

risk from chlorpyrifos residues as a result of the proposed temporary tolerance would be negligible.

The petition for a tolerance has resulted from a misuse of chlorpyrifos, and the Agency does not generally grant a tolerance to cover misuse. The following points, however, were considered. The petitioner was not directly responsible for the misuse. Although human food produced from the treated chlorpyrifos was not determined by the Agency to be a human health hazard, the petitioner has not sought approval for use of the treated oats as human food and destroyed all human food made from the treated oats that had not entered commerce. The tolerance is time limited. Finally, if this tolerance is not approved, 18 million bushels of oats, or approximately 15% of the privately held U.S. stocks, will have to be destroyed despite EPA's conclusion that use of the oats as an animal feed protects the public health.

To ensure that the oats are used as an animal feed, EPA has amended the commodity definition from "the raw agricultural commodity oats" to "the raw agricultural commodities oats and barley when blended together in a mixture containing 97% oats and 3% barley." Blending barley with oats will make the oats unsuitable for milling to produce human food. The petitioner has agreed to blend barley into the treated oats prior to sale or distribution.

The nature of the residue in plants and animals is adequately understood. Adequate methodology is available for enforcement purposes and for analysis of chlorpyrifos in oat grain. The FDA Pestrack data base (PAM Vol. I, January, 1994) indicates that complete recovery has been obtained for chlorpyrifos under FDA multiresidue methods 302 and 303, and partial recovery has been obtained with method 304.

The pesticide is considered useful for the purpose for which the tolerance is sought.

There are currently no actions pending against continued registration of this chemical.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after

publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCFA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5F4427/P606]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-54, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

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

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

Dated: February 1, 1995.

**Stephen L. Johnson,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

#### PART 180—[AMENDED]

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

**Authority:** 21 U.S.C. 346a and 371.

2. In § 180.342, by adding new paragraph (f), to read as follows:

#### § 180.342 Chlorpyrifos; tolerances for residues.

\* \* \* \* \*

(f) A tolerance of 15 ppm is established for residues of the pesticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] in or on the raw agricultural commodities oats and barley when blended together as a mixture containing 97% oats and 3% barley.

(1) Such tolerance applies only to oats that were treated post-harvest with chlorpyrifos on or before June 15, 1994.

(2) Such tolerance applies only to oats to be used as animal feed or as a constituent of animal feed.

(3) Notwithstanding any other provision of law or regulation, this tolerance does not authorize the presence of residues of chlorpyrifos in any human food item made from such treated oats, other than residues resulting from the use of the oats for animal feed purposes.

(4) Such tolerance expires on December 31, 1996.

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#### 40 CFR Parts 185 and 186

[FAP 3H5673, 4H5695, 4H5696/P591; FRL-4915-1]

RIN 2070-AC18

#### Food and Feed Additive Regulations for d-Limonene, Dihydro-5-Pentyl-2(3H)-Furanone, and Dihydro-5-Heptyl-2(3H)-Furanone

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to establish food/feed additive regulations for residues of the insecticides d-limonene, dihydro-5-pentyl-2(3H)-furanone, and dihydro-5-heptyl-2(3H)-furanone when used as active ingredients in insect-repellent tablecloths and in insect-

repellent strips used in food/feed-handling establishments. Rod Products Co. requested these regulations.

**DATES:** Comments, identified by the document control number, [FAP 3H5673, 4H5695, 4H5696/P591], must be received on or before March 10, 1995.

**ADDRESSES:** By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** By mail: Robert A. Forrest, Product Manager (PM 14), Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 219, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6600.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the **Federal Register** of October 21, 1993 (58 FR 54356), which announced that Rod Products Co., 4600 Glencoe Ave., No. 4, Marina del Rey, CA 90292-6363, had submitted to EPA food/feed additive petitions (FAPs) 3H5673, 4H5695, and 4H5696, which requested that the Administrator, pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348, amend 40 CFR parts 185 and 186 by establishing regulations for residues of d-limonene, dihydro-5-pentyl-2(3H)-furanone, and dihydro-5-heptyl-2(3H)-furanone when used as active ingredients in insect-repellent tablecloths used in food/feed-handling establishments. The registrant subsequently requested the addition of insect repellent strips used in food/feed-handling establishments.

d-Limonene is listed under 21 CFR 182.60 as generally recognized as safe (GRAS) when used as a synthetic flavoring substance and adjuvant in accordance with good manufacturing practice.

Dihydro-5-pentyl-2(3H)-furanone and dihydro-5-heptyl-2(3H)-furanone are approved for use as direct food additives and are listed under 21 CFR 172.515 as synthetic flavoring substances and adjuvants which may be safely used in food provided they are used in the minimum quantity required to produce their intended effect and are otherwise used in accordance with all the principles of good manufacturing practice.

The information submitted in the petitions and all other relevant material have been evaluated. Data on the oral toxicity of d-limonene was summarized in the National Toxicology Program (NTP) 2-year bioassay and comprehensive literature review. The systemic toxicity of d-limonene is comparatively low; effects are observed only at relatively high doses even after long-term exposure. Effects at high doses in laboratory animals would include reduced body weight gain, sometimes with clinical signs (lethargy, excess salivation, nausea/vomiting), skeletal variations in fetuses, maternal decreases in body weight gain, and dermal irritation. D-limonene is not carcinogenic or mutagenic or a developmental toxicant.

The toxicological data considered in support of the product registrations included the following product-specific studies utilizing all three insecticides in combination as the test material: acute oral toxicity in the rat, acute dermal toxicity in the rabbit, primary eye irritation in the rabbit, acute inhalation toxicity in the rat, primary dermal irritation, and guinea pig sensitization. The Agency has concluded that these formulations were of minimal toxicological concern.

The Agency does not anticipate that significant oral exposure would occur from the use of these products. Based on the small amount that theoretically might be ingested if one ate food in contact with the insect repellent tablecloth, or chewed on the cloth itself, and on the apparent nontoxicity of very low amounts of these chemicals when ingested orally, the Agency considers the potential toxicity hazard from the insect repellent tablecloth to be minimal. The Agency also considers the potential toxicity hazard from the use of the insect repellent strip to be minimal given the assessment of the oral hazard associated with the active ingredients in the insect repellent strip, and the very

limited direct food/feed contact as a result of its use.

There are currently no actions pending against the continued registration of the chemicals.

The pesticides are considered capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that establishing food/feed additive regulations by amending 40 CFR parts 185 and 186 will be safe. Therefore, it is proposed that they be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended which contains any of the ingredients listed herein may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, [FAP 3H5673, 4H5695, 4H5696/P591]. All written comments filed in response to these petitions will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined

that this rule is not "significant" and is therefore not subject to OMB review. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements, or establishing or raising food additive regulations do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Parts 185 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 24, 1995.

**Lois Rossi,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

#### PART 185—[AMENDED]

1. In part 185:

a. The authority citation for part 185 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 348.

b. By adding new § 185.1975, 185.1985, and 185.3775, to read as follows:

##### § 185.1975 Dihydro-5-heptyl-2(3H)-furanone.

The food additive dihydro-5-heptyl-2(3H)-furanone, may be safely used in accordance with the following conditions:

(a) It is used in combination with the active ingredients d-limonene and dihydro-5-pentyl-2(3H)-furanone in insect-repellent tablecloths and in insect-repellent strips used in food-handling establishments.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

##### § 185.1985 Dihydro-5-pentyl-2(3H)-furanone.

The food additive dihydro-5-pentyl-2(3H)-furanone may be safely used in accordance with the following conditions:

(a) It is used in combination with the active ingredients d-limonene and dihydro-5-heptyl-2(3H)-furanone in insect-repellent tablecloths and in insect-repellent strips used in food-handling establishments.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

##### § 185.3775 d-Limonene.

The food additive d-limonene may be safely used in accordance with the following conditions:

(a) It is used with the active ingredients dihydro-5-pentyl-2(3H)-furanone and dihydro-5-heptyl-2(3H)-furanone in insect-repellent tablecloths and in insect-repellent strips used in food-handling establishments.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

#### PART 186—[AMENDED]

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 348.

b. By adding new §§ 186.1975, 186.1985, and 186.3775, to read as follows:

##### § 186.1975 Dihydro-5-heptyl-2(3H)-furanone.

The feed additive dihydro-5-heptyl-2(3H)-furanone may be safely used in accordance with the following conditions:

(a) It is used in combination with the active ingredients d-limonene and dihydro-5-pentyl-2(3H)-furanone in insect-repellent tablecloths and in insect-repellent strips used in feed-handling establishments.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

##### § 186.1985 Dihydro-5-pentyl-2(3H)-furanone.

The feed additive dihydro-5-pentyl-2(3H)-furanone may be safely used in accordance with the following conditions:

(a) It is used in combination with the active ingredients d-limonene and dihydro-5-heptyl-2(3H)-furanone in insect-repellent tablecloths and in

insect-repellent strips used in feed-handling establishments.

(b) To assure safe use of the insecticide its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

##### § 186.3775 d-Limonene.

The feed additive d-limonene may be safely used in accordance with the following conditions:

(a) It is used with the active ingredients dihydro-5-pentyl-2(3H)-furanone and dihydro-5-heptyl-2(3H)-furanone in insect repellent tablecloths and in insect-repellent strips used in feed-handling establishments.

(b) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

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#### 40 CFR Parts 261, 271, and 302

[SWH-FRL-5151-8]

RIN 2050-AD80

#### Public Hearing on the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Notice of public hearing.

**SUMMARY:** On December 22, 1994 (see 59 FR 66072-114), the U.S. Environmental Protection Agency (EPA or Agency) proposed to list as hazardous five wastes generated during the production of dyes and pigments, proposed not to list six other wastes from these industries, and proposed to defer action on three wastes due to insufficient information. The public comment period for this proposed rule will end on March 22, 1995. The purpose of this notice is to announce the scheduling of a public hearing on this proposed rule in accordance with Section 3001(b) of the Resource Conservation and Recovery Act (RCRA), 42 USC 6921(a), and EPA's regulations at 40 CFR 25.5. The public hearing will be held on March 15, 1995, in Washington, DC. The purpose of the hearing is to give members of the regulated community and other interested parties opportunity to comment further on the proposal. All comments received at the hearing will be entered into the public record for this proposed rule.