

Rodenticide Committee
2012 ASPCRO Mid-Year Board Meeting Report
March 15, 2012

The ASPCRO Rodenticide Committee submits the following report for the 2012 Mid-Year Board meeting:

During the ASPCRO Board meeting held during the 2011 Annual Conference in Mobile, AL, the rodenticide committee was resurrected to address recent issues resulting from implementation of the risk mitigation measures. The rodenticide committee was initially enacted to evaluate and provide comments to the risk mitigation measures issued by EPA in 2007 as part of the risk mitigation decision for 10 rodenticides. While ASPCRO supported the initial RMD, the current RMD had some items which are problematic to the pest management industry. See the 2011 annual board meeting minutes for details.

The committee began its efforts in October with the development of a mission statement and goals (see below).

Efforts in Addressing the Rodenticide RMD:

A conference call was held on November 4th to finalize the mission and goals. The call also included an update on ASPCRO efforts on RMD issues including the May 1, 2011 letter Steve Bradbury at EPA (Attachment 1). Discussion also included: previous committee efforts and history; review of results from a survey conducted of SLA's asking about the definition of a building (Attachment 2); the issue of commensal vs. non-commensal rodents and the affect of removal of non-commensal species where data was lacking, including states approving multiple 24c registrations; and the efforts of an adhoc committee in putting together recommendations to EPA as well as a letter from ASPCRO to the agency.

The committee maintained communication in several emails from November through January. This included discussion of a letter to EPA being drafted requesting items identified by the ad hoc committee of ASPCRO, NPMA, Registrant, and PMP representatives for considerations as amendments to the RMD. The request includes consideration of a distance of 100 feet and the term 'man made structures'. We feel this gives the user greater ability to effectively utilize bait. Some examples (trash receptacles, ports, transport vehicles and a few others) are provided but it is not an inclusive list. Also fence lines are specifically excluded to specifically address EPA's

concerns with exposure to wildlife. Also an allowance would be made for non-anti-coagulants and 1st generation anti-coagulants to be used in burrow outdoor, non-crop area more than 100 feet, bait is allowed if placed deeply in active Norway/roof rat burrows using only loose pellets or meal formulation. The update also included briefing the committee on the recent ASPCRO EPA training.

The training, to give EPA staff real world experience, was held in November and included a trip to the National Zoo, where obviously rodents are an issue and proper management is vital. We discussed what a building was utilizing some of the zoo structures – the open air exhibits, constructed rock outcroppings which contained storage ‘room’s for feed or supplies, large animal areas with no buildings but vulnerable mechanics such as gate motor housings. The manager at the zoo was very good at explaining her issues given that animal health and public health were priorities in her control decisions. It brought home that people do try to make good decisions and are knowledgeable, because it is their job and in most of these cases are licensed and inspected. This group is very different than homeowners who use rodenticides themselves. We also discussed rodent control during a visit to an orchard, where the owner was very good at articulating his decision making steps in terms of timing and product choice. Now that the committee is formed again, perhaps if there are still issues, the committee can attend or assist in further training efforts.

During the December SFIREG meeting Bonnie Rabe and Derrick Lastinger met with EPA staff to discuss outreach efforts and gain their perspective on the best focus. EPA’s suggestions included clarification of the risk mitigation decision items including outreach to retail establishments selling bait products, identifying and promoting best management practices, and efforts to increase public awareness about proper use of rodenticides in their homes around children and pets.

ASPCRO provided a letter to EPA on the alternative RMD language on January 27, 2012 (Attachment 3). A letter in support of ASPCRO’s recommendations was also presented to the agency from AAPCO. Rick Keigwin has continued to keep ASPCRO apprised of the document’s vetting at the agency and indicated support is being provided by upper EPA administration. At the recent AAPCO meeting in Alexandria, VA, he again indicated formal acceptance and a written amendment, placed in the official docket to the RMD are imminent. When released, the rodenticide committee will review the amendment, and determine next steps. Discussion has included developing a guidance document for SLAs and the pest management industry on the amendment items.

Aluminum Phosphide Update:

ASPCRO has learned and received confirmation from Meredith Laws that the Aluminum Phosphide label amendments have been approved and Registrants should be making those amendments. The 100 ft buffer has been clarified and the “properties” language has been removed from all areas except the rodent burrow section of the label. Additional clarification for notification and signage requirements were made to the rodent burrow section as well.

It was brought to our attention that EPA has completed the Zinc Phosphide label review and amendments. The Committee will be reviewing these changes and will report back to the Board any concerns.

Next Steps:

The rodenticide committee will continue efforts on outreach and best management practice development, identifying any data needs, staying aware of the current cancellation process for non RMD compliant products, and assist in label language clarification where needed. The committee is meeting on April 2, 2012 and an addendum to this report on the results of the meeting will be provided for the mid-year meeting minutes.

Respectfully submitted,



Bonnie Rabe, Co-Chair and ASPCRO Past President



John Scott, Co-Chair and ASPCRO Vice President

ASPCRO Rodenticide Committee

MISSION

Rodenticides are an important tool that commercial applicators, agricultural businesses and homeowners use to ensure rodents do not impact the health and safety of the general public or domestic animals. ASPCRO has an inherent roll in providing guidance to state lead agencies that must educate and regulate the use of rodenticides by applicators in their respective states.

The ASPCRO Rodenticide Committee's mission is to address principally structural issues, and when inter-connected, the agricultural issues related to rodent pest management resulting from the re-evaluation process and implementation of risk mitigation measures or other use restrictions for rodenticide active ingredients.

GOALS

- The committee will seek to identify, gather, and disseminate information or pertinent data from states on rodenticide use and incidents;
- Continue review and comment on any re-registration eligibility decisions on rodenticides presented for public comment by EPA;
- Assist in review of label language proposed to meet any risk mitigation criteria and provide feedback to EPA and or the registrant;
- Partner with stakeholders and industry to review, comment and support the development of best management practices which contribute to stewardship of rodenticide products;
- Determine the applicability of and promote any educational outreach including development of a ready to use module for training regulatory staff or the affected industry and consumers.

Attachment 1: ASCPRO letter to Steve Bradbury

Page 1:



Please submit response to:
Bonnie Rabe, Director
Agricultural and Environmental Services Division
New Mexico Department of Agriculture
PO Box 30005, MSC 3AQ
Las Cruces, NM 88003

May 1, 2011

Steve Bradbury, Director
Office of Pesticide Programs
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 7501P
Washington, DC 20460

Dear Mr. Bradbury,

As you know, the Association of Structural Pest Control Regulatory Officials (ASPCRO) is a national professional organization comprised of state regulatory officials from the fifty states. The Association's focus is to work with federal, state and industry partners to address and resolve issues related to the regulation of pest management and pesticide use in structural and urban settings.

ASPCRO has been tracking the ongoing implementation of the risk mitigation measures for the ten rodenticides. During the initial re-evaluation phase, ASPCRO created a rodenticide working committee to evaluate and provide comments on the draft mitigation measures proposed in 2007. As the next set of implementation dates draw near, several issues have come to the Association's attention by our membership. As SLAs will be enforcing the new labels due out June 4, 2011, we want to insure a clear understanding of the agency's position on some of the label issues.

These issues include the following:

- Indications are a large number of states will receive requests for Section 24c registrations to allow use of products for non-commensal rodents which will be disallowed under the label changes. This is of concern as SLAs will be placed in a position for these registrations to be about market advantage rather than the true intention of a 24c, because once one is issued, others will be denied. We would like to discuss the implications of the commensal rodent only restriction. It is our understanding that this restriction is being driven by concerns related to efficacy. Perhaps the Agency would consider granting a conditional registration, allowing time for data to be developed.

Attachment 1: ASPCRO letter to Steve Bradbury

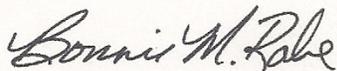
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- Language proposed which indicates a minimum distance from buildings. Many sites of rodent control do not contain a 'building', as traditionally defined, close to the area of treatment or contain no building at all. Will use in these types of places under any circumstance be prohibited? We understand the intent to protect wildlife but believe better terminology can accomplish the intent and still allow viable uses.
- The enforceability of the requirement for limited sale and distribution of the 2nd generation anticoagulants to pest management professionals and private applicators. Will this be solely upon the registrant to 'control' and if prohibited distribution is found what will be the agency's enforcement guidance to the states?
- The impact of recent litigation on consumer product use which appears may result in the availability of products without the intended measures. We would like to further discuss anticipated actions, if any, by the agency in this regard.
- Available alternatives for applicators including those for agricultural uses and an unintended increase in misuse.
- Adequate availability of effective, legal products to utilize especially in relation to areas where control is necessary for the protection of public health from rodent related disease organisms.
- Plans for outreach and compliance assistance to applicators and consumers about the label changes to ensure compliance.

We feel further conversation with the SLA partners, through ASPCRO, would be beneficial to the agency and regulators in determining interpretations and finding workable solutions to the indicated issues while meeting the agency's risk mitigation goal. We suggest a conference call or perhaps face to face meeting with key ASPCRO members and EPA staff as a way of beginning meaningful dialogue before the final implementation of the RMD. As you know, ASPCRO and EPA have had a successful track record of addressing issues in this manner.

Thank you in advance for your consideration and feel free to contact me with any questions.

Sincerely,



Bonnie M. Rabe
President, ASPCRO
Division Director, New Mexico Department of Agriculture

Cc: Derrick Lastinger, ASPCRO Vice President, Georgia Dept. of Agriculture
Rick Keigwin, Director, Pesticide Re-Evaluation Division, EPA

Attachment 2: ASPCRO Survey

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11/4/11

Results of ASPCRO Listserve request to states asking if currently have a definition of building or structure in their laws or regulations.

20 States responded – 13 stated no definition and 7 stated yes have definition.

The following states indicated they did not have any specific definition of building or structure:

NM, MS, PA, VA, IN, CO, OH, RI, CT, NE, SC, DE, CA

Additional comments provided included:

MONTANA:

Montana does not have a definition of a building, structure, or man-made structure in our laws, rules or policies. Our Pesticide Regulatory Program Manger emailed his response to me “There should be some sort of “permissible-uses” established for buildings and not just place an out-n-out ban on applying near ANY building/structure. In other words, if it’s a barn and you can restrict access so it’s not “inhabited” by humans, domestic livestock or animals for 2,3,5,10 (whatever) days after the application, then there should not be any use-restrictions....maybe throw in some “pre-entrance air monitoring” just to make sure entering (or inhabiting) the building is safe post-application.” And “My take is they landed on the wrong word to pick on..... they should pick on the word “inhabited” and what does that mean.”

NEBRASKA:

Nebraska does not have a formal definition in place. A number of months ago, in light of the language used on new rodenticide labels, we sent an email to the SLITS website with attached photos of various structures in an attempt to get some guidance on what constitutes a “building”. Our hope is to have a definition which would be consistent with other states. The response from SLITS was vague. I didn’t appear that the issue was well thought out.

So far, we’re working with a concept that a building needs to be large enough for a person to stand up in and have a roof. This would include a pole barn with no side walls (one of the photos we sent to SLITS). The need for a roof would disqualify dumpster storage units.

We’ve had one pest control company ask if our definition would include a porta-potty. We have not taken a position yet on portable structures vs permanent structures.

The following states indicated they do have a specific definition and the definition or information is below.

FLORIDA:

Ch 482.021(27) "Structure" means:

- (a) Any type of edifice or building, together with the land thereunder, the contents thereof, and any patio or terrace thereof;
- (b) That portion of land upon which work has commenced for the erection of an edifice or building; or
- (c) A railway car, motor vehicle, trailer, barge, boat, ship, aircraft, wharf, dock, warehouse, or common carrier.

Ch 5E-14.102(9) “Multi-Unit structure” – A structure, consisting of one or more stories, composed of functionally distinct units, such as stores, offices, apartments, townhouses, and condominiums, in which units share a common wall of wood or metal studs or single masonry walls, including fire walls.

Ch 5E-14.102(17) “Connected Structure” is defined as any structure physically connected with the structure to be fumigated by construction elements that contain voids (e.g. pipes, conduits, drains, ducts, etc.) which may allow transfer of fumigant between the structures.

Attachment 2: ASPCRO Survey

Page 2:

MISSOURI:

Chapter 281 RSMo 2 CSR 70-25.010 Definitions.

(15) Structure—any edifice or building including the contents, any patio or terrace attached and the land on which situated, plus any portion of land within the given proprietorship or any adjacent proprietorships which might constitute a potential harborage for pests which could affect the edifice or building or its contents, any portion of land upon which work has begun for the erection of an edifice or building, any wharf, dock, ship, boat, railroad siding or refuse area, and any vehicle used as common carrier.

WASHINGTON STATE:

WAC 16-228-2005

Wood destroying organism inspections and reporting criteria (Department of Agriculture)

(m) Structure: A single building that includes any exterior attached decks, walks, stairways, or porches. For the purposes of this definition, entry and exit decks to manufactured homes are considered to be a part of the structure.

<http://apps.leg.wa.gov/wac/default.aspx?cite=16-228-2005>

Chapter 19.27 RCW

State building code

(1) "Agricultural structure" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure may not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor may it be a place used by the public;

<http://apps.leg.wa.gov/rcw/default.aspx?cite=19.27.015>

Chapter 173-158 WAC

Flood plain management (Department of Ecology)

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground. Manufactured homes are considered structures.

<http://apps.leg.wa.gov/wac/default.aspx?cite=173-158-030>

Chapter 296-307 WAC

Safety standards for agriculture (Department of Labor & Industries)

"**Building**" means any structure used or intended to be used for supporting or sheltering any use or occupancy that may include cooking, eating, sleeping, and sanitation facilities.

<http://apps.leg.wa.gov/wac/default.aspx?cite=296-307&full=true#296-307-16103>

NORTH CAROLINA:

In reply to your email below, the NC Structural Pest Control Rules has a definition for structure
"“Structure” means all parts of a building, whether vacant or occupied, in all stages of construction”.
This definition apparently was developed to address protection of structures from wood destroying insects because it mentioned “all states of construction”. It probably was not meant to address the current rodenticide labeling language.

Should EPA develop a definition for ‘structure’ dependent upon how it is defined, we could take it to our Structural Pest Control Committee and try to have it adopted into our Rules by reference, as long as the definition doesn’t conflict with our Structural Rules.

Attachment 2: ASPCRO Survey

Page 3:

I do have reservation about including portable things as trash can, dumpsters, etc. as structure for the purpose of rodenticide use. If so, anyone could move trash cans and dumpsters around to wherever he/she want to use rodenticide, just to fulfill the 50 feet requirement.

The Worker Protection Standards has provisions that addresses “greenhouse” (a structure) as it relates to workers. There were questions as to what constitute a greenhouse. The EPA then came up with a definition which is now in 40CFR 170.3 which states:

“*Greenhouse* means any operation engaged in the production of agriculture plants inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry.”

Suggestion

Base on the greenhouse definition, why couldn't we modify it as ““**building / structure**” is any non-mobile space with a covering and of sufficient size to permit normal entry of one or more person”. This would capture residences and institutions, greenhouses, storage sheds (enclosed or open), and other farm structures such as hog and chicken houses, etc. My definition of ‘normal’ here means a person can walk into the structure/building, not crawl into it.

NEW JERSEY:

The following definition is from the NJ Pesticide Regulations N.J.A.C. 7:30-13.1 "Structure" means any building or part thereof, including outside attached extensions such as patios, which are included as sites to which a pesticide is to be applied.

KENTUCKY:

Regulation definition “*Structure*” means any building regardless of its design or type of construction, public or private, vacant or occupied.

NEW YORK:

We do have a definition of structure in our regulations. A structure is any walled and roofed building.

Attachment 3: ASPCRO Letter to Rick Keigwin

Page 1:



Please submit response to:
Derrick Lastinger, Program Director
Structural Pest Section
Georgia Department of Agriculture
19 Martin Luther King, Jr. Drive SW
Atlanta, GA 30334-4201

January 27, 2012

Richard Keigwin, Director
Pesticide Re-Evaluation Division
Office of Pesticide Programs
US EPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 7508P
Washington, DC 20460

Dear Mr. Keigwin,

We write today on behalf of the Association of Structural Pest Control Regulatory Officials (ASPCRO) to confirm our understanding regarding revisions to the label language for professional and agricultural rodenticide labels and clarify the upcoming revisions to rodenticide labels and to more clearly define the term "man-made structure."

Throughout the last several months ASPCRO and US EPA staff have discussed problems with the language on current rodenticide labels that reads: "Do not apply further than 50 feet from buildings." As we've mentioned previously, many sites where rodent control is essential do not contain a 'building', as traditionally defined, close to the area of treatment or contain any building at all.

While ASPCRO members appreciate EPA's commitment to the protection of secondary and non-target wildlife and the definitiveness and enforceability of a specific distance as opposed to the ambiguous phrase "in and around," we believe the label must provide additional flexibility to certified applicators and persons working under their direct supervision, so effective rodent management strategies can continue to be utilized. To that end, extending the distance to 100 feet and replacing the term "building" with "man-made structure" still adequately safeguards the ecosystem while also allowing for uses of rodenticides that are necessary to protect food, property and public health from destructive and potentially dangerous rodent infestations.

While ASPCRO firmly believes the term "man-made structure" is a better alternative to the more inflexible "building," we also think it is vital to provide guidance to the regulatory community – especially state lead agencies - as well industry stakeholders. Per our discussions, we understand these products can only be used to control Norway rats, roof rats, and house mice in and within 100 feet of man-made structures constructed in a manner so as to be vulnerable to commensal rodent invasions and/or to harboring or attracting rodent infestations. Examples of such structures include homes and other permanent or temporary residences, food plants, industrial and commercial buildings, dumpsters and permanent trash receptacles, agricultural and public buildings, transport vehicles (ships, trains, aircraft), docks and port of terminal buildings and related structures around and associated with these sites.

The term "man-made structures" specifically excludes a fence line of any material, meaning that it would be a label violation to place rodenticide next to such objects, if they are not within 100 feet of a "man-made structure."

Attachment 3: ASCPCRO Letter to Rick Keigwin

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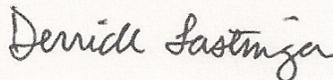
To address the use restrictions in outdoor, non-crop areas including areas more than 100 feet from man-made structures, first generation anticoagulants and non-anticoagulant products may be applied to rodent burrows to control Norway rats, roof rats and house mice, provided that infestations of the commensal rodents (Norway rat, roof rat or house mice) have been confirmed. Bait must be placed deeply in active Norway/roof rat burrows using only loose pellets or meal formulation. Because commensal rodent infestations may occur in areas farther than 100 feet from man-made structures when the rodents have ample supplies of food and cover, efforts should be made to remove conducive food, trash, garbage, clutter, and debris.

ASPCRO believes the descriptions above accurately reflect our discussions and the intent of the upcoming revision to the rodenticide labels. We have attached an Appendix which summarizes our understanding of the pending label revisions. We respectfully request feedback on this matter in order to confirm ASPCRO's assumption.

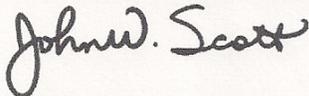
ASPCRO feels another key component to the success and implementation of the risk mitigation measures is support of product stewardship efforts. Agricultural, industrial, institutional, and urban stakeholders with a need for adequate rodent management will require access to educational support about effective rodent management. We feel a cooperative effort by ASPCRO Rodenticide Committee, US EPA and key industry stakeholders in this process will provide a means for supporting development of the necessary components including best management practices, outreach materials, and resources.

In closing, ASPCRO extends its deepest appreciation to you, Neil, Rusty, John, and Laura for working with ASPCRO over the last several months on this very important issue. As always, we appreciate your time and attention, and support of state lead agencies.

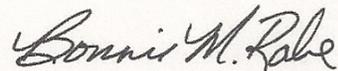
Sincerely,



Derrick Lastinger
President, ASPCRO
Program Director, Georgia Department of Agriculture



Vice-President, ASPCRO
Co-Chair, ASPCRO Rodenticide Committee
Program Manager, Colorado Department of Agriculture



Bonnie M. Rabe
Co-Chair, ASPCRO Rodenticide Committee
Division Director, New Mexico Department of Agriculture

cc: Chuck Andrews, AAPCO President; Steve Dwinell SFIREG Chair; Bob Rosenberg, NPMA