



PPC

PESTICIDE POLICY COALITION

A Coalition Working for Sound Pest Management Policies

February 13, 2024

Dana Friedman
Chief, Risk Management and Implementation Branch 1
Pesticide Re-Evaluation Division (7508P)
Office of Pesticide Programs
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001
Submitted via regulations.gov

Re: Docket EPA-HQ-OPP-2023-0567

Comment for the Draft Biological Evaluation, Effects Determinations, and Mitigation Strategy for Federally Listed and Proposed Endangered and Threatened Species and Designated and Proposed Critical Habitats

Dear Ms. Friedman:

The Pesticide Policy Coalition (PPC) respectfully submits comments on the Environmental Protection Agency's (EPA or the Agency) Draft Biological Evaluation, Effects Determinations, and Mitigation Strategy for Federally Listed and Proposed Endangered and Threatened Species and Designated and Proposed Critical Habitats

The PPC represents agriculture, food, fiber, public health, pest management, landscape, environmental, and related industries, including small businesses/entities, which are dependent on the availability of pesticides. Our coalition supports the development and implementation of public policies and laws that utilize the best available science and technology to ensure protection of human health and the environment.

PPC members include national and regional trade associations; commodity, specialty crop, and silviculture organizations; cooperatives; food processors and marketers; pesticide manufacturers, formulators, and distributors; pest and vector-control applicators and operators; research organizations; state departments of agriculture; equipment manufacturers, and other interested stakeholders. The PPC serves as the unifying voice for the review, discussion, development and advocacy on pest management regulation and policy that is based on the best available science.

The public is confronted with increasing pest pressure, resistance management concerns, and disease threats introduced into the United States via trade, weather, and other factors. It is through pest control products, used by farmers, ranchers, public health officials, and other pesticide applicators; and produced by pesticide manufacturers, that we can address and mitigate these threats. These products are essential tools for users to protect not only America's food, fiber, and biofuel; but also, to protect public health from vector-borne disease, safeguard our infrastructure from the damage caused by pests, and mitigate the increasing threat to the environment from invasive species.

We are writing to offer comments on the Draft Biological Evaluation for the Rodenticides (Draft BE) and the Rodenticide Strategy as part of EPA's program to comply with the Endangered Species Act (ESA).

The PPC has concerns about the BE and EPA's analysis and approach in the strategy which can be summarized:

- Inaccurate and unclear species range maps;
- Errors in use patterns for specific rodenticide active ingredients;
- Effects Determinations unsupported by evidence;
- Inappropriate mitigations for species groups and rodenticide AIs;
- Unrealistic, unfeasible, unenforceable, and ineffective mitigation measures.

To be more specific:

Many proposed mitigation measures are of uncertain effectiveness at reducing the risk to threatened and endangered species (TES) but clearly would place severe restrictions on the use of rodenticides. Rather than protecting endangered species, the proposed Rodenticide Strategy would greatly limit the ability to effectively use rodenticides. The proposed measures would greatly increase the cost of rodent control with little clear and proven benefit to increased protection for TES.

While the PPC supports the EPA's efforts to integrate the requirements of the ESA with the implementation of FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act), the proposed restrictions go beyond reasonable controls to ensure species protection. The agency should continue to work with all stakeholders to identify mitigation measures that are feasible to implement and effective at reducing exposure to TES.

Rodent infestations have impacts across our society and infrastructure. Rodent infestations can damage property and infrastructure and harm public health by spreading disease and allergens. It is critical that EPA use the best available science to ensure that any mitigations are feasible and effective in both controlling rodent pests and protect endangered species. The current BE falls short in not including updated species maps, using verified incident data, and proposing reasonable mitigation strategies to effectively protect species, among other shortcomings.

The Draft BE lacks detailed information explaining why EPA concluded that rodenticide use would cause jeopardy effects to many listed species, and the generalized methods used for the effects determinations do not provide information that justify product restrictions and

cancellations. The discussion of data from the Incident Data System Agency provides no evidence that each of the species' adversely affect determinations are actually at high risk of exposure to rodenticide products. The Agency also fails to explain how proposed mitigation measures address exposure resulting from the use of each active ingredient, so it is not clear how proposed mitigations would effectively protect species. EPA should also provide reliable evidence that links exposure to specific rodenticides to any estimated negative effects on particular species.

Need for Clarifications, Updates and Refined Maps

EPA's Rodenticide Strategy proposes extensive and sweeping geographic restrictions on rodenticide use with a notable lack of detail about where species occur and how proposed mitigation measures could be routinely followed by rodenticide applicators attempting to implement the mitigations. EPA's current maps would prohibit the application of most rodenticides in large geographic areas, in some cases including entire states. EPA has received extensive comments from the PPC and many other stakeholders about the need for utilizing more refined mapping data which is available from readily available sources. At a minimum, more accurate maps will help both protect species, where they actually may be present, and reduce unnecessary regulatory burdens on the user community.

Feasibility of Mitigation Measures

We appreciate the Agency has requested feedback on the effectiveness, feasibility, and enforceability of the mitigation measures listed in Tables 5-1 and 5-2 of the Draft BE. Many of these mitigations are not feasible, have no clear connection on how these measures would protect species, and would impose unnecessary or uncertain costs on applicators without a quantifiable benefit to species protection.

We are concerned the following mitigations measures are not feasible, lack clear evidence of species protection and prohibitively:

- Requiring Specialized Bait Stations – Bait stations are designed to accommodate the size of the target species of rodent(s) and align with their behavioral pattern while preventing access by children, pets, domestic animals, and nontarget wildlife. Specialized bait stations may not be a practical mitigation measure as some of the non-target species are similar in size and behavior to the target species.
- Restriction of Consumer Products to Non-refillable Bait Stations – The link showing that consumer products are a source of exposure to specific endangered species is not clear. Non-refillable bait stations will lead to more plastic waste and add costs to consumers that might be trying to control rodents in an efficacious and economically feasible manner.
- Classification of Rodenticides as Restricted Use Pesticides (RUP) – No evidence has been provided that explains how exposure to endangered species is occurring, and it is unclear how classifying products as RUPs would limit exposure to specific species. Many professional pest control operators are not currently licensed to apply RUPs. Making these products restricted use will significantly increase the cost of rodent control

for many consumers, costs which may be prohibitive, especially for lower-income households.

- Placement of Bait stations within Five feet of Structures – The decision about where to place bait stations should be made by the applicator, who can assess site-specific conditions, avoid potentially sensitive areas, and determine where they will be most effective. This restriction would limit efficacy without providing meaningful additional protection to endangered species.
- Prohibition of Broadcast and In-burrow Uses in Areas or at Times of the Year When Listed Animals Have Access to the Treated Area – This mitigation measure is unclear as to whether it is intended to apply to primary consumers and secondary consumers, and which use sites and rodenticides it is required for. It is also not feasible because it would prevent target species (e.g., voles, moles, and pocket gophers) from being treated altogether, and it would be cost-prohibitive or unworkable to control ground squirrels, especially over large areas.
- Establishment of Endangered Species Bulletins to Implement Specific Mitigations Needed in Limited Geographical Areas or at Times of Year to Protect Particular Species – Applicators need more detail about how Bulletins Live! Two will be applied. This is an issue applicable to all current species protections discussed by EPA. Additionally, there needs to be extensive outreach to the applicator community on the use and functionality of Bulletins Live! Two.: Post-Application Follow-Up: Carcass Search, Collection, and Disposal Statements – The proposal to require the applicator to search the treatment area to inspect for and collect carcasses is unclear as to which use sites and rodenticides it would be required for. It will result in significant increases in costs, time, and labor. It is not clear how the proposal will mitigate exposure to endangered species since most target animals do not die in the open, and smaller carcasses rapidly disappear. In addition, weather conditions can inhibit finding carcasses and may affect the ability of personnel to access the application site.
 - There are several outstanding questions on the process regarding the carcass searches such as the distance from rodenticide placements that needs to be included in the carcass search, how the carcass search will occur when the treatment area is next to an adjacent property, and how the applicator will know if the rodent or nontarget animal died from the rodenticide or from another cause. This is related to the previous point concerning how the ESA mitigation proposals will be implemented and enforced.
- Use Prohibitions in Certain Geographic Areas or During Certain Times of the Year – The species maps in the Draft BE where pesticide use limitation areas could be implemented are extensive and vague, leaving applicators without clarity about what mitigations they would be required to follow.

Stakeholder Outreach and Continued Refinements

PPC members already follow Best Management Practices (BMPs) and comply with existing label instructions - labels that are intended to minimize the risk of exposure to wildlife. We urge the Agency to engage in discussions with stakeholders to gain a better understanding of how rodenticides are applied and identify effective and practical mitigation measures that could be

implemented. This process will result in a Rodenticide Strategy that is well-informed, appropriate, and refined to effectively protect listed species.

We understand that developing a strategy to address the diverse use patterns of rodenticides is a massive undertaking. Rodenticides play a vital role in protecting public health and property, our food supply, our quality of life, and our infrastructure. It is essential that EPA take time to ensure that any species mitigations are feasible and do not limit critical uses of these products for farmers, consumers, and professionals. We request the Agency continue to refine the Rodenticide Strategy based on stakeholder feedback from this comment period and that it works with the U.S. Fish and Wildlife Service and species experts to refine species maps to ensure a targeted approach to potential mitigations. Protecting endangered species is necessary and important, but so is ensuring continued access to these rodent control products.

Thank you for your serious consideration of these comments. If PPC members can be of assistance in any way, or if you have questions, please do not hesitate to contact us at shensley@cotton.org or (703) 475-7716 and Megan Provost at mprovost@pestfacts.org or (202) 570-3551.

Thank you for considering our views. If PPC members can be of assistance in any way, please do not hesitate to contact us.

Sincerely,



Steve Hensley
Chair, Pesticide Policy Coalition



Megan J. Provost
Vice Chair, Pesticide Policy Coalition