SUBMISSION

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To: ACVM.Consultation@mpi.govt.nz

Submission on: **Proposed controls for the manufacture, sale, storage, and use of products containing brodifacoum**

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1. Introduction

1.1. Animal and Plant Health Association New Zealand (APHANZ) welcomes the opportunity to provide feedback in response to the document *Proposed controls for the manufacture, sale, storage and use of products containing brodifacoum* (2023 document), response to public submissions (2021) and a workshop (July 2023).

1.2. APHANZ are the peak industry association representing more than 85 multinational and New Zealand based companies that manufacture, distribute, and sell crop protection and animal health products. APHANZ would like to commend MPI for engaging in an ongoing discussion with affected parties and considering options prior to a formal reassessment of brodifacoum.

2. Background

3.1 MPI is intending, under section 29 of the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997, to reassess the conditions of registration applied to all registered vertebrate toxic agents (VTAs). It is planned that a reassessment will be performed sequentially according to the active ingredient, starting with the anti-coagulants and, most immediately, brodifacoum.

3.2 Brodifacoum is acknowledged as a cost effective pest eradication tool by the Ministry for the Environment and others. It is widely used by pest control professionals, farmers, conservation community groups, regional councils, landowners, and urban dwellers for controlling low to medium density possums, and vermin (rats and mice) populations. Possums and rats are known vectors of human disease (tuberculosis, leptospirosis etc.), infest and destroy produce and grains (stored and insitu) and productive animals (poultry) as well as decimating the native flora and fauna and bird species of New Zealand. Brodifacoum is a vertebrate toxic agent has an antidote for any unintended target species (pet cats, dogs etc.) and regional councils[1] and other users actively communicate (under a code of practice) the use of the chemical to the public, stipulating food producing animals should be excluded from the area of brodifacoum baiting. In addition, there are signage requirements for VTAs under Health and Safety at Work Act (HSWA Act) with similar messaging requirements. There are currently 11 approved applications containing Brodifacoum under the Hazardous Substance and New Organisms Act.

3.3 MPI (as agency responsible for food safety) has concerns regarding the efficacy of the controls to minimize exposure of food producing animals to VTAs. This is a result of audits undertaken from the National Chemical Residue Programme (NCRP) which monitors residues in non-dairy animal products. Results for the period 2014-2019 showed that there were five reported detections of anticoagulants VTAs in food producing animals, three involved brodifacoum. The detections were below the Food Act MRLs. In addition, the existing conditions were originally set in 2005, and have not been updated.

3.3.1 MPI has, based on public 2021 submission responses, resolved the following in the 2023 document that regulation changes are required and include:

3.3.1.1 Mandatory education, training and certification of users purchasing or using volumes of brodifacoum exceeding a given threshold (300gms); and

3.3.1.1.1 the requirement for training of users is to be conducted under section 44E of the ACVM Act (Responsible persons responsible to the Director General of MPI); and

3.3.1.1.2 would require Police vetting (under section 44E)

3.3.1.2 A limit of 300 g pack size for the public (this would be effective for 1 possum or up to 10 rats) noting that the effect of such a volume would impact the ability of

[1] https://www.gw.govt.nz/environment/pest-management/pest-animals/pest-animal-control-methods/brodifacoum/

landowners, conservation groups etc. to manage consistent and prolonged management of vermin.

3.3.2 A definition of a bait station and the term “end of baiting” and other changes to the labelling or messaging requirements for brodifacoum.

3.4 The Environment Protection Agency (EPA) has on their workplan to reassess Brodifacoum (and other VTA’s) in the latter half of 2026. Assessment will be regarding the information suggests that the use of brodifacoum, bromadiolone, and flocoumafenin in New Zealand may present risks to human health and the environment. Brodifacoum is listed as a priority B (of which there are 44 chemicals classified as B). There is no information provided as to why brodifacoum is on the EPA workplan or why there has been no interagency alignment with the reassessment of the chemical and VTAs in general.

4 APHANZ Response

4.1 The current proposal under the legislative tool specified (section 29 of the ACVM Act) requires (for the rreassessment of trade name products*) “significant new information on a matter related to the use of the registered trade name product or group of trade name products has become available”.* Aphanz would contend that the 3 instances of traces of brodifacoum (not exceeding MRLs) being detected over the period of 5 years (2014-1019) is insubstantial when the number of animals slaughtered for food exceeded 114 million over the same time (equates to .000000026 % occurrence).

4.1.1 Brodifacoum has not been used in any different way than what was intended[2] and has been used subject to the normal legislative confines for some time with no non-compliances reported (no critical non-compliances noted for the period 2014-2023 in MPI, WorkSafe or EPA documentation).

4.1.2 There is no update to the information (i.e. has there been any further detections for the period 2020-2023), or an analysis of the initial findings (i.e. test method, background of animals detected with brodifacoum slaughtered, comparison of testing methods etc.) or an analysis of the statistical impact (3 finds in 114Million animals slaughtered between 2014-2019 is statistically insignificant (.00000026%).

4.1.3 The total cost of the proposed regulations has been recorded as that cost to be met by a responsible person (for applications of more than 300gms)). There are no costs to industry (i.e. manufacturers, distributors etc.) and other users of brodifacoum of the proposed changes. The benefits of maintaining human health, food production, biodiversity have not been explored.

4.2 The current solutions to ensure the use of brodifacoum does not result in breaches to domestic food standards and ensure provision of appropriate consumer information is already in place (Regional council code of practice, WorkSafe requirements and product stewardship).

4.3 The proposed regulatory solutions (2023 document) would have farmers, landowners (170,000) and house holders subject to a requirement to become a responsible person under the Section 44E of the ACVM Act. Section 44E is intended to be those acting for the Director General in his capacity under ACVM (i.e. inspectors of premises where food is made) that are managed, employed, or contracted by the DG. It is not intended for a large number of landowners to be registered and managed by the DG for the purpose of administering a form of control for a common pest. In addition this requirement overlaps that of the HSWA Act administered by WorkSafe, where persons handling hazardous substances are certified handlers.

[2] https://www.nelson.govt.nz/assets/Environment/Downloads/pest-management/brodifacoum-drop-2017/Code-of-Practice-20R-2006.pdf

4.3.1 A limit of 300 g pack size for the public (this would be effective for 1 possum or up to 10 rats) would be difficult for distributors to manage controlling as to who may or may not purchase quantities in excess of 300gm or larger packs or persons purchasing multiple packs from multiple retailers to avoid having to be a recognised person. Similar regulatory requirements have not been successful (i.e. the requirement for retailers to site a Growsafe certificate required for purchase of a volume of herbicide/pesticide initiated in 2007 is not now functioning).

4.3.2 Further, there is no impact to food producing animals where there are restrictions of pack size made on urban purchasers (not baiting where food producing animals are).

4.3.3 The management of food producing animals and the need to isolate brodifacoum from food producing animals is the main message and this has been conveyed to high users of brodifacoum through regional councils and any label changes required as per the ACVM Act on-going registration requirements.

4.3.4 A definition of a bait station and the term “end of baiting” has been defined. Codes of practice that are evolving with improvements in baiting and avoiding unused bait being inadvertently consumed are evolving and widely practiced.

4.3.5 The suggested regulations (document 2023) and cost to users of Brodifacoum and VTA’s, will only serve to sway conservation groups, regional councils, farmers, and growers from using brodifacoum in the short term. Given the lack of effective alternatives to VTA’s, it is logical to expect that a reassessment (doubt in the mind of users of brodifacoum) will result in a rise in numbers of vertebrate pests that will serve to increase public health issues (tuberculosis/possums and leptospirosis/rats), deplete the ability to store food safely and hygienically, deplete agriculture and horticulture production, and deplete the conservation estate of native species. In addition, due to the lack of alternatives other methods of eradication (more toxic) may need to be used.

3. Summary

3.1. APHANZ’s findings, across consultation with members and industry, is that further information (scientific analysis) as to the problem is sought before an appropriate solution (regulation, product stewardship etc.) can be determined; and that the problem is clearly identified across all sectors (public health, trade concerns etc.) so that the resulting solutions are practical and targeted to the identified problem. Notably:

3.1.1. There is insufficient science (insufficient data, cost benefit analysis or risk-based analysis) to support a reassessment under section 29 of the Act that would provide a regulatory change that is relevant to the perceived problem. Trust is diminished in the regulatory process if regulatory reassessment decisions are not based on sufficient science or investigative rigor to support change.

3.1.2. Without identifying how a problem came about (animals detected with brodifacoum for the first time, what region herd or location etc.) then the resulting solutions as put forward by the 2023 document) are unlikely to resolve the recurrence of the problem.

3.1.3. There is potential for confusion and unintended consequences to the regulation of a compound that is widely used (i.e. brodifacoum) for common pests when two government agencies seek to resolve the same problem, but with different regulatory scope, priorities and where there is legislative overlap. There are several agencies that manage different elements

of hazardous substances (MPI, Environmental Protection Authority (EPA) and Worksafe NZ) and an uncoordinated approach may well counteract solutions (proposed by the 2023 document, this submission process, solutions proposed by users and manufacturers) if two reassessments were to take place.

3.1.4. There are already significant codes of practice surrounding the higher users of brodifacoum governed by regional councils, Worksafe[3] etc. Improvements or greater acknowledgement of such avenues of communication to prevent food producing animals inadvertently ingesting brodifacoum would seem appropriate tools for the identified potential problem, but could be strengthened(in terms of frequent review of codes of practice).

5. About Animal and Plant Health NZ

We are the peak industry association representing more than 85 multinational and New Zealand based companies that manufacture, distribute, and sell crop protection and animal health products that keep our animals healthy and crops thriving. Our mission is to protect and enhance the health of crops, animals, and the environment, through innovation and the responsible use of quality products and services.

Our objectives are to:

- Strive for effective and sustainable animal health and crop protection technology through industry leadership and advocacy.
- Achieve a balanced and science-based regulatory environment that gives members freedom to operate and grow in New Zealand.
- Enable farmers and growers to supply high quality food and fibre into domestic and global markets.
- Create an environment that encourages competition through innovation.
- Promote stewardship and responsible use of products.
- Support the health and wellbeing of pets, livestock, and people.

3 [3] https://www.bionet.nz/assets/Uploads/B7-Signage-2018-04-LR.pdf

Nearly all submissions expressed support of the broad intent and welcomed the move to improve risk management of VTA use. One submission noted that proposed controls appear to be simplified following earlier consultation, but "that some further refinement was needed. 6. Based on the submission responses, the underlying themes arising from the consultation are listed below. •