

## 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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## 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

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. In addition, the proposed consent decree states that after EPA fulfills its obligations under the decree, and the Plaintiff's claims for costs of litigation have been resolved, the case shall be dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

## II. Additional Information About Commenting on the Proposed Consent Decree

### A. How Can I Get a Copy of the Consent Decree?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2009-0763) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 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 OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through <http://www.regulations.gov>. You may use the <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search".

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at <http://www.regulations.gov> without charge, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

### B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the <http://www.regulations.gov> Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public

docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through <http://www.regulations.gov>, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: September 29, 2009.

**Richard B. Ossias,**

*Associate General Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8967-4]

### 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 Environmental Integrity Project and Sierra Club (collectively "Plaintiffs") in the United States District Court for the District of Columbia: *Environmental Integrity Project, et al. v. Jackson*, No. 1:09-cv-01025-EGS (D.D.C.). On June 2, 2009, Plaintiffs 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 Arkansas Department of Environmental Quality to Southwestern Electric Power Company (a unit of American Electric Power) for the operation of the John W. Turk, Jr. Power Plant. 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-2009-0756, 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