Registration Decision for Kaput-D Prairie Dog Bait to Control Black-Tailed Prairie Dogs

Approved by: Lois Rossi

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Regulatory Rationale

The U.S. Environmental Protection Agency (hereafter referred to as EPA or the Agency) is registering Kaput D Prairie Dog Bait (EPA File Symbol 72500-22). Kaput D Prairie Dog Bait, a rodenticide containing the anti-coagulant diphacinone, is labeled to control Black-Tailed Prairie Dogs (*Cynomys ludovicianus*) in Colorado, Kansas, Nebraska, New Mexico, North Dakota, Montana, Oklahoma, South Dakota, Texas and Wyoming.

Regulatory History

On May 21, 2008, Scimetrics applied for an amendment to add Black Tailed Prairie Dogs to the Section 3 registration of EPA Registration No. 72500-11. Since there are no Section 3 products containing diphacinone labeled to control prairie dogs, this amendment was classified as a "new use." A Notice of Receipt of the amendment to add Black Tailed Prairie Dogs to the Kaput Field Rodent Bait B label was published in the Federal Register on September 23, 2009; the Agency received approximately 40 comments on the Notice, in addition to approximately 42,000 signatures on multiple letters from public campaigns. Please refer to Regulations.gov, docket number EPA-HQ-OPP-2009-0625 for copies of comments received.

Because of the similarity of Rozol Prairie Dog Bait and Kaput D, the comments received for the Kaput D Notice of Registration were comparable to the comments received for a petition requesting EPA to suspend the Rozol Prairie Dog Bait registration. The substance of the Kaput D comments has been addressed in the Agency's response to the Petition Requesting EPA to Suspend the Registration of Rozol Prairie Dog Bait. 74 FR 51601 (2009). See, for example, *EFED Response to Public Comments* at docket id number EPA-HQ-OPP-2009-0684-0169.

EPA initiated endangered species consultation with the United States Fish and Wildlife Service (FWS) on September 30, 2010, regarding the use of the similar rodenticide product, Rozol Prairie Dog Bait, in 10 states to control the Black Tailed Prairie Dog. On April 9, 2012, EPA received the *Final Biological Opinion For Rozol Use on Black-tailed Prairie Dogs Registered under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act* from FWS. The Final Biological Opinion reached the conclusion, predicated on the implementation of certain conservation measures, that use of Rozol Prairie Dog Bait is not likely to jeopardize the continued existence of species listed under the Endangered Species Act. On August 8, 2012, the label for Rozol Prairie Dog Bait was amended to implement the conservation measures and additional reasonable and prudent measures specified in the *Biological Opinion*.

Application and Public Process

On February 27, 2012, Scimetrics submitted an application for a new product, Kaput D Prairie Dog Bait (EPA File Symbol72500-EE), to control Black Tailed Prarie Dogs; this application replaced the application to amend the label of Kaput Field Rodent Bait B to include use on Black Tailed Prairie Dogs. Unlike Kaput Field Rodent Bait B, Kaput D Prairie Dog Bait does not contain imidacloprid and only lists Black-tailed Prairie Dogs as a pest; additionally, Kaput D

Prairie Dog Bait contains diphacinone at the same percentage as Rozol Prairie Dog Bait contains chlorophacinone, and these two labels are essentially identical in use season and pattern, application method, and directions for use language. The only substantive difference between Kaput D Prairie Dog Bait and Rozol Prairie Dog Bait is the active ingredient. The *Proposed Decision to Register Kaput-D Prairie Dog Bait (EPA File Symbol 72500-EE) to Control Black-Tailed Prairie Dogs* was posted to the docket (EPA-HQ-OPP-2012-0739) to open public comment for 15 days. Eight public comments were received in response to the proposal to register Kaput-D, which are discussed in the *Response to Public Comments for the Proposed Decision to Register Kaput-D (diphacinone) to Control Black-tailed Prairie Dogs* and can be viewed in the same docket.

After considering the existing diphacinone database, the Final Biological Opinion for Rozol Prairie Dog Bait, and the proposed Kaput D Prairie Dog Bait label, the Agency is issuing a one year time-limited registration for Kaput D Prairie Dog Bait. The Agency believes no additional impacts of concern are expected to occur during this time, as (1) the active ingredient in the Kaput D Prairie Dog Bait, diphacinone, has a similar ecotoxicity profile to chlorophacinone, the active ingredient in Rozol Prairie Dog Bait; (2) the labels for the two products are essentially identical in use season and pattern, application method, and directions for use; (3) Scimetrics has agreed to implement all mitigation and Reasonable and Prudent Measures (RPMs) specified in the *Final Biological Opinion For Rozol Use on Black-tailed Prairie Dogs Registered under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act*; and (4) the labels for Rozol and Kaput are worded such that either chlorophacinone or diphacinone, but not both, could be used to control BTPD in a particular use season.

Furthermore, EPA has concluded that the issuance of a time-limited new use registration for Kaput-D Prairie Dog Bait, prior to the completion of consultation with the U.S. Fish and Wildlife Service (FWS), is not likely to jeopardize the continued existence of any federally-listed endangered or threatened species, or result in the destruction or adverse modification of habitat of such species. As an additional safeguard, Kaput-D Prairie Dog Bait product will be registered on a time-limited basis, such that the registration will only authorize sale and distribution of the product for the 2012-2013 use season. The consultation process with FWS for Kaput begins on October 25, 2012, and is currently expected to be complete within 45 days. Therefore, additional restrictions and/or mitigation measures specified in the FWS Kaput BiOp, if any, could be implemented when and if the Kaput registrant requests a new registration prior to the start of the next use season in October 2013.