

Administrator of EPA on a broad range of environmental policy, technology and management issues. Inquiries may be directed to Sonia Altieri, U.S. EPA, (Mail Code 1601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564-0243, or [altieri.sonia@epa.gov](mailto:altieri.sonia@epa.gov).

Dated: May 20, 2010.

**Rafael DeLeon,**

*Director, Office of Cooperative Environmental Management.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2010-0434; FRL-8826-6]

### Inorganic Nitrates-Nitrite, Carbon and Carbon Dioxide, and Sulfur Registration Review; Draft Ecological Risk Assessment and Endangered Species Effects Determination; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's draft ecological risk assessment for the registration review of inorganic nitrates – nitrites, carbon and carbon dioxide, and gas cartridge uses of sulfur, and opens a public comment period on this document. Comments and input may address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to this draft risk assessment. Interested parties may also provide suggestions for mitigation of the risk identified in the draft ecological risk assessment. As part of the registration review process, the Agency has completed a comprehensive draft ecological risk assessment, including an endangered species assessment that identifies those species for which exposure and effects may occur for all inorganic nitrates-nitrites, carbon and carbon dioxide uses, as well as gas cartridge uses of sulfur. The risk assessment includes a species specific analysis and effects determination on 3 of 11 species found in the San Francisco Bay area that are listed as endangered or threatened under the Endangered Species Act (ESA). Concurrent with this public comment opportunity, EPA is initiating informal consultation with the U.S. Fish and Wildlife Service. After reviewing comments received during this public comment period, EPA will issue a revised risk assessment, explain any changes to the draft risk assessment,

and respond to comments. The Agency may request further public input on risk mitigation before developing a proposed registration review decision for inorganic nitrates – nitrites, carbon and carbon dioxide, and sulfur. After a revised risk assessment is completed, EPA will also initiate further consultation, as needed, when appropriate, with the U.S. Fish and Wildlife Service regarding potential risks to federally listed threatened or endangered species and their designated critical habitat.

**DATES:** Comments must be received on or before July 26, 2010.

**ADDRESSES:** The mailing address for each Chemical Review Manager listed in the table in Unit II. is: Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit II. by one of the methods listed below:

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

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

**Instructions:** Direct your comments to the docket ID numbers listed in the table in Unit II. for the pesticides you are commenting on. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, 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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, 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 [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the 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.

**Docket:** All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., 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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** For pesticide specific information contact: The Chemical Review Manager identified in the table in Unit II. for the pesticide of interest.

For general questions on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5026; fax number: (703) 308-8090; e-mail address: [costello.kevin@epa.gov](mailto:costello.kevin@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the

chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate Chemical Review Manager listed under **FOR FURTHER INFORMATION CONTACT**.

*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 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 document 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.

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 pesticide(s) discussed in this document, compared to the general population.

## II. Authority

EPA is conducting its registration review of inorganic nitrates – nitrites, carbon and carbon dioxide, and sulfur pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

The pesticides that are the subject of this notice and the Chemical Review Managers are listed in the following table:

TABLE—PESTICIDES AVAILABLE FOR REGISTRATION REVIEW

Docket ID Number	Pesticide name	Chemical Review Manager, Telephone Number, fax number, E-mail Address
EPA-HQ-OPP-2007-1118	Inorganic nitrates—nitrites	Eric Miederhoff (703) 347-8028 (703) 308-7070 <a href="mailto:miederhoff.eric@epa.gov">miederhoff.eric@epa.gov</a>
EPA-HQ-OPP-2007-0705	Carbon and carbon dioxide	Carissa Cyran (703) 347-8781 (703) 308-7070 <a href="mailto:cyran.carissa@epa.gov">cyran.carissa@epa.gov</a>
EPA-HQ-OPP-2008-0176	Sulfur	Jose Gayoso (703) 347-8652 (703) 308-7070 <a href="mailto:gayoso.jose@epa.gov">gayoso.jose@epa.gov</a>

## III. Registration Reviews

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

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations for inorganic nitrates – nitrites, carbon and carbon dioxide, and sulfur to ensure they continue to satisfy the FIFRA standard for registration—

that is, that inorganic nitrates – nitrites, carbon and carbon dioxide, and sulfur can still be used without unreasonable adverse effects on human health or the environment. Inorganic nitrates – nitrites, carbon and carbon dioxide are active ingredients and are mixed in some cases with sulfur, to create fumigant gas cartridges which release

toxic fumes after ignition. These gas producing cartridges are placed in animal burrows to control small mammal pests. EPA has completed a comprehensive draft ecological risk assessment, including an endangered species assessment, for all inorganic nitrate – nitrite, carbon and carbon dioxide uses, as well as gas cartridge

uses of sulfur. All other uses of sulfur will be included in the upcoming ecological risk assessment for the registration review of sulfur, docket EPA-HQ-OPP-2008-0176. The risk assessment includes a species specific analysis and effects determination of the cartridges on 3 of 11 species found in the San Francisco Bay area that are listed as endangered or threatened under the Endangered Species Act (ESA). These species specific effects determinations were conducted in response to litigation brought against EPA by the Center for Biological Diversity in the United States District Court for the Northern District of California (Civ. No. 07-2794-JSC) where sodium nitrate and potassium nitrate were alleged to be of concern.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft ecological risk assessment for inorganic nitrates – nitrites, carbon and carbon dioxide, and gas cartridge uses of sulfur. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to this draft risk assessment. Interested parties may also provide suggestions for mitigation of the risk identified in the draft ecological risk assessment.

Concurrent with this public comment opportunity, EPA is initiating informal consultation with the U.S. Fish and Wildlife Service for purposes of validating the list of potentially affected species, to identify the geographic areas in which each species may reside, and to assist EPA in determining how best to assemble information on the baseline status of each species. The ESA regulations provide for two types of consultation; formal and informal. Informal consultation is an optional process that includes discussions, correspondence, etc. between the Services and a Federal agency or a designated non-Federal representative (NFR) to determine whether a Federal action is likely to have an adverse effect on listed species or critical habitat. During informal consultation the Services may suggest modifications to the action that a Federal agency, permit applicant or non-Federal representative could implement to avoid likely adverse effects to listed species or critical habitat. If adverse effects are likely and those effects cannot be addressed through informal consultation, then formal consultation generally occurs. The Agency will consider all comments received during the public comment period and make changes, as

appropriate, to the draft ecological risk assessment. EPA will then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments. EPA will also, at that time, initiate further consultation, as needed, when appropriate, with the U.S. Fish and Wildlife Service regarding potential risks to federally listed threatened or endangered species and their designated critical habitat. In the **Federal Register** notice announcing the availability of the revised risk assessment, if the revised risk assessment indicates risks of concern, the Agency may provide an additional comment period for the public to submit suggestions for mitigating the risk identified in the revised risk assessment before developing proposed registration review decisions on inorganic nitrates – nitrites, carbon and carbon dioxide, and sulfur.

#### *B. Docket Content*

As described in detail in the Inorganic Nitrate-Nitrite Summary Document (see docket ID number EPA-HQ-OPP-2007-1118), Carbon and Carbon Dioxide Summary Document (see docket ID number EPA-HQ-OPP-2007-0705) the Agency believes that the human health risk assessments completed prior to registration review are adequate, and there are no human health risks that exceed the Agency's level of concern. Thus, no additional human health data are expected to be needed for the registration review of inorganic nitrates – nitrites, carbon and carbon dioxide. In the Sulfur Summary Document (see docket ID number EPA-HQ-OPP-2008-0176) the Agency stated that revised occupational and residential exposure human health assessments for sulfur should be conducted in registration review. These human health assessments are still anticipated for all uses of sulfur, including the cartridge use, and will be included in the upcoming registration review risk assessment.

##### *1. Other related information.*

Additional information on inorganic nitrates – nitrites is available on the Pesticide Registration Review Status webpage for this pesticide, [http://www.epa.gov/oppsrrd1/registration\\_review/inorganic\\_nitrate/index.htm](http://www.epa.gov/oppsrrd1/registration_review/inorganic_nitrate/index.htm). Additional information on carbon and carbon dioxide is available on the Pesticide Registration Review Status webpage for this pesticide, [http://www.epa.gov/oppsrrd1/registration\\_review/carbon/index.htm](http://www.epa.gov/oppsrrd1/registration_review/carbon/index.htm). Additional information on sulfur is available on the Pesticide Registration Review Status webpage for this pesticide, [http://www.epa.gov/oppsrrd1/registration\\_](http://www.epa.gov/oppsrrd1/registration_)

[review/sulfur/index.htm](http://www.epa.gov/oppsrrd1/registration_review/sulfur/index.htm). Information on the Agency's registration review program and its implementing regulation is available at [http://www.epa.gov/oppsrrd1/registration\\_review](http://www.epa.gov/oppsrrd1/registration_review).

*2. Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

- Submitters must clearly identify the source of any submitted data or information.

- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

#### **List of Subjects**

Environmental protection, Pesticides and pests, Inorganic nitrates--nitrites, Carbon and carbon dioxide, Sulfur.

Dated: May 17, 2010.

**Richard P. Keigwin, Jr.,**

*Director, Pesticide Re-evaluation Division,  
Office of Pesticide Programs.*

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