

part of the submission that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: February 15, 2006.

Peter Preuss,

Director, National Center for Environmental Assessment.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-OW-8035-9]

Notice of Availability of Final Recommended Aquatic Life Ambient Water Quality Criteria for Diazinon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of final recommended aquatic life ambient water quality criteria for diazinon. The Clean Water Act (CWA) requires EPA to develop and publish, and from time to time revise, recommended criteria for water accurately reflecting the latest scientific knowledge. These criteria provide EPA's recommendations to states and authorized tribes as they establish their water quality standards as state or tribal law or regulation. An EPA ambient water quality criterion does not substitute for EPA regulations, nor is it a regulation. It does not impose legally binding requirements on the EPA, states, authorized tribes or the regulated community. State and tribal decision makers have discretion to adopt approaches that differ from EPA's guidance.

ADDRESSES: Copies of the criteria document entitled, *Ambient Aquatic Life Water Quality Criteria for Diazinon—Final (EPA-822-F-05-001)* may be obtained from EPA's Water Resource Center by phone at (202) 566-1729, or by e-mail to center.water.resource@epa.gov or by conventional mail to: EPA Water Resource Center, 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You can also download the document from EPA's Web site at <http://www.epa.gov/waterscience/criteria/diazinon/>.

FOR FURTHER INFORMATION CONTACT: Rick Stevens, U.S. EPA, Office of Water, Health and Ecological Criteria Division (4304T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (202) 566-1135; stevens.rick@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Interested Entities

Entities potentially interested in today's notice are those that produce, use, or regulate diazinon. Categories and entities interested in today's notice include:

Category	Examples of interested entities
State/Local/Tribal Government.	Water Quality Officials.
Insecticide Producers	U.S. and International Chemical Companies.
Insecticide Users	Growers of fruit, vegetable, nut, and ornamental crops.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this notice. This table lists the types of entities that EPA is aware could potentially be interested in this notice. Other types of entities not listed in the table could also be interested.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for the diazinon final recommended ambient aquatic life water quality criteria under Docket ID No. OW-2003-0062. The official public docket also consists of the draft criteria document, and scientific views received. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Water Docket is (202) 566-2426. To view these documents and materials, please call ahead to schedule an appointment. Every user is entitled to copy 266 pages per day before incurring a charge. The Docket may charge 15 cents a page for each page over the 266-page limit plus an administrative fee of \$25.00.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet

under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

II. Background and Today's Notice

A. What Are Recommended Ambient Water Quality Criteria?

An EPA recommended water quality criterion is a level of a pollutant or other measurable substance in water that, when met, will protect aquatic life and/or human health. Section 304(a) of the Clean Water Act (CWA) requires EPA to develop and publish and, from time to time, revise recommended water quality criteria to accurately reflect the latest scientific knowledge. Water quality criteria developed under section 304(a) provide guidance to states and tribes in adopting water quality criteria into their water quality standards under section 303(c). Once adopted by a state or tribe, the water quality standards then are a basis for developing regulatory controls on the discharge or release of pollutants. EPA's section 304(a) criteria also provide a scientific basis for EPA to develop any necessary federal water quality regulations under section 303(c) of the CWA.

The recommended criteria in today's notice are based on the factors specified in section 304(a) of the Clean Water Act, including the kind and extent of effects of the pollutant on human health and aquatic organisms. EPA's recommended criteria are used by states and tribes in developing their regulatory criteria under section 303(c) of the CWA. Under the Clean Water Act, regulatory criteria must protect the designated use, independent of the economic and technical feasibility of meeting the criteria. Economic and technical feasibility factors are considered by states and tribes when they adopt designated uses into their water quality standards under section 303(c) of the Act and when states, tribes, and EPA consider variance requests for regulatory controls. Moreover, states and tribes may also consider alternative scientifically-defensible approaches to adopting criteria into their water quality standards.

B. What Is Diazinon and Why Are We Concerned About It?

Diazinon is an organophosphorus pesticide traditionally used throughout the U.S. to control insects in agricultural areas, households and urban settings. However, as of December 31, 2004, all residential uses of diazinon products in the United States have been phased out or cancelled.

Diazinon is mobile and moderately persistent in the environment. Due to its chemical properties and widespread

use, diazinon is frequently found in effluents from wastewater treatment plants and in storm water runoff in both urban and agricultural areas. Diazinon is toxic to aquatic life, particularly invertebrates. For these reasons, EPA has developed aquatic life ambient water quality criteria to protect against adverse effects of diazinon.

C. What Are the National Recommended Water Quality Criteria for Diazinon?

Freshwater

Aquatic life should not be affected unacceptably if the:

One-hour average concentration of diazinon does not exceed 0.17 micrograms per liter more than once every three years on the average (Acute Criterion), and

Four-day average concentration of diazinon does not exceed 0.17 micrograms per liter more than once every three years on the average (Chronic Criterion).

Saltwater

Aquatic life should not be affected unacceptably if the:

One-hour average concentration of diazinon does not exceed 0.82 micrograms per liter more than once every three years on the average (Acute Criterion), and

Four-day average concentration of diazinon does not exceed 0.82 micrograms per liter more than once every three years on the average (Chronic Criterion).

D. Why Is EPA Notifying the Public About the Final Diazinon Ambient Water Quality Criteria?

On December 31, 2003, EPA notified the public that draft aquatic life criteria for diazinon were available and solicited scientific views on those criteria (68 FR 75555). Based on data and information submitted, EPA revised the draft criteria and is now making the final aquatic life criteria recommendations. While these criteria recommendations do not, in themselves, impose any requirements, states and authorized tribes can use them to develop water quality standards.

E. What New Data and Changes Have Been Included in the Final Criteria Recommendations?

New data on the toxicity of diazinon to the invertebrate species, *Gammarus pseudolimnaeus*, were submitted to EPA during the comment and scientific view period (Hall and Anderson 2004). These new data were reviewed per EPA's *Guidelines for deriving numerical national water quality criteria for the*

protection of aquatic organisms and their uses (Stephan *et al.*, 1985) and found to be acceptable. These data were included in the data set used to derive the final acute freshwater criteria in Table 1 of the final criteria document.

Comparison of the new data for the *Gammarus pseudolimnaeus* to existing data for another species in the genus *Gammarus* (*Gammarrus fasciatus*) showed a range in sensitivity between the two species in the genus. Furthermore, the apparent sensitivity of *Gammarus fasciatus* was notably greater than other invertebrate species. Based on these findings, EPA requested a review of the original *G. fasciatus* toxicity test data by the U.S. Geological Survey's (USGS) laboratory where the original testing was conducted. The USGS review of the *Gammarrus fasciatus* toxicity test documentation revealed that the acute toxicity values reported for the test, both in the original publication (Johnson and Finley, 1980) and in a subsequent compilation publication (Mayer and Ellersick, 1986) were in error. The USGS advised EPA, in writing, that the acute LC50 for *Gammarus fasciatus* should be reported as 2.0 micrograms per liter, not as 0.2 micrograms per liter (Ingersoll, 2004). This correction in the acute toxicity LC50 for *Gammarrus fasciatus* is included in Table 1 of EPA's final criteria document.

The addition of the new toxicity data for *Gammarus pseudolimnaeus* and the change to the toxicity data for *Gammarrus fasciatus* result in a change in the genus mean acute value (GMAV) for *Gammarus* from 0.2 micrograms per liter to 5.8 micrograms per liter (see Table 1 and 3 in the final criteria document). The new data and correction also change the rank order of the GMAVs (*Gammarrus* GMAV rank changes from 1 to 4) and, ultimately, the final recommended acute freshwater criteria value, from 0.10 micrograms per liter to 0.17 micrograms per liter.

Based on scientific views received and additional internal review, EPA also changed the final chronic saltwater criterion. In the draft criteria document, the saltwater Final Chronic Value (FCV), derived using the procedures outlined in the *Guidelines*, was 0.82 micrograms per liter. However, the saltwater FCV value was lowered to the Species Mean Chronic Value (SMCV) of the sheepshead minnow on the basis of it being a commercially or recreationally important species. EPA received scientific views indicating that while sheepshead minnow is an ecologically important species, it is not recognized as recreationally or commercially important. Consideration of these views

resulted in EPA's conclusion that use of the SMCV as the basis of the saltwater criterion is unwarranted. Thus, the final saltwater species four-day average concentration of diazinon is based on the Final Chronic Value calculated by dividing the Final Acute Value (1.64 micrograms per liter) by the Final Acute-Chronic Ratio (2.0). Reconsideration of the sheepshead minnow data changes the final recommended chronic saltwater criteria value from 0.40 micrograms per liter to 0.82 micrograms per liter.

References

- Hall, L.W. and R.D. Anderson. 2004. Acute Toxicity of Diazinon to the Amphipod, *Gammarus pseudolimnaeus*. University of Maryland, Agricultural Experiment Station, Queenstown, MD.
- Ingersoll, C. 2004. Diazinon toxicity data for *Gammarus fasciatus* reported in Johnson and Finley (1980) and in Mayer and Ellersick (1986). Letter dated October 5, 2004 from U.S. Department of the Interior to E.V. Ohanian, U.S. Environmental Protection Agency, Washington, DC.
- Johnson, W.W. and M.T. Finley. 1980. Handbook of acute toxicity of chemicals to fish and aquatic invertebrates. Resource Publication 137. U.S. Fish and Wildlife Service, Washington, DC.
- Mayer, F.L. Jr. and M.R. Ellersick, 1986. Manual of acute toxicity: Interpretation and data base for 410 chemicals and 66 species of freshwater animals. Resource Publication No. 160, U.S. Fish and Wildlife Service, Washington, DC.
- Stephan, C.E., D.I. Mount, D.J. Hansen, J.H. Gentile, G.A. Chapman and W.A. Brungs. 1985. Guidelines for deriving numerical national water quality criteria for the protection of aquatic organisms and their uses. PB85-227049. National Technical Information Service, Springfield, VA.

Dated: February 15, 2006.

Ephraim S. King,

Director, Office of Science and Technology.

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ENVIRONMENTAL PROTECTION AGENCY

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Notice of Availability of Final Aquatic Life Ambient Water Quality Criteria for Nonylphenol

AGENCY: Environmental Protection Agency (EPA).