



Barbara Christianson <BChristianson@lawbc.com >  
05/28/2002 05:02:47 PM

Record Type: Record

To: John F. Morrall III/OMB/EOP@EOP  
cc: See the distribution list at the bottom of this message  
Subject: RRTF -- Draft Report to Congress

---

Appended is a letter from the Rodenticide Registrants Task Force regarding the Draft Report to Congress on the Costs and Benefits of Federal Regulations. Please let us know if you have any questions.

<<06lt027c.doc>> <<06MS105\_.404>> <<06MS104\_.404>>

\*\* PLEASE NOTE MY NEW DIRECT LINE TELEPHONE NUMBER AND OUR NEW FAX NUMBER BELOW. THE OLD NUMBERS CAN ALSO BE USED UNTIL JUNE 15, 2002. AFTER JUNE 15, 2002, ONLY THE NEW NUMBERS CAN BE USED. \*\*

Barbara Christianson  
Legal Secretary  
BERGESON & CAMPBELL, P.C.  
1203 Nineteenth Street, NW  
Suite 300  
Washington, D.C. 20036-2401  
bchristianson@lawbc.com  
(202) 557-3807 (phone)  
(202) 557-3836 (fax)

Please visit our Web Site at <http://www.lawbc.com>

This electronic transmission from the law firm of Bergeson & Campbell, P.C. may be highly confidential and subject to **legally** enforceable privileges. If you are not an addressee, you are strictly prohibited from reading or disclosing this e-mail. Please immediately telephone us at (202) 557-3800, or e-mail us at [info@lawbc.com](mailto:info@lawbc.com), and return the transmission to us at once if you are not an addressee.



- 06lt027c.doc



- 06MS105\_.404



- 06MS104\_.404

Message Copied To:

---

"Cisse Spragins (E-mail)" <cspragins@rockwelllabs.com>  
"Dale E. Kaukeinen (E-mail)" <dale.kaukeinen@syngenta.com>  
Duane Schnabel <dSchnabel@cdfa.ca.gov >  
Edward Marshall <efm@liphatech.com>  
Eileen Moyer <eileen.moyer@reckittbenckiser.com >  
"Eileen Salathe Gernhard (E-mail)" <esgernhard@lawbc.com>  
"Eric M. Silberhorn" <esilberhorn@arcadis-us.com>  
"James F. Hobson (E-mail)" <hobsonjfxxxxx@msn.com>  
"John L. Hott Ph. D. (E-mail)" <john.hott@syngenta.com >  
"Judith Thompson (E-mail)" <jathom@mailbag.com>  
"Karen Romito (E-mail)" <K1romito@aol.com>  
"Lee Schwalenberg (E-mail)" <lee.schwalenberg@uap.com>  
"Lynn L. Bergeson (E-mail)" <lbergeson@lawbc.com>  
Mike O'Bryan <mobryan@pmrproducts.com>  
"Nate Dechoretz (E-mail)" <ndechore@cdfa.ca.gov>  
Odeth Yalcin <OYALCIN@lawbc.com >  
"Peter Martin (E-mail)" <pmartin@belllabs.com>  
"Randy Sample (E-mail)" <Randy-Sample@admworld.com>  
"Ronald D. Grant" <grantr686@aol.com >  
Sean McNear <sean.mcnear@reckittbenckiser.com >  
"Thomas Schmit (E-mail)" <tjs@liphatech.com>

Bergeson & Campbell, P.C.  
1203 Nineteenth Street, N.W.  
Suite 300  
Washington, D.C. 20036-2401  
Tel: (202) 557-3800  
Fax: (202) 557-3836

May 28, 2002

Via E-Mail

Mr. John Morrall  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
NEOB  
Room 10235  
725 17th Street, N.W.  
Washington, D.C. 20503

Re: *Draft Report to Congress on the Costs and Benefits of Federal Regulations*

Dear Mr. Morrall:

The Rodenticide Registrants Task Force (RRTF)<sup>1</sup> submits these comments to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) in response to OIRA's *Draft Report to Congress on the Costs and Benefits of Federal Regulations* (Report). The RRTF believes that the Report reflects OIRA's stated commitment to playing a proactive role in ensuring that agency scientific analysis is done in accordance with scientifically defensible standards and that regulations are improved in a manner that achieves agency goals in the least burdensome way.<sup>2</sup> The RRTF strongly **supports** OMB's guidelines to enhance the quality of information that federal agencies disseminate to the public, and commends OMB for ensuring that a challenge opportunity will be available when poor quality information is disseminated. Finally, the RRTF supports OIRA's institution of the "prompt letter" mechanism, and believes that it is a beneficial tool that will greatly assist OMB in achieving its intended goal.

---

<sup>1</sup> The RRTF is composed of nine rodenticide registrants. Members are: ADM Alliance Nutrition, Inc.; Bacon Products, Inc.; Bell Laboratories, Inc.; California Department of Food and Agriculture; Hacco, Inc.; LiplhaTech, Inc.; PM Resources, Inc.; Reckitt Benckiser, Inc.; and Syngenta Crop Protection, Inc.

<sup>2</sup> 67 Fed. Reg. 15014 (Mar. 28, 2002).

Mr. John Morrall  
May 28, 2002  
Page 2

EPA currently is preparing an ecological risk assessment for rodenticides.<sup>3</sup> Rodenticides play a critical role in pest control and thus in ensuring public health. Rats and mice, two of the many destructive disease carrying rodents that RRTF member companies' products control, spread over 35 diseases worldwide, some of which can be fatal, *e.g.*, Hantavirus, Rat Bite Fever, and Leptospirosis. The diseases are spread in many ways: directly through bite wounds; through contamination of human food, water, or habitation by rodent urine or feces; or by way of ticks, mites, fleas, and other biting insects that transmit the infection to humans after feeding on infected rodents. As noted by EPA's Rodenticide Stakeholder Workgroup (RSW), a stakeholder group that convened in 1999 to advise EPA on certain rodenticide issues:<sup>4</sup>

The societal value of rodent control is high regardless of one's position on the use of rodenticides. . . . The benefits of keeping rodent infestations in check through the proper use of rodenticides or other alternative measures are many fold. Although rodenticides are just one of many ways to control rodents in the home, they occupy an important niche in today's increasingly urban population. As a group, the anticoagulant rodenticides are a widely-used, efficacious means to control rats and mice in the home when used as directed on the label.<sup>5</sup>

The District of Columbia has itself been the subject of considerable national attention due to the rodent problems it has experienced over the past several years.<sup>6</sup> The District is not alone, as a growing number of major urban areas, including New York and Chicago, have been similarly

---

<sup>3</sup> See 66 Fed. Reg. 59425 (Nov. 28, 2001).

<sup>4</sup> The RSW was composed of representatives from the general public, the medical community, public interest groups, industry, and government agencies and bureaus. Its purpose was "to provide advice and recommendations to the EPA on a pesticide exposure issue involving children." RSW, *Recommendations for Managing Rodenticide Exposures To Children in the Home*, Subcommittee Report to the Pesticide Program Dialogue Committee (PPDC) for consideration by the U.S. Environmental Protection Agency (Nov. 15, 2000) at 2.

<sup>5</sup> *Id.* at 26.

<sup>6</sup> "Weather worsens rat 'war' in D.C.; Will city be able to win the battle?," *Washington Times*, at A01 (Apr. 04, 2002); Lynn L. Bergeson, "Seeing RED Over Rats: District Declares War on Vermin, While the EPA Targets Children's Health," *Legal Times*, Week of May 24, 1999.

Mr. John Morrall  
May 28, 2002  
Page 3

plagued by out-of-control rodent infestations.<sup>7</sup> Clearly, rodent control is an issue of significant public health concern.

EPA's ecological risk assessment, when completed, will serve as the basis for the identification of mitigation measures. EPA has broad authority to mitigate risks it believes unreasonable, including product cancellation, use restrictions, product use cancellations, and related measures, all of which necessarily result in diminished product use and likely higher product cost. The RRTF is concerned that the risk assessment methodology used by EPA in preparing the current draft document that has not yet been made public does not reflect sound scientific principles, is not consistent with ecological risk assessments prepared previously by EPA, and is generally neither legally nor scientifically valid. Further, it is not consistent with Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001 and OMB's data quality guidelines implementing the legislation originally published in January 2002.<sup>8</sup> This legislation and OMB's guidelines establish that data generated by agencies must meet the Safe Drinking Water Act standards for data quality applicable to all information disseminated by EPA. These standards provide that

'to the degree that an Agency action is based on science,' to use '(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and (ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).'

The draft risk assessment does not meet these standards. It, and any mitigation measures based on the assessment, as written, would be insupportable.

The RRTF urges OMB to consult with EPA and inquire about the ecological risk assessment it has prepared, and to review the comments the RRTF has submitted on it to date. The RRTF has urged EPA to withdraw the assessment in its entirety believing that no part of it can

---

<sup>7</sup> See, e.g., "Obadele: CHA rebuilding plan fails because human aspect ignored," *Chicago Defender*, at 3 (Aug. 28, 2001); "The Rat Patrol," *New York Times*, at Sec. 14p.1 (July 25, 1999).

<sup>8</sup> 67 Fed. Reg. 369 (Jan. 3, 2002) (republished to correct errors at 67 Fed. Reg. 8451 (Feb. 22, 2002)). The OMB Guidelines were prepared pursuant to Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001, and apply to federal agencies subject to the Paperwork Reduction Act codified at 44 U.S.C. Chapter 35.

<sup>9</sup> 67 Fed. Reg. at 8457, citing 42 U.S.C. Section 300g-1(b)(3)(A).

Mr. John Morrall  
May 28, 2002  
Page 4

reasonably be salvaged because it is premised on a scientifically indefensible model for assessing risk. It cannot under any circumstances serve as the predicate for the identification of risk mitigation measures. If it were to do so, valuable products essentially for the control of public health threats will be compromised at the risk of inviting perhaps significant public harm.

The RRTF also urges OMB to consult with EPA and inquire about the progress of EPA's actions in addressing the recommendations of the 2000 RSW report. While EPA has taken limited action on the RSW's recommendations, it has not yet fully implemented them despite the fact that the final RSW report was issued in 2000. Among the recommendations in the final 2000 RSW report (a copy of which is appended)'' are the following:

- Eliminating a requirement to add an indicator dye to rodenticides;
- Eliminating a requirement to add bittering agent to rodenticides;
- Obtaining more precise information on the exposure of children;
- Providing safety information to parents and others through a rodenticide website; and
- Simplifying consumer product labels.

Those recommendations were made with the recognition of the critical role rodenticides play in pest control, and thus in public health. The RRTF agrees with all of these recommendations, and believes that implementing them will further the goals of the RSW, promote product stewardship, and save government resources. While EPA has acted upon the first two recommendations -- dropping the indicator dye and bittering agent requirements -- the RRTF is eager to work with the EPA Office of Pesticide Programs (OPP) to bring closure to the remaining recommendations.

We hope this information is helpful. Please call if you have any questions.

Sincerely,

Lynn L. Bergeson  
Eileen Salathé Gernhard



Mr. John Morrall  
May 28, 2002  
Page 5

Lynn L. Bergeson, Esquire  
Eileen Salathé Gernhard, Esquire  
For the Rodenticide Registrants Task Force

Attachment

cc: Rodenticide Registrants Task Force (via e-mail) (w/attachment)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
PREVENTION, PESTICIDES  
AND TOXIC SUBSTANCES

Rodenticide Stakeholder  
Workgroup Membership

Dear RSW Member:

I am very pleased to enclose the Rodenticide Stakeholder Workgroup's (RSW) final report, *Recommendations for Managing Rodenticide Exposures to Children in the Home*. In completing the report on your behalf, we tried our best to accommodate all views and positions articulated by the members during the deliberations of the RSW. We also carefully incorporated your comments and suggestions on the draft report, and believe we have accurately captured the group's findings and recommendations.

Reflecting on the work of the group as the RSW Chair, I am proud to have worked alongside such a highly competent and balanced stakeholder group. You demonstrated exceptional cooperation, fair-mindedness, and critical thinking. Thank you again for making this effort a success.

Rose Ann Soloway has agreed to represent the RSW and present the report to the full Pesticide Program Dialogue Committee (PPDC). I encourage you to attend the presentation before the PPDC, tentatively scheduled for 3:40 p.m. on November 29, 2000. The PPDC is meeting on 29-30 November at the Radisson Hotel Old Town, 901 North Fairfax Street, Alexandria, VA 22314, telephone number (703) 683-6000.

If you have any questions or comments, please contact me or Michael McDavit at (703) 308-0325. Thank you again for your participation and interest.

Sincerely,

Enclosure

Lois A. Rossi, Director  
Special Review and



## Reregistration Division