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 FFDCA.

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-