

**ENVIRONMENTAL PROTECTION AGENCY****[EPA-HQ-OPP-2009-0684; FRL-8436-1]****Receipt of Petition Requesting EPA to Suspend the Registration of Rozol Prairie Dog Bait and Cancel Certain Application Sites; Opening of Comment Period****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

**SUMMARY:** EPA is publishing for public comment a June 5, 2009 petition from World Wildlife Fund (WWF) available in docket number EPA-HQ-OPP-2009-0684, requesting that the Agency suspend the registration of the chlorophacinone product, Rozol Prairie Dog Bait (EPA Reg. No. 7173-286), and cancel certain application sites for the product.

**DATES:** Comments must be received on or before November 6, 2009.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2009-0684, by one of the following methods:

- **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 docket ID number EPA-HQ-OPP-2009-0684. 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:** Dan Peacock, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5407; fax number: (703) 308-0029; e-mail address: [peacock.dan@epa.gov](mailto:peacock.dan@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 groups; farmers; ranchers; State regulatory partners; other interested Federal agencies; members of the public interested in the sale, distribution, or use of pesticides; and other pesticide registrants and pesticide users.

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

1. **Submitting CBI.** Do not submit this information to EPA through [www.regulations.gov](http://www.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:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

## II. What Action is the Agency Taking?

EPA is providing an opportunity for public comment on a petition received from the World Wildlife Fund (WWF) that asks the Agency to suspend the registration of Rozol Prairie Dog Bait (EPA Reg. No. 7173-286) and cancel certain application sites for the product. This product is currently registered for use to control black-tailed prairie dogs and its active ingredient is the anticoagulant rodenticide chlorophacinone.

The primary basis for the petition is the potential effect of this product on non-target species, including certain predators and scavengers of the black-tailed prairie dog. Specifically, the petition contends that the poisoning risks to non-target species from the use of this product are unjustified, given the availability of alternative products to control black-tailed prairie dogs. Petitioners request EPA to require the completion of an Avian Reproduction Study before further product use to control black-tailed prairie dogs is permitted. The petition also asks EPA to initiate formal consultation, under section 7 of the Endangered Species Act, with the U.S. Fish and Wildlife Service (FWS) regarding the registration of this product. Third, it requests that EPA develop a memorandum of understanding with FWS to show how EPA will promote the conservation of birds protected under the Migratory Bird Treaty Act. Petitioners ask that EPA suspend the use of Rozol Prairie Dog Bait while these activities are ongoing and also request that the application of the product be prohibited in those counties where black-footed ferrets are present.

As additional background, EPA is providing a recent letters from FWS and other interested parties expressing similar concerns about the potential impact of Rozol Prairie Dog Bait on non-target wildlife protected under the Endangered Species Act and the Migratory Bird Treaty Act (available in the public docket accompanying this notice at EPA-HQ-OPP-2009-0684).

EPA regulates non-food use pesticides, such as Rozol Prairie Dog Bait, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Under FIFRA, EPA registers a pesticide if it determines that the use of the pesticide will not cause "unreasonable adverse effects" to human health or the environment. This standard involves risk-benefit balancing when risks exist above EPA's level of concern. Both registration decision under section 3 of FIFRA and cancellation decisions under section 6

of FIFRA depend on the outcome of adverse effects determinations. If this adverse effects standard is not satisfied, EPA may not register the pesticide and existing pesticides are subject to cancellation. See FIFRA sections 3(c)(5) and 6(b).

If EPA issues a notice of intent to cancel a pesticide registration and further determines that a suspension of the registration prior to the completion of the ensuing cancellation proceedings is necessary to prevent an imminent hazard, EPA may take steps to suspend the registration during the pendency of cancellation proceedings, as described in section 6(c) of FIFRA. FIFRA defines an "imminent hazard" as a situation in which the continued use of a pesticide, during the time required for a cancellation hearing, would likely cause unreasonable adverse effects or will involve an unreasonable hazard to the survival of a species listed as threatened or endangered pursuant to the Endangered Species Act.

WWF's petition requests both suspension of the registration for Rozol Prairie Dog Bait and cancellation of certain application sites for the product. EPA therefore anticipates that its response to the petition will address its risk-benefit analysis for this pesticide. EPA conducted such an analysis at the time it registered Rozol Prairie Dog Bait under section 3 of FIFRA. For this notice, EPA has compiled a list of topics relevant to EPA's risk-benefit balancing decision for Rozol Prairie Dog Bait (available in the public docket accompanying this topic at EPA-HQ-OPP-2009-0684). EPA is providing an opportunity for public comment and the submission of additional information pertinent to these topics (if any is available), as such information would further assist the Agency in responding to the petition.

### List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 24, 2009.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

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**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8967-3]

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club in the United States District Court for the District of Columbia: *Sierra Club v. Jackson*, No. 1:09-cv-01028-CKK (D.D.C.). Plaintiff filed a deadline suit to compel the Administrator to respond to an administrative petition seeking EPA's objection to a CAA Title V operating permit issued by the Kentucky Department for Environmental Protection, Division for Air Quality to the East Kentucky Power Cooperative William C. Dale Power Station. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by December 15, 2009.

**DATES:** Written comments on the proposed consent decree must be received by November 6, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2009-0763, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

### FOR FURTHER INFORMATION CONTACT:

Mark Kataoka, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone:* (202) 564-5584; *fax number:* (202) 564-5603; *e-mail address:* [kataoka.mark@epa.gov](mailto:kataoka.mark@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit alleging that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA Title V permit issued by the Kentucky Department for