



OPP Docket

Environmental Protection Agency
Docket Center (EPA/ DC), (28221T)
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Re: Docket ID No: EPA-HQ-OPP-2009-0136 - Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures

The Association of Structural Pest Control Regulatory Officials (ASPCRO) has been focusing on structural pest management issues since 1956. ASPCRO's membership is comprised of state pest control regulatory officials who are responsible for assuring consumer protection related to pest control and prevention. In 2014, ASPCRO established the Structural Fumigation Committee to be an advisory resource for the U.S. Environmental Protection Agency (EPA) when structural fumigants were being reviewed through the Agency's registration review process. Since that time ASPCRO has hosted multiple training opportunities for EPA staff as it relates to structural fumigation.

Part of ASPCRO's mission is to provide education and solutions to address emerging issues, and to act as a liaison between the EPA, consumers, and industry partners. As such, ASPCRO would like to continue to be a resource to EPA and provide the following comments regarding EPA's Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures.

The Association of American Pesticide Control Officials (AAPCO) was formed in 1947, the same year that Congress enacted the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). AAPCO is a professional association comprised of the officers charged by law with the execution of the state, territorial, provincial, and federal pesticide laws in the United States, including all its territories, and in Canada. The EPA and States are co-regulators in the implementation and enforcement of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Our mission is to represent state pesticide control officials in the development, implementation, and communication of sound public policies and programs related to the sale, application, transport, storage and disposal of pesticides.

In general, ASPCRO and AAPCO members support measures that increase pesticide safety for applicators, consumers, bystanders, animals and the environment. Each of EPA's proposed mitigation measures impact states differently depending on state specific regulations, pest pressures/issues, the size of the structural fumigation industry, and in some cases the weather patterns. These comments reflect common concerns amongst member states in each area.

Remove references to ineffective clearance devices from product labels

ASPCRO and AAPCO support the EPA decision to retain only effective devices and encourages the EPA to review any additional studies provided to ensure all acceptable data is considered. ASPCRO and AAPCO



support decisions made on robust, sound science and there needs to be further review of the data and study to garner support of this action.

In July and August of 2021, a national survey was conducted of state lead agencies. The survey request was sent to all ASPCRO and AAPCO members. 26 states responded and reported the following information regarding the use of clearance devices:

- Spectros Instruments SF-ExplorIR [9 states reported the use of this device with 405 devices in use]
- ppm Messtechnik GmbH M.A.C 2640 CLIRCheck [5 states reported the use of this device with 315 devices in use]
- Interscan Corporation GF1900 [11 states reported the use of this device with 38 devices in use]
- Uniphos Envirotronic FumiSpec-Lo [no states reported the use of this device]

It is important to note that this does not include all states, as some do not have access to clearance device information or did not participate in the survey. However, it should provide a basic idea of the impact of this mitigation measure and the criticality of being sure the science supports removal of the devices from the label. ASPCRO and AAPCO are concerned that removing these devices without assurance that the approved devices are available for purchase by applicators will cause a major disruption to the industry and affect consumers.

Require elements that are comparable to the California Aeration Plan

EPA's proposed mitigation measure requiring elements comparable to the California Aeration Plan (CAP) has generated much conversation amongst states. Foremost, this requirement was not addressed in EPA's Office of Inspector General's (OIG) report and therefore should not be part of the draft mitigation measures. It would be more appropriately addressed as part of the sulfur dioxide re-registration review process.

ASPCRO and AAPCO request that EPA provide studies that show that the elements of the California Aeration Plan are necessary to improve safety and would like to know if any other alternatives were considered. ASPCRO and AAPCO have the following questions for EPA:

- Are there other more cost-effective approaches to adding safety? Is this the only solution to the concern?
- Were other alternative safety measures considered? Has EPA considered how CAP will work in parts of the country, other than California, given regional weather conditions?
- Has EPA completed a cost analysis of implementation to consumers? If so, can this analysis be shared with ASPCRO and AAPCO?
- Will EPA offer additional funding to states to train applicators, state inspectors and state enforcement staff on CAP?



CAP doesn't always work, and the draft mitigation measure doesn't take into account fumigation types such as tape and seal and vault fumigations. When CAP fails, there needs to be alternatives or flexibility on the label.

ASPCRO and AAPCO have the following concerns about CAP implementation:

- There is uncertainty regarding the availability of label mandated materials such as tarps and stacks. If materials are difficult to acquire this will affect accessibility to fumigation services and may affect compliance.
- In lieu of CAP, flexibility is needed for alternative aeration methods to accommodate certain conditions (i.e. weather events).
- There is concern that increased aeration time increases the time a house is tarped, thus increasing opportunity for break-ins and resulting human health concerns.
- The increased aeration time will increase operating costs and consumer costs.
- States need plenty of time to fully implement this requirement.
- CAP will require significant training of applicators, state inspectors and state enforcement staff. Funding to support the implementation of CAP will be needed. Most states don't have fumigation schools and applicators/inspectors may need to travel out of state to attend trainings such the University of Florida Fumigation School.

Require fumigant management plans for residential fumigations

As regulators, ASPCRO and AAPCO members understand that recordkeeping is a necessary tool for assessing compliance. However, members question the need for all of the new recordkeeping requirements and requests clarification as to the risks that are being mitigated by this requirement. ASPCRO and AAPCO do not support the use of the Fumigant Management Plan (FMP) term considering that the site changes for each application. FMPs are most appropriate for site specific fumigations that are routine and repeated.

ASPCRO and AAPCO support allowing flexibility on how and when the information is collected and documented when it comes to this mitigation measure. Some of the requirements in the FMP would not be known before the fumigation such as "time the seal will be open" and "total aeration time". Further, the required records could be collected or compiled by someone other than the certified applicator. It could be collected in different formats. Many states already have these elements required in current state regulations.

Reduce access to fumigation tents through enhanced posting/warning signs

ASPCRO and AAPCO offer that EPA should allow flexibility if state requirements either meet or exceed EPA's proposed posting requirements. ASPCRO and AAPCO have concern about state inspectors' ability



to determine a true seam from a false seam (locations where the tarp is rolled to tighten, rather than two separate tarps coming together). This may lead to inspection challenges and inspector safety concerns.

ASPCRO and AAPCO request some of the verbiage for this requirement be clarified. The current proposed language states that “Warning signs must be constructed of material that enables wording to remain legible and visible for the duration of the fumigation and aeration periods” which indicates that the sign must be constructed to be able to remain legible and visible duration of the fumigation and aeration periods. However, the language doesn’t state that the sign must remain posted, legible and visible. It is recommended that additional language be added “Warning signs must remain legible and visible for the duration of the fumigation and aeration periods”.

Require stewardship training

ASPCRO and AAPCO are supportive of strong stewardship and training requirements. However, member states have expressed concern over EPA’s approval of the stewardship training. Like all other label requirements, regulation and enforcement should be left to the states.

Considering all of the measures collectively, the following additional comments are provided:

- The cost of all measures combined may reduce the service availability to consumers and potentially eliminate companies offering this service. Public health could be negatively affected by these changes considering the purpose of some structural fumigations. For example, bedbug infestations in low-income areas may go unchecked due to increased costs of bedbug fumigation services to the consumer.
- A phased implementation timeline is necessary for these measures. Some of the mitigation efforts may require state regulation changes which can take several months to several years to propose and adopt.
- Training will be required for applicators, crew members, state inspectors, pesticide safety educators, and state enforcement staff. We request additional funding to support the implementation of these measures. Most states don’t have fumigation schools and applicators/inspectors may need to travel out of state to attend trainings such the University of Florida Fumigation School. We request focused training for state inspectors and compliance managers through PIRT and PREP.
- States have existing infrastructure that will be significantly impacted. Funding and time will be needed to update inspection forms, inspection software programs, examinations, training materials, and outreach materials.

Since 2015, ASPCRO has hosted 4 workshops that focused on non-soil fumigations. Over 50 EPA officials attended these workshops providing much needed information exchange. ASPCRO and AAPCO look forward to continuing a dialogue with EPA on the draft mitigation measures and future issues. Please don’t hesitate to contact ASPCRO and/or AAPCO if we can provide additional information or assistance.



Thank you for the consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. A. Okey".

Ryan Okey
ASPCRO, President
www.ASPCRO.org

A handwritten signature in black ink, appearing to read "Pat Jones".

Pat Jones
AAPCO, President
www.AAPCO.org

cc: Mr. Derrick Lastinger, Chair Structural Fumigation Committee