costs/benefits of compiling data files without headers versus those with headers?

2. How flexible can the format requirements be for files without headers? What are the options?

3. Can categories of data be submitted in separate files or must it all be submitted in a single file? What is the capability of SoundExchange's data processing system to handle more than one file of data per Service?

4. To what extent could it be permissible to allow automated services to report playlist data in native form to SoundExchange?

IV. Legal and Policy Questions

In addition to the specific technical questions presented above, interested persons are also encouraged to supply their views on the following questions of a more general nature.

Questions:

1. Did Congress, in 17 U.S.C. 114(f)(4)(A) and 112(e)(4), require the Copyright Royalty Judges to prescribe particular formatting and delivery requirements at the level of detail described in the April 27, 2005, notice of proposed rulemaking? Is there some relevant set of Internet conventions or practices that could guide the Board in setting data submission standards here?

2. Could a system of webcast sampling, analogous to the sampling performed by performing rights societies in the context of broadcasting, meet the record-of-use requirements of 17 U.S.C. 114(f)(4)(A) and 112(e)(4)?

3. Under the provisions of any final rule adopted to implement the notice and record of use requirements of 17 U.S.C. 114(f)(4)(A) and 112(e)(4), either copyright owners (in the form of their agent, SoundExchange) or licensees will be burdened with having to change their existing data systems. From a legal and a policy perspective, on whom is it most appropriate to place these burdens? Is the court's discussion in *Amusement and Music Operators Association* v. *Copyright Royalty Tribunal*, 676 F.2d 1144, 1154–55 (7th Cir. 1982), cert. denied, 459 U.S. 907 (1982) (''depriv[ing] copyright owners of increased remuneration for the exploitation of their works by showing that some * * * operations will become unprofitable is * * * unsound and unjust'') pertinent to this inquiry?

V. Encouragement of Settlement

As the Copyright Office has repeatedly stated, it would be far preferable for the parties to reach their own agreement on these formatting and delivery issues. Government regulation, especially at this level of detail, is an undesirable substitute for industry agreement. The parties who will be affected by the format and delivery regulations should confer and advise the Board if some or all of them can jointly propose solutions with respect to any of the issues raised in these proceedings.

Dated: July 21, 2005.

Bruce G. Forrest,

Interim Chief Copyright Royalty Judge.

[FR Doc. 05–14872 Filed 7–26–05; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2005–0160; FRL–7723–5]

Cyhexatin; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke, under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(e)(1), all existing tolerances for residues of the insecticide/acaricide cyhexatin because they do not meet requirements of FFDCA section 408(b)(2). EPA canceled food use registrations for cyhexatin in 1989. Currently, EPA determined that acute dietary risks from use of cyhexatin on commodities for which import tolerances exist exceed the Agency's level of concern. However, EPA also determined that if the only cyhexatin tolerance is for orange juice, there is a reasonable certainty that no harm to any population subgroup will result from exposure to cyhexatin treated oranges. Because manufacturers support a cyhexatin tolerance on orange juice for purposes of importation and the Agency has made a determination of safety for such a tolerance, EPA is also proposing that, concurrent with the revocation of the citrus fruit group tolerance, an individual time-limited tolerance be established for orange juice. The regulatory actions proposed in this document contribute toward the Agency's tolerance reassessment requirements under FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. The regulatory actions proposed in this document pertain to the proposed revocation of 41 tolerances which would be counted as tolerance reassessments toward the August 2006 review deadline.

DATES: Comments must be received on or before August 26, 2005.

ADDRESSES: Submit your comments, identified by docket identification (ID) number OPP–2005–0160, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *Agency Website*: *http://www.epa.gov/edocket/*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail*: Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2005–0160.
- *Mail*: 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–2005–0160.
- *Hand Delivery*: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2005–0160. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number OPP–2005–0160. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket/*, 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 EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the regulations.gov websites are ''anonymous access'' systems, 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 EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is

placed in the public 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. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL–7181–7).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket/*. Although listed in the index, some information is not publicly available, i.e., 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 electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

FOR FURTHER INFORMATION CONTACT: Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@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 manufacturing (NAICS 311)
- Pesticide manufacturing (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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. 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 Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET *(http://www.epa.gov/edocket/)*, 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 E-CFR Beta Site Two at *http://www.gpoaccess.gov/ecfr/*.

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

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, 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 rulemaking 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. What Action is the Agency Taking?

The last U.S. product registration for cyhexatin was canceled in 1989. On January 21, 1998 (63 FR 3057) (FRL–5743–8), EPA published a proposal in the **Federal Register** to revoke tolerances for canceled active ingredients, including cyhexatin. In a **Federal Register** final rule of October 26, 1998 (63 FR 57062) (FRL–6035–8), EPA responded to comments received during a 60–day public comment period on proposed tolerance revocations. The California Citrus Quality Council and the U.S. Hop Industry Plant Protection Committee expressed concern about proposed tolerance revocations pertaining to residues of cyhexatin on citrus and hops, respectively. Elf Atochem North America, Inc. (now known as CEREXAGRI, Inc.) and OXON ITALIA expressed an interest in maintaining specific cyhexatin import tolerances. Elf Atochem stated that it had pending applications for registration and was developing certain data. OXON ITALIA stated that it was committed to providing data required to maintain tolerances of cyhexatin on imported citrus crops. Therefore, EPA did not revoke the cyhexatin tolerances at that time.

Recently, EPA completed its Tolerance Reassessment Eligibility Decision (TRED) for cyhexatin. In the **Federal Register** of July 13, 2005 (70 FR 40341) (FRL–7720–3), EPA published a decision notice for the cyhexatin TRED. The TRED and documents in support of the TRED are available in Edocket ID number OPP–2004–0295 at *http://www.epa.gov/edocket*, and will also be made available via the reregistration status website at *http://www.epa.gov/pesticides/reregistration/status.htm*. Because there are no active U.S. registrations, human exposure to this pesticide is strictly through the consumption of treated imported foods. Residential and occupational exposures as well as dietary exposure through drinking water are not expected because there is no domestic use of cyhexatin.

There are currently 41 tolerances for cyhexatin. Currently, EPA determined that acute dietary risks from use of cyhexatin on commodities for which import tolerances exist exceed the Agency's level of concern. Therefore, manufacturers had indicated that they would support only the import tolerances for apple (fresh, juice, sauce, and dried) and citrus (orange juice). However, the estimated acute dietary risks from use of cyhexatin on these commodities exceed the Agency's level of concern. The assessment concluded that for apples and oranges, the acute dietary exposure estimate for children 1–2 years of age is at 223% of the acute population-adjusted dose (aPAD) at the 99.9th percentile; for all infants < 1 year of age at 187% of the aPAD, and for children 3–5 years of age at 151% of the aPAD. Apple juice and apple sauces were the risk drivers.

Because of this acute dietary concern, manufacturers have withdrawn support for cyhexatin tolerances, except for orange juice. EPA has evaluated the dietary risks from the importation of orange juice concentrate to be processed into orange juice and has determined that there is reasonable certainty that no harm to any population subgroup will result from exposure to cyhexatin treated oranges. The acute dietary exposure estimates for orange juice only are below the Agency's level of concern for all population subgroups. The most highly exposed sub-population was children 1–2 years of age, at 35% of the aPAD.

Therefore, EPA is proposing to revoke all existing tolerances for residues of the insecticide/acaricide cyhexatin under FFDCA section 408(e)(1) because existing tolerances do not meet requirements of FFDCA section 408(b)(2).

Specifically, EPA is proposing to revoke the tolerances in 40 CFR 180.144 for combined residues of cyhexatin and its organotin metabolites (calculated as cyhexatin) in or on the following food commodities: almond; almond, hulls; apple; cattle, fat; cattle, kidney; cattle, liver; cattle, meat byproducts, except kidney and liver; cattle, meat; citrus, dried pulp; fruit, citrus; goat, fat; goat, kidney; goat, liver; goat, meat byproducts, except kidney and liver; goat, meat; hog, fat; hog, kidney; hog, liver; hog, meat byproducts, except kidney and liver; hog, meat; hop; hop, dried cone; horse, fat; horse, kidney; horse, liver; horse, meat byproducts, except kidney and liver; horse, meat; milk, fat (=N in whole milk); nectarine; nut, macadamia; peach; pear; plum, prune, dried; plum, prune, fresh; sheep, fat; sheep, kidney; sheep, liver; sheep, meat byproducts, except kidney and liver; sheep, meat; strawberry; and walnut.

However, concurrent with the proposed revocation of the crop group tolerance on fruit, citrus in 40 CFR 180.144 at 2 parts per million (ppm), a tolerance on orange juice should be established at 0.1 ppm. Available processing data indicate that cyhexatin residues of concern in orange juice concentrate were less than the limit of quantitation; i.e., less than 0.1 ppm. Nevertheless, additional generic data is needed for EPA to confirm processing, analytical method, and toxicological data. Under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerance provide the necessary information. Therefore, EPA is proposing to establish an individual time-limited tolerance in 40 CFR 180.144 for combined residues of cyhexatin and its organotin metabolites (calculated as cyhexatin) in orange, juice at 0.1 ppm with an expiration/revocation date of June 13, 2009; i.e., the time-limited tolerance will be established for a period of 4 years from the TRED completion date of June 13, 2005 in order to allow sufficient time for the Agency to issue a data call-in request, the manufacturers to submit the needed data, and for the Agency to review it. After reviewing the available data, EPA will decide whether there is sufficient data to support the orange juice tolerance as a permanent one. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue or allow the time-limited tolerance to expire.

Because, with the exception of orange juice, EPA cannot make a determination of safety concerning the specific cyhexatin tolerances proposed herein for revocation, the Agency has determined that for good cause and in the public interest, it will provide a shorter period of 30 days for public comment under FFDCA section 408(e)(2), instead of the typical 60 days for proposed rulemaking. Cyhexatin is used on a number of children's foods, including apples, that can currently be imported. EPA's risk assessment has concluded that there is a concern for infants and children resulting from acute dietary exposure to these imported commodities treated with cyhexatin. The Agency expects that a decrease in the public comment period for this proposed rule would hasten the cyhexatin tolerance revocation process and thus reduce exposure to cyhexatin for infants and children more quickly.

B. What is the Agency's Authority for Taking this Action?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure

to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

C. When do These Actions Become Effective?

EPA is proposing that revocation of specific cyhexatin tolerances and establishment of the time-limited tolerance on orange juice become effective on the date of publication of the final rule in the **Federal Register**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that: (1) The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. As of July 18, 2005, EPA has reassessed over 7,330 tolerances. This document proposes to revoke a total of 41 tolerances which would be counted in a final rule as tolerance reassessments toward the August 2006 review deadline under FFDCA section 408(q), as amended by FQPA in 1996. For counting purposes, the Agency will count the citrus fruit group tolerance as one revocation (where an individual tolerance for orange juice would be established in its place).

III. Are The Proposed Actions Consistent with International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standard established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. EPA has developed guidance concerning submissions for import tolerance support (65 FR 35069, June 1, 2000) (FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at *http://www.epa.gov/*. On the Home Page select ''Laws, Regulations, and Dockets,'' then select ''Regulations and Proposed Rules'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish a tolerance under FFDCA section 408(e) and also revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review 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 as required by 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 other 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). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances or revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency

hereby certifies that this proposed action will not have a significant economic impact on a substantial number of small entities. Specifically, as per the 1997 notice, EPA has reviewed its available data on imports and foreign pesticide usage and concludes that there is a reasonable international supply of food not treated with canceled pesticides. Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. 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 pests, Reporting and recordkeeping requirements.

Dated: July 18, 2005.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, it is proposed that 40 CFR chapter I 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), 346a and 371.

■ 2. Section 180.144 is amended by revising the table in paragraph (a) to read as follows:

§ 180.144 Cyhexatin; tolerances for residues.

(a)*General.* * * *

Commodity	Parts per million	Expiration/ Revocation Date
Orange, juice	0.1	06/13/2009

* * * * *

[FR Doc. 05–14738 Filed 7–26–05; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73, and 74

[WT Docket No. 05–211; FCC 05–123]

Implementation of the Commercial Spectrum Enhancement Act; Modernization of Competitive Bidding Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this the Commission begins a proceeding to implement rules and procedures needed to comply with the recently enacted Commercial Spectrum Enhancement Act (CSEA). The Commission also proposes a number of changes to its competitive bidding rules that are necessary, apart from CSEA, to bring them in line with the current requirements of the Commission's auctions program.

DATES: Comment Date, August 26, 2005; Reply Comment Date, September 12, 2005. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before September 26, 2005.

ADDRESSES: You may submit comments, identified by WT Docket No. 05–211; FCC 05–123 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: *http://www.fcc.gov/cgb/ecfs/*. Follow the instruction for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, *etc.*) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, via the Internet to *Kristy_L._LaLonde@omb.eop.gov*, or via fax at 202–395–5167.

For detailed instructions for submitting comments and additional information on the rule making process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Audrey Bashkin or Gary Michaels, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, (202) 418–0660. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at