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Environmental Protection Agency

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Re: Docket EPA–HQ–OPP–2017–0750; FRL–10219–01– OCSPP

Brodifacoum, Case Number 2755 | Bromadiolone, Case Number 2760 | Bromethalin, Case Number 2765 | Chlorophacinone, Case Number 2100 | Cholecalciferol, Case Number 7600 | Difenacoum, Case Number 7630 | Difethialone, Case Number 7603 | Diphacinone (and its sodium salt), Case Number 2205 | Strychnine, Case Number 3133 | Warfarin (and its sodium salt), Case Number 0011 | Zinc Phosphide, Case Number 0026

Dear Ms. Biscoe,

On behalf of the Household & Commercial Products Association<sup>1</sup> (HCPA) and its members, we want to convey our comments on the Proposed Interim Decision(s) for Rodenticides as a class in docket number EPA–HQ–OPP–2017–0750. Our members represent several rodenticides used for registered consumer products within the scope of the PIDs and recognize the importance of effective rodent management. We are concerned that the proposed mitigation would significantly increase costs and make it difficult to effectively control rodents in and around homes and businesses, putting the health and well-being of families and pets at risk.

HCPA appreciates the Agency’s efforts and strategy to improve the Endangered Species Act (ESA) review process and shift of using ESA mitigations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The efforts described in the Workplan Update and Proposed Interim Decision are complex, introduce diverse approaches for advanced mitigation, and require consideration and review by experts and other participants familiar with the subject matter. As the Agency implements the Workplan, it is critical that all parties understand the proposed changes and how they will affect all stakeholders, including those required to implement any new mitigation measures.

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<sup>1</sup> HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$180 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. HCPA represents products including disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for pets, home, lawn, and garden; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

HCPA generally supports EPA's efforts to provide interim protections for listed species in order for the EPA to meet obligations under both FIFRA and the ESA. At the same time, the Agency must also be able to justify the mitigation measures with the best available science and connect the steps required to provide the benefits to species.

With this in mind, HCPA is concerned about the significant and likely negative consequences associated with the following mitigation measures included in the PID(s), namely, Restricted Use Pesticide Classification for all products sold in packages 4 lbs. or greater; Cancellation of General Use Pesticide (GUP) products for control of field pests within 100 feet of structures; and Cancellation of reusable consumer bait stations (1 lb. or less) and refills. For example, consumers may be less able to control pests if fewer rodent control methods are available or economical, especially in large infestations. This would require professional pest service providers at an increased cost to consumers. This situation is likely compounded in lower socioeconomic households that experience more rodent problems.

HCPA is concerned that there is a disconnect between the consumers and urban communities most impacted by the proposed restrictions and the protection of endangered species. EPA does not make the scientific case that residential use is a meaningful contributor to estimated impacts on endangered species. The Agency has failed to consider that each active ingredient has a unique toxicological profile and use pattern. The Agency's blanket universal approach to regulating rodenticides is inappropriate due to the lack of data to support its groupings. For example, no data has been provided to indicate that the active ingredients, bromethalin and cholecalciferol, found in consumer products have been linked to non-target wildlife deaths. The result will be significant added costs imposed on consumers for no meaningful benefit to endangered species.

Additionally, with the considerable cost increases imposed on consumers due to the elimination of refillable bait stations, there is a high likelihood that inadequate treatment will result in higher rodent populations and expanded disease transmission in urban areas. According to the EPA, rodents such as the non-native Norway rat, the roof rat, and house mice can harm public health and destroy property.<sup>2</sup> Rats and mice are known to spread over 35 different diseases worldwide and can spread these diseases to people directly through the handling of rodents, contact with rodent feces, urine, saliva, or rodent bites.<sup>3</sup> Proper indoor use of currently available consumer rodenticide products does not threaten endangered species.

The EPA's estimate of incidents is extremely low for human health, and it is implied that EPA will only accept no incidents related to consumer use of these products. The determination process is unrealistic and inconsistent with how EPA, Food and Drug Administration (FDA), and society interpret low levels of incidents associated with product misuse, particularly when the consequences have transitory effects. The product stewardship efforts and the risk mitigation steps instituted in 2008 have resulted in a greater than 50% reduction in incidents from 2004 to 2017.<sup>4</sup> The real question is whether additional product stewardship would continue to contribute

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<sup>2</sup> <https://www.epa.gov/ipm/rodents-and-schools#concerns>

<sup>3</sup> <https://www.cdc.gov/healthypets/pets/wildlife/rodent-control.html>

<sup>4</sup> Revised Tier 1 Update of Review of Human Incidents, Figure 2, First-Generation Anticoagulant Rodenticides,

to reducing adverse incidents without shifting to the Restricted Use classification or elimination of specific product offerings. A more targeted approach would require registrants to devote more effort to product stewardship and education. Limiting the availability of rodenticide products without providing sound evidence that people commonly misuse these products is unacceptable and will exacerbate rodent-borne public health hazards.

The proposed cancellation of general-use loose bait formulations for pests like moles, voles, pocket gophers, and ground squirrels eliminates the ability of consumers to control these pests in lawns, gardens, and landscaping. These species can cause significant property damage and harbor disease-spreading parasites such as fleas and ticks, and their burrowing poses a safety hazard for children and pets. The current analysis does not account for an increase in these other public health pests, and HCPA is concerned about these secondary impacts.

EPA has vastly underestimated the benefits lost due to its proposed restrictions. The Agency has dismissed critical points from its benefits assessment in the Biological and Economic Analysis Division (BEAD) document dated October 27, 2022, Use and Benefits Assessments for 11 Rodenticides and Impacts of Potential Risk Mitigation.<sup>5</sup> The restrictions will predominately impact low-income communities. EPA minimizes the costs of restricted use and the increased cost of eliminating refillable bait stations and fails to analyze the environmental justice impacts associated with the PID. HCPA is concerned that underserved communities will be disproportionately impacted and receive no meaningful benefits. Residents of substandard public housing depend on affordable rodenticides to protect their families from disease.<sup>6</sup> Another example of how this would impact low-income would be; low-income areas have mole infestations every year, which destroys property, and something must be done to eliminate the issue. Without access to inexpensive homeowner-use rodenticides, homeowners may resort to other dangerous techniques, such as pouring gasoline into the mole tunnels or using carbon monoxide from gasoline engines to kill rodents.<sup>7</sup> HCPA strongly supports increased endangered species education and labeling rather than shifting to the restricted use status.

Severely restricting the ability of homeowners to protect their property from rodents will contribute to the spread of pathogens. Moreover, it will disproportionately harm low-income individuals who cannot afford to retain professional pest control services or depend on negligent landlords or housing agencies.<sup>8</sup> Consumers will not be able to control population growth. This could lead to an overwhelming infestation, causing more health risks to their family and pets and damaging homes and property. Adequate rodent control solutions need to be available to all social incomes. These proposed mitigation measures leave the consumer with no other option,

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Second-Generation Anticoagulant Rodenticide, Non-Anticoagulant Rodenticides, and Total Rodenticides Incidents Reported to AAPCC from 2004 to 2017., [https://www.regulations.gov/document/EPA-HQ-OPP-2015-0768-0061\\_content](https://www.regulations.gov/document/EPA-HQ-OPP-2015-0768-0061_content)

<sup>5</sup> Use and Benefits Assessment for 11 Rodenticides and Impacts of Potential Risk Mitigation <https://www.regulations.gov/document/EPA-HQ-OPP-2015-0767-0060>

<sup>6</sup> <https://www.wusa9.com/article/news/local/residents-of-dc-housing-complex-say-padlocked-gates-mold-rats-and-bugs-are-hazards-to-living/65-2e8ac886-e9f6-4cbc-a686-ad6955610753>

<sup>7</sup> <https://www.census.gov/library/stories/2021/04/how-many-american-homes-have-pests.html>

<sup>8</sup> <https://wtop.com/dc/2022/10/residents-respond-to-hud-report-on-failures-at-dc-housing-authority/>

assuming they do not have the means and desire to hire a professional pest control service.

Low-income housing often operates on a fixed budget, and making these products Restricted Use would inhibit facility managers from promptly addressing rodent issues as they arise. It would more likely push them to forgo preventative management or Integrated Pest Management (IPM) programs allowing infestations to spread, causing further damage to property, the environment, and public health. Using these rodenticides as part of the IPM program ensures that rodent populations are kept at manageable levels and are not allowed to grow exponentially. Non-refillable bait stations are significantly more expensive than refillable stations. The original Risk Mitigation Decision (RMD) from 2008 recognized this and allowed refillable bait stations to help mitigate the overall cost impact. Prefilled bait stations would more than triple the cost with far less control of dangerous rodents.<sup>9</sup> Since 2008, the concern about plastic waste in the environment has significantly increased, with many States having already passed or introduced legislation to reduce plastic waste, especially single-use plastics. The proposals within the PID would dramatically increase the amount of plastic waste in the environment. For example, instead of purchasing a refillable package containing one station and 16 baits, consumers would have to buy 16 individual bait stations and dispose of them after one use or leave the new bait stations, increasing the likelihood of improper use. Consumers in lower income brackets often cannot afford professional pest control services and rely most on these products. With the additional requirements of these proposals to pest control operators, the cost of consumers utilizing a professional service would also increase.

EPA's endangered species risk assessment vastly overestimates exposure to endangered species and risk and should not be relied on for regulatory decision-making. For instance, the EPA's evaluation for the Second Generation Anticoagulant Rodenticides (SGARs) shows a Likely to Adversely Affect (LAA) only for Stephens' kangaroo rat, which has a range restricted to a few counties in California<sup>10</sup>. There does not appear to be sufficient justification for a nationwide Restricted Use classification based on the Endangered Species Analysis. The concern for Stephens' kangaroo rat could be better addressed by EPA Bulletins Live Two or specific county restrictions on the labels. HCPA reiterates that proper indoor use of currently available consumer rodenticide products does not threaten endangered species.

ESA compliance aims to prevent the "jeopardy" of federal action. For most federal activities covered by the ESA, the government attempts to predict what will happen due to the action. For pesticide reevaluation, the government has significant information about the pesticide because it has been on the market for many years. Whether these products' registration jeopardized the existence of an endangered species isn't solely a proactive estimate but should be meaningfully informed by retrospective analysis. These products have been used for decades, and if their continued use jeopardized the existence of a species, there would be some evidence by now demonstrating population effects on such species. There is no evidence that continued use of

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<sup>9</sup> Revised Risk Mitigation Decision for Ten Rodenticides <https://www.regulations.gov/document/EPA-HQ-OPP-2006-0955-0764>

<sup>10</sup> Anticoagulant Rodenticides Proposed Interim Registration Review Decision. Case Numbers 2100, 2205, 0011, 2755, 2760, 7630, 7603 <https://www.regulations.gov/document/EPA-HQ-OPP-2015-0767-0059>

these products has jeopardized the existence of any endangered species. Instead, some listed species had population increases when these products were on the market. EPA should be required to demonstrate a direct connection between the continued use of a product with an effect on the ability of the species to survive.

If implemented, Risk Management would significantly increase single-use plastic waste, undermining EPA's goals to reduce plastics and plastic waste. As noted throughout the Use and Benefits Assessment, non-refillable bait stations are expensive and lead to more non-recyclable plastic waste in landfills.<sup>11</sup> Companies strive to provide our customers with cost-effective, sustainable pest control solutions.

These products are carefully developed and labeled for proper consumer use. For the past 15 years, consumers have been responsibly purchasing and using risk mitigation-approved rodenticides to protect their families, health, and property. These products should remain accessible to consumers.

HCPA notes that making rodenticides Restricted Use would require retailers to obtain certification/license to sell Restricted Use products, the cost and additional staffing requirements, regulatory requirements, and record-keeping obtaining and support Restricted Use certification/license would be too costly and labor intensive; therefore, many retailers would no longer carry Restricted Use products. Additionally, the requirements for a retailer to sell Restricted Use products would require specific certification/licensing would vary from state to state. Our concern is that national retailers will not be able to meet these state-specific requirements and will choose to no longer provide Restricted Use products.

Many professional pest control companies do not provide rodent services, leaving consumers with few, if any, options for population control. Some rodent issues can easily and quickly be managed using refillable bait stations. Many consumers do not want or need to hire a professional pest service to control an isolated rodent issue. The consumer often addresses remote rodent issues by using refillable bait stations and blocking the rodents' entry point to the premises.

HCPA notes that EPA self-described in the rodenticide Biological Evaluations that "rodenticides are different" in managing these registrations. Therefore, HCPA strongly encourages EPA to clearly state that as a "pilot," this approach will not serve as a template for how additional assessments on other classes of products should be conducted.

In conclusion, the Agency has failed to prove by any evidence that these specific products are responsible for the exposure incidents that are broadly summarized in the PIDs and supporting documents. Many of these proposed mitigation measures would thus unduly limit consumers' ability to purchase responsible, affordable products to protect their residences, families, and pets from rats and mice that can damage property and carry disease while creating more single-use plastic waste. As you work to finalize the interim registration decisions for rodenticides, HCPA

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<sup>11</sup> Use and Benefit Assessments for 11 Rodenticides and Impacts of Potential Risk Mitigation, <https://www.regulations.gov/document/EPA-HQ-OPP-2015-0767-0060>

strongly urges the Agency to consider the public health benefits of these products and the detrimental impact these mitigation measures would have on communities, especially the underserved. Rodenticides are essential in protecting health, property, and the environment. On behalf of HCPA, I thank you for this opportunity to share our concerns on this critical issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven Bennett', with a long horizontal line extending to the right.

Steven Bennett, Ph.D.  
Executive Vice President, Scientific & Regulatory Affairs