

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children because it proposes to disapprove a state rule.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: March 7, 2016.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2016-05953 Filed 3-15-16; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2015-0032; FRL-9942-86]

**Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities**

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

**ACTION:** Notice of filing of petitions and request for comment.

**SUMMARY:** This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before April 15, 2016.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Susan Lewis, Registration Division (RD) (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001. Main telephone number: (703) 305-7090; email address: [RDfRNotices@epa.gov](mailto:RDfRNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a

particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

*B. What should I consider as I prepare my comments for EPA?*

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. 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 preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. **Environmental justice.** EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

**II. What action is the agency taking?**

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or

information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at <http://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

#### New Tolerances

**PP 5F8351.** EPA-HQ-OPP-2015-0478. Makhteshim Agan of North America, Inc. (d/b/a ADAMA), 3120 Highwoods Blvd. Suite 100, Raleigh, NC 27604, requests to establish a tolerance in 40 CFR part 180 for residues of the nematocide fluensulfone, including its metabolites and degradates, in or on berry, low growing, subgroup 13-07G at 0.30 parts per million (ppm); head and stem brassica subgroup 5A at 1.3 ppm; leafy brassica greens subgroup 5B at 13 ppm; leafy vegetables, group 4, except brassica vegetables at 2.6 ppm; leaves of root and tuber vegetables, group 2 at 20 ppm; radish, oriental at 0.50 ppm; and root vegetables, subgroup 1B, except sugar beet and oriental radish at 3.3 ppm. Compliance with the tolerance levels is to be determined by measuring only 3,4,4-trifluoro-but-3-ene-1-sulfonic acid. The liquid chromatography with tandem mass spectrometry (LC-MS/MS) residue analytical method is used to measure and evaluate the chemical fluensulfone. Contact: RD.

**PP 5F8379.** EPA-HQ-OPP-2015-0559. Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR 180.664 for residues of the fungicide penflufen, in or on sugarbeet seed treatment at 0.01 parts per million (ppm). The LC/MS/MS is used to measure and evaluate the chemical penflufen. Contact: RD.

**PP 5E8399.** EPA-HQ-OPP-2015-0658. Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances in 40 CFR 180.568 for residues of the herbicide, flumioxazin 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propionyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-indole-1,3(2H)-dione in or on the raw agricultural commodities: Berry, low growing, subgroup 13-07G at 0.07 parts per million (ppm); brassica, head and stem, subgroup 5A at 0.02 ppm; caneberry, subgroup 13-07A at 0.40; citrus oil at 0.1 ppm; clover, forage at 0.02 ppm; clover, hay at 0.15 ppm; fruit, citrus group 10-10 at 0.02 ppm; fruit, pome group 11-10 at 0.02 ppm; fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13-07F at 0.02 ppm; fruit, stone, group 12-12 at 0.02 ppm; nut, tree group 14-12 at 0.02 ppm; onion, bulb subgroup 3-07A at 0.02 ppm and vegetable, fruiting group 8-10 ppm at 0.02 ppm. Adequate enforcement methodology (gas chromatography/nitrogen-phosphorus detection (GC/NPD) method, Valent Method RM30-A-3) is available to enforce the tolerance expression. Contact: RD.

**PP 5F8400.** EPA-HQ-OPP-2015-0695. Isagro S.P.A. (d/b/a Isagro USA, Inc.) 430 Davis Drive, Suite 240, Morrisville, NC 27560, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide tetraconazole in or on vegetable, cucurbit group 9 at 0.15 parts per million (ppm) and vegetable, fruiting group 8-10 at 0.30 ppm. The capillary gas chromatography with electron capture detector (GC/ECD) as well as a QuEChERS multi-residue method (LC/MS-MS detection) is used to measure and evaluate the chemical tetraconazole. Contact: RD.

**PP 5F8404.** EPA-HQ-OPP-2013-0226. Bayer CropScience LP, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, flupyradifurone, in or on abiu at 0.6 parts per million (ppm); akee apple at 0.6 ppm; avocado at 0.6 ppm; bacury at 0.6 ppm; banana at 0.6 ppm; binjai at 0.6 ppm; caneberry, subgroup 13-07A at 5 ppm; canistel at 0.6 ppm; cilantro, fresh leaves at 30 ppm; cupuacú at 0.6 ppm; etambe at 0.6 ppm; jatobá at 0.6 ppm; kava, fresh leaves at 40 ppm; kava, roots at 0.9 ppm; kei apple at 0.6 ppm; langstat at 0.6 ppm; lanjút at 0.6 ppm; lucuma at 0.6 ppm; mabolo at 0.6 ppm; mango at 0.6 ppm;

mangosteen at 0.6 ppm; paho at 0.6 ppm; papaya at 0.6 ppm; pawpaw, common at 0.6 ppm; pelipisan at 0.6 ppm; pequi at 0.6 ppm; pequia at 0.6 ppm; persimmon, american at 0.6 ppm; plantain at 0.6 ppm; pomegranate at 0.6 ppm; poshte at 0.6 ppm; quinoa at 3 ppm; quandong at 0.6 ppm; sapote at 0.6 ppm; sataw at 0.6 ppm; screw-pine at 0.6 ppm; star apple at 0.6 ppm; stone fruit, stone group 12-12 at 1.5 ppm, tamarind-of-the-Indies at 0.6 ppm; and wild loquat at 0.6 ppm. High performance liquid chromatography-electrospray ionization/tandem mass spectrometry (HPLC/MS/MS) is used to measure and evaluate the chemical flupyradifurone. Contact: RD.

**PP 5F8406.** EPA-HQ-OPP-2015-0727. Arysta LifeScience North America, LLC 15401 Weston Parkway, Suite 150, Cary, North Carolina 27513, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide fluoxastrobin in or on avocado at 0.9 parts per million (ppm), barley, grain at 0.4 ppm; barley, hay at 15 ppm; barley, straw at 15 ppm, rapeseed subgroup 20A at 0.8 ppm, and dried shelled pea and bean (except soybean) subgroup 6C at 0.2 ppm. The method comprises microwave solvent extraction followed by a solid phase extraction clean up and quantification by high performance liquid chromatography with tandem mass spectrometric detection (HPLC/MS/MS) is used to measure and evaluate the chemical fluoxastrobin. Contact: RD.

**PP 5F8412.** EPA-HQ-OPP-2015-0795. Gowan Company, P.O. Box 5569, Yuma, AZ, 85366-5569, requests to establish tolerances in 40 CFR part 180 for residues of the insecticide, hexythiazox, in or on bermudagrass, forage at 40.0 parts per million (ppm); and bermudagrass, hay at 70.0 ppm. High performance liquid chromatography (HPLC) method using mass spectrometric detection (LC-MS/MS) is proposed for enforcement purposes. Contact: RD.

**PP 5F8413.** EPA-HQ-OPP-2015-0797. Gowan Company, P.O. Box 5569, Yuma, AZ, 85366-5569, requests to establish tolerances in 40 CFR part 180 for residues of the insecticide hexythiazox, in or on beet, sugar, dried pulp at 0.60 parts per million (ppm); beet, sugar, molasses at 0.21 ppm; beet, sugar, roots at 0.15 ppm and beet, sugar, tops at 1.5 ppm. High performance liquid chromatography (HPLC) method using mass spectrometric detection (LC-MS/MS) is proposed for enforcement purposes. Contact: RD.

**PP 5F8414.** EPA-HQ-OPP-2015-0791. Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut

Creek, CA 94596 requests to establish a tolerance in 40 CFR 180.627 for residues of the fungicide, fluopicolide in or on potato chips 0.1 at parts per million (ppm) and potato flakes at 0.15 ppm. Practical analytical methods for detecting and measuring levels of fluopicolide and its metabolites have been developed, validated, and submitted for all appropriate plant and animal matrices. Contact: RD.

*PP 5F8415.* EPA-HQ-OPP-2015-0820. Geo Logic Corporation, P.O. Box 3091, Tequesta, FL 33409, requests to establish a tolerance in 40 CFR 180.337 for residues of the bactericide/fungicide oxytetracycline in or on fruit, citrus group 10-10 at 0.01 parts per million (ppm). The reversed-phase liquid chromatography with detection by MS/MS spectrometry (LC-MS/MS) is used to measure and evaluate the chemical oxytetracycline. Contact: RD.

*PP 5F8429.* EPA-HQ-OPP-2016-0029. Gowan Company, P.O. Box 5569, Yuma, AZ 85366-5569, requests to establish a tolerance in 40 CFR part 180 for residues of the miticide/insecticide fenazaquin, [3-[2-[4-(1,1-dimethylethyl)phenyl]ethoxy]quinazoline] in or on the raw commodity for nut, tree group 14-12 at 0.02 parts per million (ppm). The LC/MS/MS with positive-ion electrospray ionization tandem mass spectrometry is used to measure and evaluate the chemical fenazaquin. Contact: RD.

*PP 5E8439.* EPA-HQ-OPP-2016-0066. Dow AgroSciences, LLC, 9330 Zionsville Road Indianapolis, IN 46268, requests to establish a tolerance in 40 CFR part 180 for residues of the herbicide pyroxsulam, in or on the cereal crops: teff at 0.06 parts per million (ppm); teff, forage at 0.01 ppm; teff, grain at 0.03 ppm; teff, hay at 0.01 ppm; and teff, straw at 0.01 ppm. The Dow AgroSciences Method GRM 04/17 is used to measure and evaluate the chemical residues of pyroxsulam in wheat commodities. Contact: RD.

*PP 6F8442.* EPA-HQ-OPP-2016-0029. Gowan Company, P.O. Box 5569, Yuma, AZ 85366-5569, requests to establish a tolerance in 40 CFR part 180 for residues of the miticide/insecticide fenazaquin, [3-[2-[4-(1,1-dimethylethyl)phenyl]ethoxy]quinazoline] in or on the raw commodity for hops at 30 parts per million (ppm). The LC/MS/MS with positive-ion electrospray ionization tandem mass spectrometry is used to measure and evaluate the chemical fenazaquin. Contact: RD.

#### Amended Tolerances

*PP 5F8351.* EPA-HQ-OPP-2015-0478. Makhteshim Agan of North America, Inc. (d/b/a ADAMA), 3120

Highwoods Blvd. Suite 100, Raleigh, NC 27604, requests to amend 40 CFR 180.680 for residues of the nematocide fluensulfone [5-chloro-2-[(3,4,4-trifluoro-3-buten-1-yl)sulfonyl]thiazole], to revise the existing tolerance expression in the introductory paragraph (a) to read "Tolerances are established for residues of the nematocide fluensulfone, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only 3,4,4-trifluoro-but-3-ene-1-sulfonic acid." The LC-MS/MS residue analytical method is used to measure and evaluate the chemical fluensulfone. Contact: RD.

*PP 5F8396.* EPA-HQ-OPP-2015-0796. Gowan Company, P.O. Box 5569, Yuma, AZ, 85366, requests to amend the tolerance(s) in 40 CFR 180.448 for residues of the insecticide hexythiazox in or on alfalfa, forage from 15 parts per million (ppm) to 20 ppm; and alfalfa, hay from 30 ppm to 60 ppm. High performance liquid chromatography (HPLC) using mass spectrometric detection (LC-MS/MS) analytical method is used to measure and evaluate residues of hexythiazox and its metabolites containing the PT-1-3 moiety. Contact: RD.

*PP 5E8399.* EPA-HQ-OPP-2015-0658. IR-4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced above under "New Tolerances" to remove existing tolerances in 40 CFR 180.568 for residues of the herbicide, flumioxazin 2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propionyl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-indole-1,3(2H)-dione in or on the raw agricultural commodities: Cabbage at 0.02 ppm; cabbage, Chinese, napa at 0.02 ppm; fruit, pome group 11 at 0.02 ppm; fruit, stone, group 12 at 0.02 ppm; garlic at 0.02 ppm; grape at 0.02 ppm; nut, tree group 14 at 0.02 ppm; okra at 0.02 ppm; onion, bulb at 0.02 ppm; pistachio at 0.02 ppm; shallot bulb at 0.02 ppm; strawberry at 0.07 ppm and vegetable, fruiting group 8 at 0.02 ppm. Adequate enforcement methodology (gas chromatography/nitrogen-phosphorus detection (GC/NPD) method, Valent Method RM30-A-3) is available to enforce the tolerance expression. Contact: RD.

#### New Tolerance Exemptions

*PP IN-10848.* EPA-HQ-OPP-2015-0776. Jeneil Biosurfactant Company, 400 N. Dekora Woods Blvd. Saukville, WI 53080, requests to establish an

exemption from the requirement of a tolerance for residues of methyl isobutyrate (CAS Reg. No. 547-63-7) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

*PP IN-10850.* EPA-HQ-OPP-2015-0831. Jeneil Biosurfactant Company, 400 N. Dekora Woods Blvd. Saukville, WI 53080, requests to establish an exemption from the requirement of a tolerance for residues of isobutyl isobutyrate (CAS Reg. No. 97-85-8) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

*PP IN-10854.* EPA-HQ-OPP-2015-0655. SciReg Inc., 12733 Director's Loop, Woodbridge, VA 22192, on behalf of Taminco US Inc., a subsidiary of Eastman Chemical Company, Two Windsor Plaza, Suite 400, 7450 Windsor Drive, Allentown, PA 18195, requests to establish an exemption from the requirement of a tolerance for residues of 2-pyrrolidinone, 1-butyl- (CAS Reg. No. 3470-98-2) when used as an inert ingredient (solvent/cosolvent) in pesticide formulations applied to growing crops under 40 CFR 180.920. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

*PP IN-10889.* EPA-HQ-OPP-2015-0858. Baker Petrolite LLC, 12645 West Airport Boulevard, Sugar Land, TX 77478, requests to establish an exemption from the requirement of a tolerance for residues of alcohols, C>14, ethoxylated (CAS Reg. No. 251553-55-6) when used as an inert ingredient in pesticide formulations under 40 CFR 180.910, 40 CFR 180.920, 40 CFR 180.930, 40 CFR 180.940(a) and 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

*PP IN-10894.* EPA-HQ-OPP-2016-0038. Michelman, 9080 Shell Road, Cincinnati, OH 45236, requests to establish an exemption from the requirement of a tolerance for residues of ethylene acrylic acid copolymer with a minimum number average molecular

weight (in amu) of 5,500 (CAS Reg. No. 9010-77-9) when used as an inert ingredient in pesticide formulations under 40 CFR 180.960. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: RD.

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

Dated: March 10, 2016.

**Daniel J. Rosenblatt,**

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

[FR Doc. 2016-05952 Filed 3-15-16; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

[MB Docket No. 16-42; CS Docket No. 97-80; FCC 16-18]

#### Expanding Consumers' Video Navigation Choices; Commercial Availability of Navigation Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, we propose new rules to empower consumers to choose how they wish to access the multichannel video programming to which they subscribe, and promote innovation in the display, selection, and use of this programming and of other video programming available to consumers. We take steps to fulfill our obligation under section 629 of the Communications Act to assure a commercial market for devices that can access multichannel video programming and other services offered over multichannel video programming systems. We propose rules intended to allow consumer electronics manufacturers, innovators, and other developers to build devices or software solutions that can navigate the universe of multichannel video programming with a competitive user interface. We also seek comment on outstanding issues related to our CableCARD rules.

**DATES:** Submit comments on or before April 15, 2016. Submit reply comments on or before May 16, 2016. 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 May 16, 2016.

**ADDRESSES:** In addition to filing comments with the Secretary, a copy of any comments on the Paperwork

Reduction Act (PRA) information collection requirements contained herein should be submitted to the Federal Communications Commission via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to Nicholas A. Fraser, Office of Management and Budget, via email to [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or via fax at 202-395-5167.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Brendan Murray, [Brendan.Murray@fcc.gov](mailto:Brendan.Murray@fcc.gov), of the Media Bureau, Policy Division, (202) 418-1573. Contact Cathy Williams, [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov), (202) 418-2918 concerning PRA matters.

**SUPPLEMENTARY INFORMATION:** Congress adopted section 629 of the Communications Act in 1996, and since then each era of technology has brought unique challenges to achieving Section 629's goals. When Congress first directed the Commission to adopt regulations to assure a commercial market for devices that can access multichannel video programming, the manner in which MVPDs offered their services made it difficult to achieve the statutory purpose. Cable operators used widely varying security technologies, and the best standard available to the Commission was the hardware-based CableCARD standard—which the cable and consumer electronics industries jointly developed—that worked only with one-way cable services. In 2010, the Commission sought comment on a new approach that would work with two-way services, but still only a hardware solution would work because software-based security was not sophisticated enough to meet content companies' content protection demands. This concept, called "AllVid," would have allowed electronics manufacturers to offer retail devices that could access multichannel video programming, but would have required all operators to put a new device in the home between the network and the retail or leased set-top box. Now, as MVPDs move to Internet Protocol ("IP") to deliver their services and to move content throughout the home, those difficulties are gone. Today, MVPDs provide "control channel" data that contains (1) the channels and programs they carry, (2) whether a consumer has the right to access each of those channels and programs, and (3) the usage rights that a consumer has with respect to those channels and programs. Many MVPDs already use Internet Protocol ("IP") to provide this control channel data. Moreover, most MVPDs have coalesced around a few standards and specifications for delivery of the video content itself, and many

have progressed to sending content throughout the home network via IP. This standardization and increasing reliance on IP allows for software solutions that, with ground rules to ensure a necessary degree of convergence, will make it easier to finally fulfill the purpose of Section 629.

The regulatory and technological path to this proceeding reflects a long history. It begins with the Telecommunications Act of 1996, when Congress added Section 629 to the Communications Act. Section 629 directs the Commission to adopt regulations to assure the commercial availability of devices that consumers use to access multichannel video programming and other services offered over multichannel video programming networks. Section 629 goes on to state that these devices should be available from "manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor." It also prohibits the Commission from adopting regulations that would "jeopardize security of multichannel video programming and other services offered over multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service." In enacting the section, Congress pointed to the vigorous retail market for customer premises equipment used with the telephone network and sought to create a similarly vigorous market for devices used with services offered over MVPDs' networks.

The Commission first adopted rules to implement Section 629 in 1998, just as "the enormous technological change resulting from the movement from analog to digital communications [was] underway." The Commission set fundamental ground rules for consumer-owned devices and access to services offered over multichannel video programming systems. The rules established (1) manufacturers' right to build, and consumers' right to attach, any non-harmful device to an MVPD network, (2) a requirement that MVPDs provide technical interface information so manufacturers, retailers, and subscribers could determine device compatibility, (3) a requirement that MVPDs make available a separate security element that would allow a set-top box built by an unaffiliated manufacturer to access encrypted multichannel video programming without jeopardizing security of programming or impeding the legal rights of MVPDs to prevent theft of service, and (4) the integration ban, which required MVPDs to commonly