-07: SUBGROUP LISTING

Representative commodities	Commodities
Crop Subgroup 13-07-A. Caneberry subgroup.	Blackberry; Raspberry, red and black; wild raspberry; loganberry; cultivars and/or hybrids of these.
Crop Subgroup 13-07-B. Bushberry subgroup.	Aronia, berry; blueberry, highbush, and cultivars and/or hybrids of these; blueberry, lowbush; currant, buffalo; Chilean,guava; currant, black; and currant, red; elderberry, European, barberry; gooseberry; cranberry, highbush; Honeysuckle, edible; Huckleberry; jostaberry; Juneberry: lingonberry; Native, currant; salal; Sea, buckthorn.
Crop Subgroup 13-07-C. Large shrub/tree berry subgroup.	Bayberry; Buffaloberry; che; chokecherry; elderberry; Juneberry; Mountain pepper, berries; mulberry; Phalsa; pincherry; riberry; salal; serviceberry.
Crop Subgroup 13-07-D. Small fruit vine climbing subgroup.	Amur river grape; gooseberry; grape; kiwifruit, fuzzy; kiwifruit, hardy; Maypop, Schisandra berry.
Crop Subgroup 13-07-E. Small fruit vine climbing subgroup, except grape.	Amur river grape; gooseberry; kiwifruit, fuzzy; kiwifruit, hardy; Maypop; schisandra berry.
Crop Subgroup 13-07-F. Small fruit vine climbing subgroup except fuzzy kiwifruit.	Amur river grape; grape, Kiwifruit, hardy; maypop; schisandra berry.
Crop Subgroup 13-07-G. Lowgrowing berry subgroup.	Bearberry; bilberry; blueberry,lowbush; cloudberry; cranberry; lingonberry; muntries; partridgeberry; strawberry
Crop Subgroup 13-07-H. Lowgrowing berry subgroup, except strawberry.	Bearberry; bilberry; blueberry, lowbush; cloudberry; cranberry; lingonberry; muntries; partridgeberry.

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(22) *Crop Group 21.* Edible fungi Group.

(i) *Representative commodities.* White button mushroom and any one oyster mushroom or any Shiitake mushroom.

(ii) *Table.* The following is a list of all the commodities in Crop Group 21. There are no related subgroups.

CROP GROUP 21: EDIBLE FUNGI GROUP—COMMODITIES

Blewitt, Lepista nuda (*Tricholomataceae*)
Bunashimeji, Hypsizygus marrmoreus (*Agaricaceae*)
Chinese mushroom, Volvariella volvacea (Bull.) Singer (*Pluteaceae*)
Enoki, Flammulina velutipes (Curt.) Singer (*Tricholomataceae*)
Hime-Matsutake, Agaricus blazei Murill (*Agaricaeae*)
Hirmeola, Auricularia *auricular* (*Auriculariaceae*)
Maitake, Grifola frondosa (*Polyporaceae*)
Morel, Morchella spp. (*Morchellaceae*)
Nameko, Pholiota nameko, (*Strophariaceae*)
Net Bearing Dictyophora, Dictyophora indusiata (*Phallaceae*)
Oyster mushroom, Pleurotus spp. (*Tricholomataceae*)
Pom Pom, Hericium erinaceus (*Hydnaceae*)
Reishi mushroom, Ganoderma lucidum (Leyss. Fr.) Karst. (*Ganodermataceae*)
Rodman's agaricus, Agaricus bitorquis (Quel.) Saccardo (*Agaricaceae*)
Shiitake mushroom, Lentinula edodes (Berk.) Pegl. (*Polyporaceae*)
Shimeji, Tricholoma conglobatum, (*Tricholomataceae*)
Stropharia, Stropharia spp. (*Strophariaceae*)
Truffle, Tuber spp. (*Tuberaceae*)
White button mushroom, Agaricus bisporous (Lange) Imbach (*Agaricaceae*)
White Jelly Fungi, Tremella fuciformis (*Tremellaceae*)

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 438 and 447

[CMS–2279–P]

RIN 0938–A095

Medicaid Program; Graduate Medical Education

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify that costs and payments associated with Graduate Medical Education programs are not expenditures for medical assistance that are federally reimbursable under the Medicaid program.

DATES: *Comment date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 22, 2007.

ADDRESSES: In commenting, please refer to file code CMS–2279–P. Because of staff and resource limitations, we cannot accept comments by facsimile (Fax) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues