

in New York City from 2005-2010 arising from accidental rodenticide poisonings among children under six years of age, based on data from New York's Statewide Planning and Research Cooperative System (SPARCS). By disaggregating the population of affected children by poverty level, the chart shows that areas with higher rates of neighborhood poverty have higher incidences of emergency department visits due to accidental rodenticide poisonings.

1. Exhibit Request 8(a): data sets

Reckitt's request for the "full data sets" underlying the information presented in Exhibit 52, Reckitt Mot. 8, should be denied. These data are not within the possession, custody, or control of Respondent-Intervenors. To the extent that Reckitt seeks "full" raw data files from the SPARCS database, that database is maintained and controlled by the New York State Department of Health—not the NYC DOHMH—and is protected from disclosure by strict confidentiality provisions. *See, e.g.*, N.Y. Comp. Codes R. & Regs. tit. 10, § 400.18. Reckitt's request, moreover, is vague, overbroad, and seeks data that are not significantly probative of the relevant issues in this proceeding.

2. Exhibit Request 8(b): database information

Reckitt next requests "documents explaining the nature of the [SPARCS] database," including but not limited to documents explaining the meaning of "visit" and "how information is gathered/stored." Reckitt Mot. 9. This request too should be denied, because Respondent-Intervenors have already provided sufficient, responsive information on the "nature" of the database. In particular, Exhibit 53 is responsive to Reckitt's request, as it describes how patient information is reported and stored. It also provides citations to the legislation and regulations governing the SPARCS database. Those regulations provide a clear answer to Reckitt's request for further discovery on the meaning of an outpatient emergency department "visit." *See* N.Y.

Comp. Codes R & Reg. tit. 19, § 441.339 (“The physical appearance of an outpatient at a hospital complex is recognized as contributing one visit regardless of the number of diagnostic and/or therapeutic services the patient receives or the number of sections (clinics), operating rooms, laboratories and treatment areas in which he/she receives them. . . .”).

Furthermore, insofar as Reckitt seeks information that is not already included in Exhibit 53, detailed additional information on the “nature” of the SPARCS database is publicly available. For example, the New York State Department of Health maintains on its website descriptions of how SPARCS data are gathered, recorded, processed, and maintained. *See, e.g.*, https://www.health.ny.gov/statistics/sparcs/data_collection.htm; <https://www.health.ny.gov/statistics/sparcs/sysdoc/operguid.htm>; https://www.health.ny.gov/statistics/sparcs/sysdoc/eodc_data_elements.pdf.

3. Exhibit Request 8(c): definitions

Reckitt requests “[d]ocuments showing how ‘neighborhoods’ were defined and how corresponding poverty levels were determined.” Reckitt Mot. 8. Again, Reckitt’s request should be denied because Respondent-Intervenors have produced sufficiently responsive information. Exhibit 52 explains that “neighborhood[s]” are defined by zip codes, and that poverty levels are calculated based on the “percent of residents with incomes below 100% of the Federal Poverty Level, per the U.S. Census Bureau American Community Survey (ACS), 2008-2012.” Ex. INT NRDC 52; *see also* NYC DOHMH, *Selecting and Applying a Standard Area-based Socioeconomic Status Measure for Public Health Data: Analysis for New York City*, <http://www.nyc.gov/html/doh/downloads/pdf/epi/epiresearch-SES-measure.pdf>. In addition, information on how the ACS determines poverty levels is publicly available. *See* U.S. Census Bureau, *American Community Survey and Puerto Rico Community Survey 2012 Subject*

Definitions,

http://www.census.gov/acs/www/Downloads/data_documentation/SubjectDefinitions/2012_ACS_SubjectDefinitions.pdf.

B. Response to Reckitt's Exhibit Request 9

Reckitt also requests information regarding Respondent-Intervenors' Exhibits 54 to 59. *See* Reckitt Mot. 8-9. These exhibits describe calls received by the New York City Poison Control Center (NYC PCC) about accidental rodenticide exposures among children. Exhibit 54 depicts the incidence of calls to the NYC PCC between 2006 and 2013 involving unintentional rodenticide exposures among children under six years of age. Exhibits 55 to 58 present information for the same time period on treatment outcomes (such as whether children were admitted to a health care facility) for reports received by the NYC PCC regarding unintentional rodenticide exposures among children under six years of age. This treatment outcome information is divided into incidents (1) involving all rodenticides and (2) involving the Reckitt products subject to cancellation in this proceeding. Exhibit 59 shows the underlying data queries used to retrieve the information provided in Exhibits 55 and 58.

1. Exhibit Request 9(a): data sets

The Administrative Law Judge should also decline Reckitt's request for the "full data sets" underlying Exhibits 54 to 56³ because Respondent-Intervenors have already provided the raw data for these exhibits. Specifically, Exhibits 57 and 58 contain tables with the numerical data that Exhibits 54 to 56 represent in graphical form. These include both the numbers and rates of NYC PCC calls involving rodenticide exposures among children under six years of age for

³ Reckitt writes "Exhibits 52-56," Reckitt Mot. 9, but Respondent-Intervenors understand this to mean Exhibits 54 to 56, insofar as Reckitt has already requested the full data set for Exhibit 52, *see id.* at 8 (setting forth Exhibit Request 8), and Exhibit 53 is a document explaining the "nature" of the SPARCS database.

2006 to 2013, as disaggregated by year, poverty group,⁴ and the four treatment outcomes represented in Exhibits 55 and 56. Reckitt makes only a bare assertion that these data are “not sufficient.” Reckitt Mot. 8. To the extent that Reckitt broadly seeks additional data from the NYC PCC system, those data are not relevant to an assessment of Respondent-Intervenors’ exhibits. They are also likely protected from disclosure by the NYC PCC’s confidentiality restrictions, and are not within Respondent-Intervenors’ possession, custody, or control.⁵

2. Exhibit Request 9(b): database information and definitions

Reckitt’s request for documents explaining the “nature” of the NYC PCC database similarly should be rejected. To the extent that Reckitt seeks documents on “how information is gathered and/or recorded,” that information is publicly available. *See, e.g.*, http://a816-dohmeta.nyc.gov/MetadataLite/PrintLiteSummary.aspx?metadata_id=28. The NYC PCC data, moreover, is a subset of the data from the American Association of Poison Control Centers’ (AAPCC) National Poison Data System (NPDS). The AAPCC annual reports—already part of the record here, *see* EPA Exs. 67-79—contain detailed methodology sections describing how PCCs collect data. *See, e.g.*, EPA Ex. 79 at 955-58, 1201-06.

Reckitt also seeks documents explaining the “meaning of [the] different types of ‘treatment outcomes’” referenced in Respondent-Intervenors’ Exhibits 55 to 59. That information has already been produced by Respondent-Intervenors in the descriptive labels provided in those exhibits.⁶ Nonetheless, Respondent-Intervenors have consulted with Mr. Kass

⁴ The underlying poverty group data (Exhibit 57) is relevant only to Exhibit 54.

⁵ Respondents-Intervenors expect to call Mr. Daniel Kass, the NYC DOHMH Deputy Commissioner of Environmental Health, to testify at the proceeding. Mr. Kass is not retained by Respondent-Intervenors, however, and NYC DOHMH, a government agency, is not a party.

regarding Reckitt's request. Mr. Kass has confirmed that the four "treatment outcomes" have the following meanings: (1) admitted to a health care facility for observation; (2) treated or evaluated in a health care facility and released; (3) refused treatment at a health care facility or lost to follow up (i.e., outcome unavailable, because although PPC recommended visit to health care facility, PCC was unable to obtain follow-up information as to whether visit was made); and (4) did not require medical treatment. Mr. Kass has also noted that the term "treatment" refers to management by a health care facility.

Reckitt further seeks information on how "area poverty measure" is determined, presumably with respect to Exhibits 54 and 57. Once again, however, Respondent-Intervenors have already produced this information in the exhibits themselves. Footnote 2 in these exhibits explains that "neighborhoods" (i.e., the "areas" at issue) are defined by zip code and that poverty levels (i.e., the "measure" at issue) are calculated based on the "percent of residents with incomes below 100% of the Federal Poverty Level, per the U.S. Census Bureau American Community Survey (ACS), 2008-2012." Ex. INT NRDC 52. And, as previously explained, information on how the ACS determines poverty levels is publicly available. *See, e.g.*, U.S. Census Bureau, *supra*.

C. Response to Witness Request 6

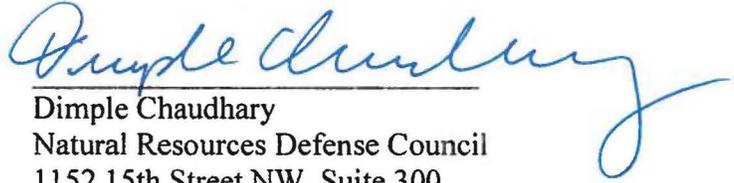
Reckitt has requested four documents listed on Mr. Kass' curriculum vitae. Respondent-Intervenors have conferred with Mr. Kass regarding these documents, and expect to produce them to Reckitt shortly.

⁶ The four "treatment outcomes" as listed on the exhibits are: (1) Admitted for Obs; (2) Treated and Released; (3) Refused Treatment or Lost to Followup; and (4) Did Not Require Medical Treatment.

CONCLUSION

For these reasons, Respondent-Intervenors respectfully request that the Administrative Law Judge deny Reckitt's motion for additional discovery.

Respectfully submitted,



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Counsel for NRDC and WE ACT

Dated: May 15, 2014

INT NRDC 52

**New York City Emergency Department Visits for Accidental Poisonings by Rodenticides¹
Among Children Under 6 Years Old, 2005-2010²**

Percent of population in poverty	Count	Population 0-5 year olds	Rate per 100,000
Residing outside NYC	18		
<10%	30	102,011	29.4
10 to <20%	155	191,193	81.1
20 to <30%	155	165,898	93.4
30 to 100%	181	155,563	116.4
Total	539	614,665	

¹ ICD-9-CM Ecode = E863.7. The term "ICD-9-CM" refers to the International Classification of Diseases, Ninth Revision, Clinical Modification, "the official system of assigning codes to diagnoses and procedures associated with hospital utilization in the United States." Centers for Disease Control and Prevention (CDC), International Classification of Diseases, Ninth Revision, Clinical Modification, <http://www.cdc.gov/nchs/icd/icd9cm.htm>.

² Sources: New York Statewide Planning and Research Cooperative System (SPARCS) outpatient data, 2005-2010 (updated March 2013); US Census Bureau 2010 population estimates for NYC; Neighborhood poverty (based on zip code tabulation areas) defined as percent of residents with incomes below 100% of the Federal Poverty Level, per the U.S. Census Bureau American Community Survey (ACS), 2008-2012. Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

INT NRDC 53

SPARCS Overview

The Statewide Planning and Research Cooperative System (SPARCS) is a comprehensive data reporting system established in 1979 as a result of cooperation between the health care industry and government. Initially created to collect information on discharges from hospitals, SPARCS currently collects patient level detail on patient characteristics, diagnoses and treatments, services, and charges for every hospital discharge, ambulatory surgery patient, and emergency department admission in New York State.

The enabling legislation and regulations for SPARCS are located under Section 28.16 of the Public Health Law (PHL), [Section 400.18](#) of Title 10 (Health) of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR).

In April 1983 and June 1985, the State Hospital Review and Planning Council adopted additional regulations regarding the reporting of ambulatory surgery data to the New York State Department of Health. Additional specifications for ambulatory surgery appear in [Section 755.1](#) and [Section 755.10](#).

The regulations require that inpatient data be submitted by all Article 28 facilities certified for inpatient and that outpatient data be submitted by all hospital-based ambulatory surgery services and all other facilities providing ambulatory surgery services. Data is to be submitted according to a designated format and schedule.

In April 1993, an ad hoc task force released a new Universal Data Set (UDS) Specification, which includes reporting codes for use with the UB-92 paper form and a new electronic format. The resulting system streamlines multiple data submission formats into a single format, removing redundant reporting requirements for hospitals and other health care facilities. The valid codes, electronic format, and acceptable data submission media are explained fully in the SPARCS Data Dictionary. The data submitted is processed and stored in the SPARCS database, which is available to the health care industry according to uses prescribed by regulation. The current SPARCS format, which represents a subset of the fields within the complete UDS specification, has been required for submitting records to SPARCS since 1994 discharges.

Recognizing the need for emergency department data, the New York State Legislature passed, and Governor Pataki signed, legislation in September 2001 mandating the collection of emergency department data through SPARCS beginning September 2003. Representatives of a broad array of Department of Health programs worked together to identify a core set of data elements that satisfy public health and health services administration information needs.

SPARCS continues to be a major management tool assisting hospitals, agencies, and health care organizations with decision making regarding financial planning and monitoring of inpatient and ambulatory surgery services and costs. In an effort to reflect what is needed by the users of this data, modifications of the required data elements and their formats occur periodically. These modifications are a direct result of the input by users of this data.

In 2004, SPARCS was placed within the Bureau of Biometrics and Health Statistics (BBHS) within the Information Systems and Health Statistics Group (ISHSG) located in the NYSDOH Division of Administration.

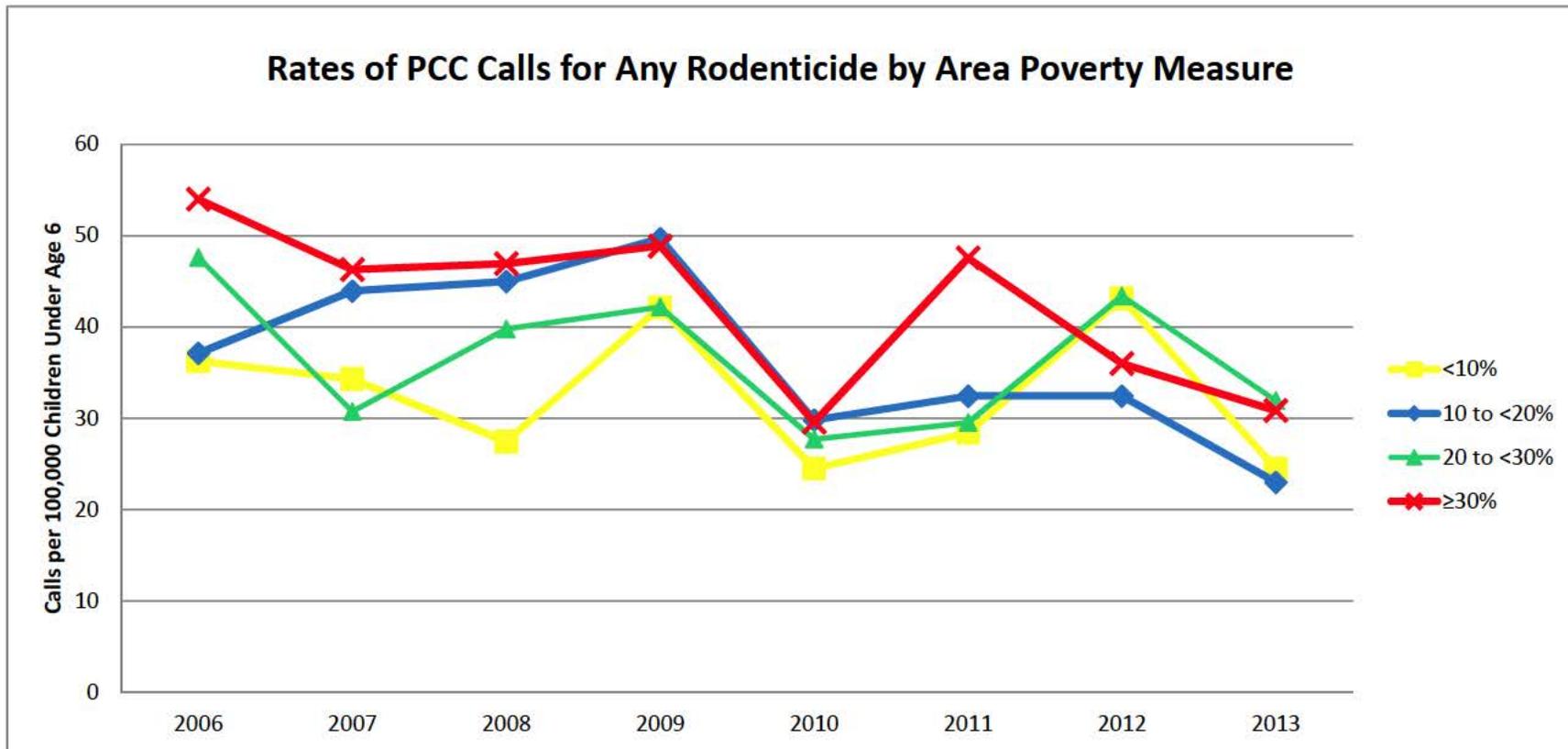
SPARCS data users will find a vast array of information concerning SPARCS data contained within our site. Included in this information are specifics on the data content, format, and obtaining access. Users should note the distinction between the [X12-837 Input Data Dictionary](#) and the [Output Data Dictionaries](#). The [X12-837 Input Data Dictionary](#) is of interest to data providers. The [Output Data Dictionaries](#) are of interest to data users.

Questions or comments: sparcs@health.state.ny.us

Revised: August 2007

INT NRDC 54

New York City Poison Control Center (PCC) Calls Concerning All Rodenticide Exposures¹ for Children Under 6 Years Old²

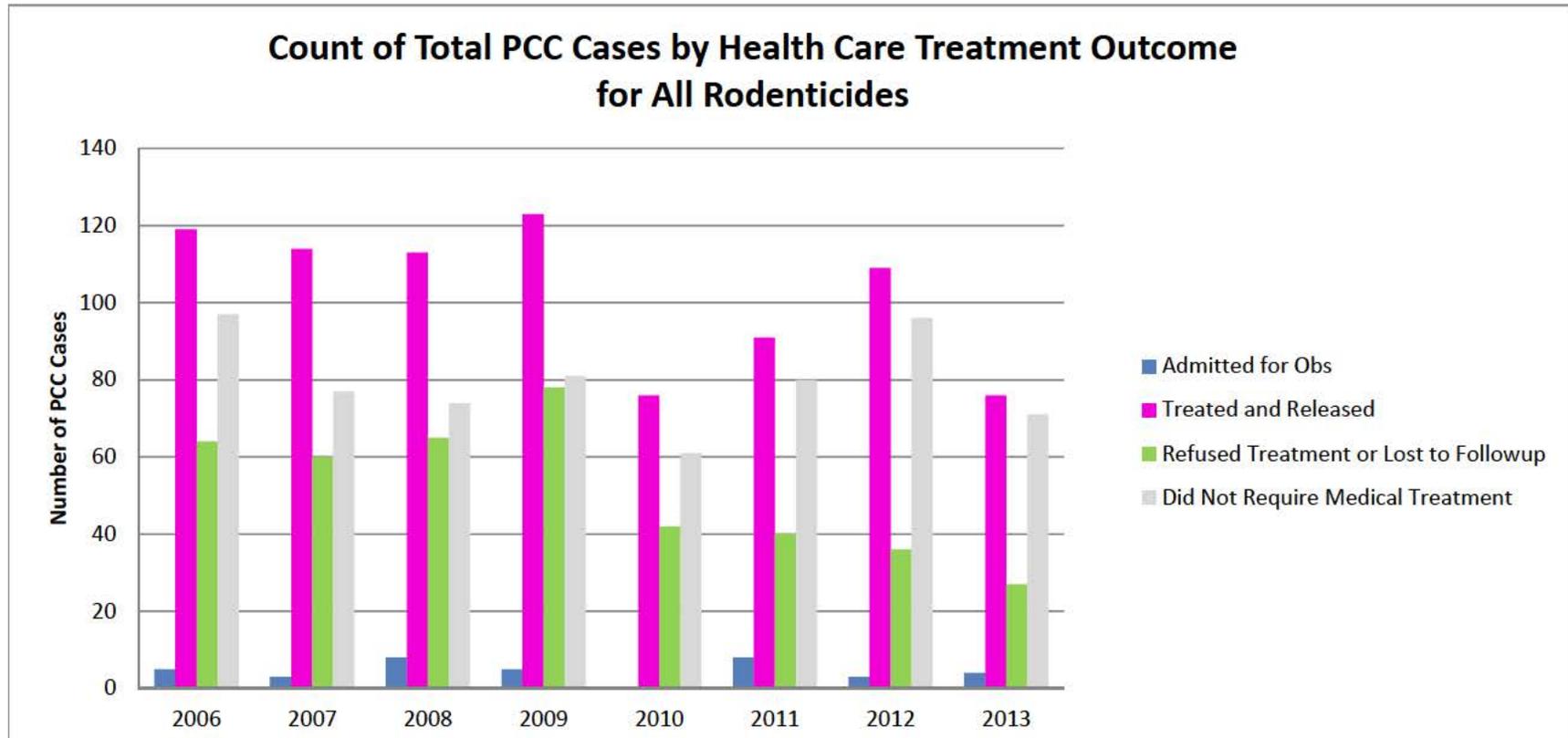


¹The calls concern all confirmed or suspected exposures to rodenticides.

² Sources: NYC PCC Data Warehouse (The NYC PCC Data Warehouse is a pre-consolidated and streamlined version of Toxinet, the NYC PCC backend database.); Neighborhood poverty (based on zip code tabulation areas) defined as percent of residents with incomes below 100% of the Federal Poverty Level, per the American Community Survey (ACS) 2008-2012. Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

INT NRDC 55

New York City Poison Control Center (PCC) Calls Concerning All Rodenticide Exposures¹ for Children Under 6 Years Old²

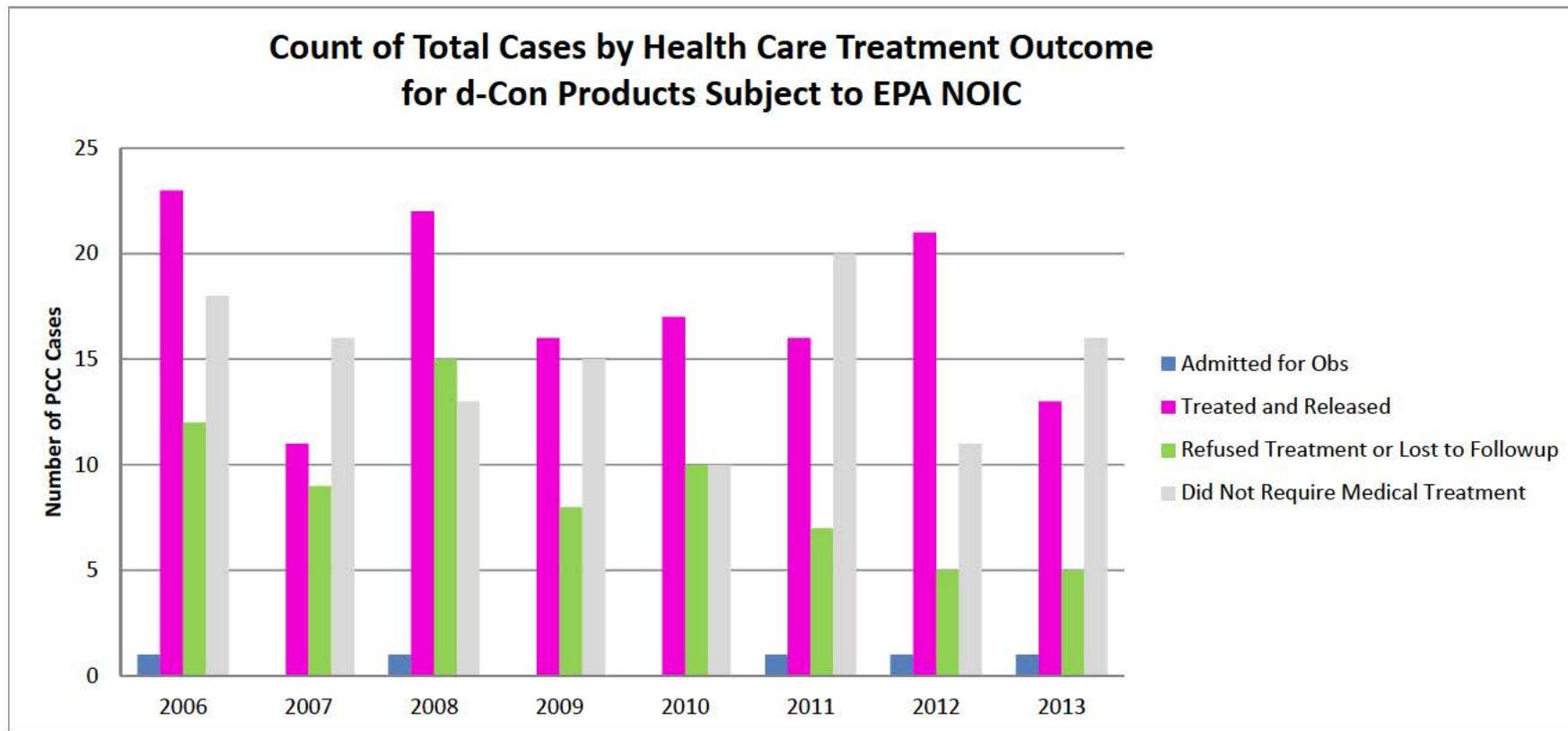


¹ The calls concern all confirmed or suspected exposures to rodenticides.

² Source: NYC PCC Data Warehouse (The NYC PCC Data Warehouse is a pre-consolidated and streamlined version of Toxinet, the NYC PCC backend database.). Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

INT NRDC 56

New York City Poison Control Center (PCC) Calls Concerning Exposures¹ to d-Con Products Subject to EPA NOIC for Children Under 6 Years Old²



¹ The calls concern all confirmed or suspected exposures to rodenticides.

² Source: NYC PCC Data Warehouse (The NYC PCC Data Warehouse is a pre-consolidated and streamlined version of Toxinet, the NYC PCC backend database.). Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

INT NRDC 57

New York City Poison Control Center (PCC) Calls Concerning All Rodenticide Exposures¹ for Children Under 6 Years Old²

Area Poverty Measurement	Sum of Population Children < 6 yrs
<10%	102011
10 to <20%	191193
20 to <30%	165898
≥30%	155563
Grand Total	614665

Year	Area Poverty Measurement	Admitted for Obs	Treated and Released	Refused Treatment or Lost to Followup	Sum of Total Rodenticide Exposures, Children < 6 yrs	Rate per 100,000 Population Children < 6 yrs	Did Not Require Medical Treatment
2006	<10%	1	14	5	37	36.3	97
	10 to <20%	1	30	8	71	37.1	
	20 to <30%	1	30	27	79	47.6	
	≥30%	2	43	20	84	54.0	
	Total	5	119	64	285	46.4	
2007	<10%	2	20	6	35	34.3	77
	10 to <20%	0	32	30	84	43.9	
	20 to <30%	0	20	9	51	30.7	
	≥30%	1	39	12	72	46.3	
	Total	3	114	60	254	41.3	
2008	<10%	0	11	7	28	27.4	74
	10 to <20%	4	37	25	86	45.0	
	20 to <30%	1	30	13	66	39.8	
	≥30%	3	35	16	73	46.9	
	Total	8	113	65	260	42.3	

2009	<10%	1	20	11	43	42.2	81
	10 to <20%	1	43	24	95	49.7	
	20 to <30%	2	19	22	70	42.2	
	≥30%	1	41	19	76	48.9	
	Total	5	123	78	287	46.7	
2010	<10%	0	10	6	25	24.5	61
	10 to <20%	0	26	12	57	29.8	
	20 to <30%	0	18	11	46	27.7	
	≥30%	0	22	10	46	29.6	
	Total	0	76	42	179	29.1	
2011	<10%	2	11	4	29	28.4	80
	10 to <20%	1	25	14	62	32.4	
	20 to <30%	1	13	8	49	29.5	
	≥30%	4	38	13	74	47.6	
	Total	8	91	40	219	35.6	
2012	<10%	1	12	8	44	43.1	96
	10 to <20%	0	28	9	62	32.4	
	20 to <30%	2	27	16	72	43.4	
	≥30%	0	35	1	56	36.0	
	Total	3	109	36	244	39.7	
2013	<10%	0	11	2	25	24.5	71
	10 to <20%	1	19	7	44	23.0	
	20 to <30%	1	18	9	53	31.9	
	≥30%	2	23	8	48	30.9	
	Total	4	76	27	178	29.0	
Grand Total		36	821	412	1906		637

¹The calls concern all confirmed or suspected exposures to rodenticides.

² Sources: NYC PCC Data Warehouse (The NYC PCC Data Warehouse is a pre-consolidated and streamlined version of Toxinet, the NYC PCC backend database.); Neighborhood poverty (based on zip code tabulation areas) defined as percent of residents with incomes below 100% of the Federal Poverty Level, per the American Community Survey (ACS) 2008-2012. Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

INT NRDC 58

New York City Poison Control Center (PCC) Calls Concerning Exposures¹ to d-Con Products Subject to EPA NOIC for Children Under 6 Years Old²

Year	Admitted for Obs	Treated and Released	Refused Treatment or Lost to Followup	Total Exposures to d-Con Products Subject to EPA NOIC, Children <6 yrs	Did Not Require Medical Treatment
2006	1	23	12	54	18
2007	0	11	9	36	16
2008	1	22	15	51	13
2009	0	16	8	39	15
2010	0	17	10	37	10
2011	1	16	7	44	20
2012	1	21	5	38	11
2013	1	13	5	35	16
Grand Total	5	139	71	334	119

¹ The calls concern all confirmed or suspected exposures to rodenticides.

² Source: NYC PCC Data Warehouse (The NYC PCC Data Warehouse is a pre-consolidated and streamlined version of Toxinet, the NYC PCC backend database.). Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

INT NRDC 59

Table Shells for NYC Poison Control Center (PCC) Calls from the Public or Referrals from Health Care Facilities (HCF) Involving Unintentional Rodenticide Exposures for Children Under 6 Years Old, 2006 - 2013¹

All Rodenticides

Year	Area Poverty Measurement	Count of exposures admitted to health care facility	Count of exposures treated/released by HCF	Count of exposures who refused treatment or were lost to follow-up	Annual count of all rodenticide exposures for children < 6 yrs	Rate per 100,000 Population Children < 6 yrs	Did Not Require Medical Treatment
2006 through 2013	Poverty level and US Census population for children under 6 years old matched on zip code of case and aggregated by poverty level.	by year	by year	by year	by year	by year	by year

Coded as:
 Category =
 'Rodenticides'

D-Con Products

Year	Count of exposures admitted to health care facility	Count of exposures treated/released by HCF	Count of exposures who refused treatment or were lost to follow-up	Annual count of all exposures to d-Con products subject to EPA NOIC for children <6 yrs	Did Not Require Medical Treatment
2006 through 2013	by year	by year	by year	by year	by year

Coded as:
 (s.Substance like '%D-CON%CONCENTRATE%' or s.Substance like '%D-CON%READY%MIXED%' or s.Substance like '%D-CON%MOUSE%PRUFE%' or s.Substance like '%D-CON%PELLETS%' or s.Substance like '%D-CON%BAIT%PELLETS%' or s.Substance like '%D-CON%BAIT%PACKS%')

¹ Prepared by NYC DOHMH, Bureau of Environmental Surveillance and Policy, March 2014.

CERTIFICATE OF SERVICE

I certify that, on this 15th day of May, 2014, the foregoing document was served to the addresses listed below in the manner indicated.

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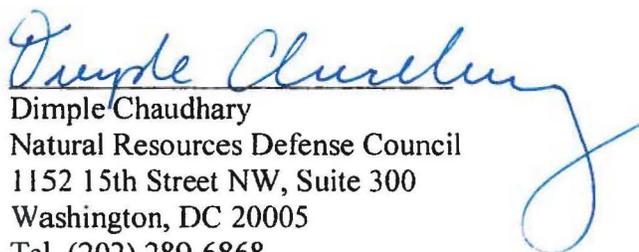
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