



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2009-0332; FRL-9401-3]

### Methyl Parathion; Removal of Expired Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** EPA is removing listings in the Code of Federal Regulations (CFR) for already expired tolerances for methyl parathion, for the purpose of clarity and in accordance with current EPA practice.

**DATES:** This regulation is effective [*insert date of publication in the Federal Register*].

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2009-0332, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Joseph Nevola, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone

number: (703) 308-8037; email address: [nevola.joseph@epa.gov](mailto: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. 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).

#### *B. How Can I Get Electronic Access to Other Related Information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

### **II. Background**

#### *A. What Action is the Agency Taking?*

In this final rule, EPA is removing listings in the CFR for already expired tolerances for methyl parathion in § 180.121(e). In the **Federal Register** of January 5, 2001 (66 FR 1242) (FRL-6752-6), EPA promulgated a final rule revoking methyl parathion uses in commodities for which methyl parathion use was unlawful after December 31, 1999. The final rule listed these expired tolerances in § 180.121(e).

However, some people have inaccurately read §180.121(e) to mean that there are active methyl parathion tolerances for these commodities. In order to eliminate confusion, EPA is removing paragraph (e) in its entirety. EPA is not making any change in the status of these expired tolerances, just removing an informational listing that the Agency believes is no longer needed and that may be misleading if not read correctly.

EPA is issuing a final rule for this purpose without notice and opportunity to comment. Section 553(b)(3)(B) of the Administrative Procedure Act provides that notice and comment is not necessary “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” EPA finds good cause here because removing the listings does not affect the legal status of the already expired tolerances.

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

EPA is not taking any action that substantively changes a tolerance. EPA is only taking administrative action to remove the informational listing in §180.121(e).

*C. When Do These Actions Become Effective?*

As stated in the **DATES** section, this final rule is effective [*insert date of publication in the Federal Register*]. The methyl parathion tolerances expired more than 13 years ago and the Agency believes that the informational listing in §180.121(e) is no longer needed.

### **III. Statutory and Executive Order Reviews**

In this final rule, EPA is removing a listing of already expired tolerances. The Office of Management and Budget (OMB) has exempted this type of action from review

under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866 due to its lack of significance, this final 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). This final 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) (2 U.S.C. 1501 *et seq.*). 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) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Furthermore, for the pesticide named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present removal of listings for already expired tolerances that would change EPA's analysis. 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 final 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 Federal Food, Drug, and Cosmetic Act (FFDCA). For these same reasons, the Agency has determined that this final 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 9, 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 final 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 final rule.

#### **IV. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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

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

Dated: September 18, 2013.

Steven Bradbury,

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is 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.

**§ 180.121 [Amended]**

2. In § 180.121, remove paragraph (e).

[FR Doc. 2013-23801 Filed 10/01/2013 at 8:45 am; Publication Date: 10/02/2013]