



SFIREG

State FIFRA Issues Research and Evaluation Group

September 23, 2021

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

Dear Moana Appleyard:

The State FIFRA Issues Research and Evaluation Group (SFIREG) and its working committees provide a platform for the states and US Environmental Protection Agency (EPA) to resolve challenges for successful implementation of pesticide programs and policies. SFIREG serves as a permanent standing committee of the Association of American Pesticide Control Officials (AAPCO) which works to represent states in the development, implementation, and communication of sound public policies and programs related to the sale, use, transport, and disposal of pesticides. On behalf of SFIREG members, and in coordination with the Association of Structural Pest Control Regulatory Officials (ASPCRO), we're glad to supply comments to the U.S. Environmental Protection Agency (EPA) on the Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures.

In coordination with AAPCO and ASPCRO members, our groups in general support the proposed measures that will increase overall pesticide safety for applicators, consumers, bystanders, animals and the environment. Any time there are broad mitigation measures proposed, we certainly encourage EPA to remember that mitigation measures may vary by state, the pest issue(s), and other factors such as climate. There may need to be some additional consideration for state specific regulations, adjustments due to pest pressures and localized issues, the size of the structural fumigation industry in each locality, and in some cases the weather patterns. Our SFIREG comments mirror the AAPCO and ASPCRO comments and concerns as our groups worked together on this topic.

The comments are a reflection of the conclusions from the national state lead agency survey that was conducted in July and August of 2021. The survey request was sent to all ASPCRO and

AAPCO members, and twenty six 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
- 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
 - one state reported that one device in use

It is important to note that this issue and measures do not include all states. Some states don't have a big need for this industry sector, but also some states do not have access to clearance device information or did not participate in the survey. SFIREG would like to encourage EPA to review and ensure proper mitigation measure knowing that not everyone currently has access to these clearance devices and information on how to utilize them. We also want to make sure that mitigation measures follow sound science and that label statements reflect these concepts. There is concern that removing these devices without assurance that the approved devices are available for purchase and this will cause a major disruption to the industry and affected consumers.

Issues Identification and Proposed Resolutions

The following issues have been identified through the work of ASPCRO, and AAPCO with SFIREG coordinating.

- We understand the EPA decision to retain only effective devices and encourage the EPA to review any additional studies provided to ensure all acceptable data and devices are considered. We support decisions made on robust and sound science. There needs to be further review of the data and studies to garner support of this action.
- EPA has proposed mitigation measures requiring elements comparable to the California Aeration Plan (CAP). This has generated much conversation. A broad reflection on this, is that 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. We recommend that it be addressed as part of the sulfuryl fluoride re-registration review process.
- We recommend 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. Please refer to the ASPCRO letter for additional information on cost effective solutions and options. SFIREG is concerned about the cost to consumers, applicators, the overall industry, and the extra complex burden it will place on our SLA C&T and enforcement programs. We have collective concerns about how the extra burden will impact every sector in order to create a higher level of enhanced human health protection and overall safety.
- If CAP as proposed will be a considerable burden, and if the concepts of CAP potentially fail when implemented, will there be alternatives or flexibility on the label.

- Our partners with ASPCRO outlined the following concerns about CAP implementation and SFIREG agrees with these ASPCRO highlights and comments:
 - 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 as the University of Florida Fumigation School.
- SFIREG also is concerned about the extra requirement for new recordkeeping requirements and requests clarification as to the risks that are being mitigated by this requirement.
- We would suggest further clarification on the Fumigant Management Plan (FMP) term considering that the site changes for each application. FMPs are utilized and appropriate for site specific fumigations that are routine and repeated; but they're not necessary for this type of work and this will lead to confusion for applicators.
- We encourage EPA to check with SLA's further on how FMPs are used and what elements of FMPs are actually in state regulations already. We believe more flexibility is important.
- With regards to fumigation tents, access to tents, and also enhanced posting/warning signs; we encourage EPA to add some additional flexibility so that the systems utilized are workable and will meet existing state requirements and industry standards. The determination of seams and true and/or false seams could be lead to considerable burdens and challenges. This needs to well thought out, and further examined.
- Stewardship training and the role of the SLA is important. We are supportive of strong stewardship and training requirements, however SLA's have expressed concern over EPA's approval of the stewardship training.
- A phased implementation timeline is necessary for these measures to be reasonable and effective. 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 as 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.

SFIREG and SLAs are focused on providing science based information and consistent regulations to the public, stakeholders, and industry. SFIREG, along with AAPCO and ASCPCRO look forward to working with EPA further on this topic. We're glad to assist EPA further to assess comments and consider workable options for final mitigation measures and a reasonable regulatory approach. This letter provides an opportunity for SFIREG to express our concerns on this issue and to formally request action on these topics by EPA.

We look forward to working with EPA and providing assistance. Thank you for considering our request, and I look forward to hearing back from you.

Sincerely,



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SFIREG Chair

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