



# SFIREG

## State FIFRA Issues Research and Evaluation Group

February 13, 2023

Melanie Biscoe  
Pesticide Re-Evaluation Division (7508P)  
Office of Pesticide Programs  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460-0001

*Submitted electronically via Regulations.gov*

Re: Docket EPA-HQ-OPP-2017-0750; FRL-10219-01- OCSPP, Brodifacoum, Case Number 2755, Bromadiolone, Case Number 2760, Bromethalin, Case Number 2765, Chlorophacinone, Case Number 2100, Cholecalciferol, Case Number 7600, Difenacoum, Case Number 7630, Difethialone, Case Number 7603, Diphacinone (and its sodium salt), Case Number 2205, Strychnine, Case Number 3133, Warfarin (and its sodium salt), Case Number 0011, Zinc Phosphide, Case Number 0026.

Dear Ms. Biscoe:

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 and our Joint Working Committees (JWC), we appreciate the opportunity to comment on the topics related to EPA's Proposed Interim Decisions (PIDs) for the following rodenticides: brodifacoum, bromadiolone, bromethalin, chlorophacinone, cholecalciferol, difenacoum, difethialone, diphacinone (and its sodium salt), strychnine, warfarin (and its sodium salt), and zinc phosphide. Our comment letter provides perspectives related to our concerns regarding the EPA process to establish many of these new restrictions, the impact it will have on

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State Lead Agencies (SLAs), the impact on the regulated industry and applicators, and the economic and health impacts for communities and underserved and underrepresented residents.

The overall impact of these changes and restrictions will be highly impactful nationwide to many sectors in agriculture, rangeland, nonagricultural areas, park and recreation facilities, and urban populations and settings. The decisions and recommendations in the PID would have significant impacts on SLAs associated with applicator certification and training, registration, and enforcement. Input was provided from around the country and SLAs have a variety of concerns including the following information.

- There is considerable concern about the requirement to wear respirators while filling bait stations with pelletized, grain, meal, and rodenticide baits. The question arises about the need for this new requirement for applicators. It seems there isn't new data presented in the PID that documents the health incident history when applicators are using pelletized rodenticides. The EPA acknowledges that many of these formulations have low volatility and that the vast majority of exposures are potentially to children and not to handlers. Does EPA have quantitative data to show that applicator risk is an actual occurrence versus a theoretical concern? It doesn't seem that EPA has described the health impacts and there is sufficient evidence that granular applications are an inherent concern for inhalation hazard. The use of these products are by licensed and educated applicators where familiar and proper pesticide handling probably already occurs. The EPA review of reported incidents suggests that inhalation exposure is not a primary route of human exposure. EPA should consider how respirators can pose a heat stress hazard to field applicators working in hot weather. The determination to minimize a small theoretical inhalation exposure risk and replace it with a real risk of increased heat stress seems unfounded. There will be other complications, which will likely result in the creation exposure issues, as the applicator will be manipulating the respirator while wearing gloves which would likely be contaminated with active ingredient from filling bait stations, which raises the risk of ingestion and eye and skin exposure. The new respirator requirements also will have an impact on the fit testing process as many of the applicators impacted by this new requirement would have issues with access to fit testing locations, especially in more remote farm and ranch areas of the country. These requirements would add considerable requirements and expense to attempting to control pest populations. EPA should eliminate the respirator requirement, work to develop more risk and case data, and instead focus on education and training.
- Related to the changes in application method prohibitions for products registered for use in turf, lawns, parks, golf courses, campsites, and other recreation areas; the new requirement, "Do not apply spot-applications or broadcast applications." will have significant impacts for uses and control of rodents. EPA is making substantial changes, without tremendous findings and data; that spot and broadcast baiting elimination solves a significant risk and that the use of bait stations creates a safer situation. It seems that the proposal doesn't have a lot of data and information to provide proof that bait stations

will work to be safer and that dosage and control will really occur. There doesn't seem to be information presented about how the different target pests would react to feeding from bait stations and what method of control really would be effective. These changes are occurring prior to understanding how the bait station design and access port openings can be adapted to match the different target pests. In some of these settings, where public access is more likely, applicators seeking to manage certain rodents and ground squirrels, should be allowed to spot bait where a rodenticide is placed into the burrow (without closing) rather than on the ground surface. In-burrow baiting would reduce the volume of rodenticide on the landscape while reducing non-target access to the bait. Training and applicator judgement should be utilized rather than complete and radical changes where all broadcast or targeted applications opportunities are eliminated. There really is no data or proof that concentration bait stations are safer and that they will work for all the possible species and settings for needed control.

- Many aspects of the carcass search, collection, and disposal requirements are very problematic for many sectors of the industry and will be very costly in every situation. There will be significant impacts to applicators with regards to the carcass search requirements. The increased time and expense to applicators will have impacts to the applicators, customers, and not necessarily result in extensive safety benefits. Does EPA have studies and data sets on how much of a benefit would be obtained by this time consuming practice? Has EPA conducted an economic assessment of the expenses that would be incurred to accomplish these practices in all the various application settings? The impacts will likely result in added expenses for all parties and also result in impacts to underserved communities and health issues. What recommendations would EPA have for how applicators should deal with animals that appear sick and potentially dying?
- There are concerns about the need for the requirement of the NIOSH-approved elastomeric half mask respirators. It seems that EPA has not included adequate summaries and studies of human exposure incidents to validate and provide substantive evidence that respirators are necessary to protect human health by those following label instructions for application of zinc phosphide-treated bait. The majority of agricultural uses of zinc phosphide have already been under RUP restrictions. It seems that EPA doesn't have cases and data from SLAs and the applicator community to suggest these new requirements are needed. The suggestion of increased exposures doesn't seem to be validated. Adding RUP restrictions on zinc phosphide is a burdensome action for the agricultural and applicator community without sufficient data and information.
- There are questions and concerns about why applicators would need particulate and respirator protection from paraffinized pellets. It seems the inhalation risk of working with paraffin and wax type products would be minimized. Would additional training and education resolve the possible concerns about the human-health risk? The statements in the risk assessments and the conclusions are confusing. The language from the narrative portion of the PID is not necessarily consistent with the label changes in the appendix.

The narrative states that “Occupational post-application dermal or inhalation exposures are not anticipated because the formulations are expected to be of low volatility”, which would indicate that just the NIOSH-approved particulate filtering facepiece respirator would be sufficient. Further clarification by EPA is recommended. The narrative makes it clear that the risks are from particulates, not vapors; originating from loose formulations. It seems the PID documents are referring to meal baits, tracking powders and grain meals, as well as waxy/paraffinized pellets and non-paraffinized pellets. The EPA anticipates these formulations generate particulates and therefore the potential for dermal and inhalation exposures as these products are applied, distributed, used to fill/refill bait stations, or are otherwise contacted by the applicator. Occupational post-application dermal or inhalation exposures are not anticipated because the formulations are expected to be of low volatility and no significant contact with foliar or surface residues are expected. Were there extensive studies, reports, and literature cited that supports the summaries and conclusions associated with the inhalation issues of these products? Further clarity on these summaries is recommended.

- Additionally, looking at the EPA response to the comments on the draft HHRA, EPA states “Based on the available hazard and toxicity profile, HED concludes that FGAR and SGAR pesticides are highly toxic by all routes of exposure, including both dermal and inhalation exposure. HED believes there is potential inhalation exposure from contact with formulations like granules, tracking powders, and grain meals, as well as waxy/paraffinized or non-paraffinized pellets. In concurrence with the 2001 decision, the data do demonstrate high attrition resistance for most of the products specifically tested (< 1%). However, the data do not demonstrate the absence of attrition of the tested products and do not make a clear distinction in attrition for paraffinized products compared to non-paraffinized products”. It is not clear what EPA is phrasing as “data do not demonstrate the absence of attrition,”. Were there extensive studies, reports, and literature cited that supports the summaries and conclusions associated with the inhalation issues of these products? Further clarity on these summaries is recommended.

The changes and new restrictions in the PID documents will have potentially considerable impacts on SLAs and also the applicators and users of these products. A variety of these topics and concerns have been collected and described in this comment letter to EPA. These impacts have potential fiscal and financial impacts to SLAs and the user community and society. We recommend that EPA further assess the economic issues of these PID recommendations and new restrictions.

#### Impact to SLA Pesticide Certification Programs:

- Increased applications for new licensees to be able to apply rodenticide RUPs. The new requirements for carcass searching and removal under the RUP requirements would increase the certification and training requirements substantially for SLAs. If EPA considers “use” to include carcass removal, then any technicians hired by companies to only conduct carcass removal would likely need to be licensed.

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- Increased demand for licensees to have vertebrate pest control endorsements added to license. This could be a big impact across that nation.
- Increased requests for testing sessions for new applicators.
- SLAs have numerous types of applicator categories and the certification requirements are often different across the nation. The changes described will impact SLA certification programs in varying ways throughout the nation.
- The new SLA Certification and Training plans that have been revised and are in the process of getting approved by EPA before November 2023 would be substantially impacted by these new requirements. Substantial changes to SLA certification programs and rules would be needed. The proposals would require a significant new burden and workload to SLAs that are already impacted by staffing and workforce issues.
- There will be an increase for technical assistance calls asking about applicator certification requirements, and all the changes that are being made or proposed that will impact every sector substantially. The SLA staff could get overwhelmed.
- When the ESA and BLT mitigations are proposed and become final that will further complicate the work and workload.

#### Impact to Recertification:

- Recertification courses and demands for those would increase and create a burden to SLAs and Pesticide Safety Educator Programs (PSEPs). The increase in attendance and training topics associated with the numerous categories of rodenticides and the uses in rural and urban locations would greatly increase and overwhelm the system.
- Rodenticide training topics will be added to course agendas and will replace regular topics.
- More courses in general may be requested, especially from agricultural, pest control and landscape companies.
- More training requests on how to use EPA's Bulletins Live! Two, for Endangered Species Act would occur for all sectors including business sectors that aren't necessarily accustomed to utilizing BLT such as pest control companies, urban companies, golf courses, and public operators, etc.
- When the ESA and BLT mitigations are final, that will further complicate the work and workload.

#### Impact to Registration:

- There would be an influx of revised labels for products to be changed to the RUP status.
- Multiple labels of same product will be in the channels of trade, old product will be non-RUP, and new labels will be RUP. There will be many complexities to this that will complicate the SLA workload substantially.
- When the ESA and BLT mitigations are final, that will further complicate the work and workload.

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### Impact to Pesticide Compliance:

- Marketplace inspections will include more record checks, and it is likely that retailers won't know about RUP status or other restrictions. The changes are very profound and this will complicate business systems for everyone involved.
- How will EPA make sure that retailers and the internet market place stops selling general use products once the RUP status is final?
- There will be an increase for technical assistance calls asking about legal products, RUP status, and which label is in effect.
- There will be an increase in complaints of PCO not doing carcass removal if dead rodents found (even if rodent dies of natural causes.)
- Various users may still make illegal applications, and may not perform carcass searches, which would be label violations. How does EPA suggest that SLAs handle the incredibly large amount of cases that would likely to occur? The number of cases could completely overwhelm SLAs.
- There is a high potential for applicator certification violations, which would impact SLAs.
- The number and increase in complaints related to illegal applications, and sick animal's issues will overwhelm the SLA system.
- There are concerns for an increase in illegal sales from the internet and from international sources.
- How will SLAs enforce much of these new provisions including the complex and expensive search requirements?

### Impact to SLAs on Outreach and Communication

- Outreach and communication to public about loss of consumer allowed rodenticides, the new RUP status, need for pesticide applicator licenses, and all the details will be substantial and overwhelm SLAs. EPA should have a detailed plan for communicating all these changes.

### Impact to SLAs and Pesticide Dealer Managers for Records:

- Additional recordkeeping requirements will overwhelm the private sector and SLAs.

### Impact to Pest Control Companies

- Additional staff will be required and multiple visits (every 2 days for 2 weeks, or more) to application sites to remove carcasses will add to operational expenses. High fuel and labor costs associated with repeated visits to the site and labor costs for the time spent in travel and search modes will impact the industry. The industry will need to hire and train many more staff. There is a fiscal impact for additional staff, staff time, and fuel costs.
- If carcass removal is considered "use," then we assume that technicians will need to be licensed and certified.
- Applicators and users of rodenticides will be required to wear PF-10 respirators and gloves when handling certain rodenticide formulations. There will be substantial fiscal

impacts for purchase of respirators, gloves, cartridges, PPE, training, fit testing, and medical exams.

- Fiscal impact costs to pest control companies will likely be passed on to the consumer.
- Many new people will need to learn how to use BLT. EPA needs to substantially upgrade BLT as it's completely inadequate as a web product for the detail that is needed and also the number of new people in the regulated community that would need to utilize it. BLT is very inadequate.

#### Impact to homeowners/residential/hobby farmers

- These groups will only have access to rodenticides in prepackaged single-use disposable bait stations containing less than a pound of rodenticide.
- There will be an increased cost of rodent control due to only being able to purchase and use the single use plastic bait stations.
- Rats might not be adequately controlled as most bait stations produced are mouse-sized, not rat sized.
- There will be a loss of the ability to purchase consumer-use pocket gopher bait. In some states, consumers cannot use body-gripping traps and those kinds of traps will impact other non-target animals.
- If available rodent control methods (e.g., bait stations, mechanical traps, glue traps) are insufficient, the consumer may need to hire a pest control operator, and there is an impact to the consumer for these services which could also result in a human health safety issue, and an environmental justice issue in many settings and locations of the country.
- The cost of professional pest control and availability of certified applicators may preclude pest control for those who need it most. Lower-income households, low-income urban areas, and disadvantaged and underrepresented populations are more likely to experience rodent problems than higher-income households and areas. There are significant impacts to the EPA decisions on the financial and health related impacts as these populations can't afford expensive and more restrictive control measures.
- Additional costs to pest control operators will likely be passed on to consumers, making pest control costs even higher to those that can afford it. Citizen health is potentially in jeopardy with these new regulatory proposals.
- Hobby farmers, backyard poultry flocks might see an increase in rodent impacts due to infestations with feed and grain utilized for feeding the animals.
- There will be no apparent chemical option for below ground rodent control except for bromethalin baits formulated as poison mole worms, and that has a tremendous impact for many options of control that are safe. EPA hasn't provided much data to eliminate the in hole uses of some of these products and applications.
- Residential consumers who need restricted use anticoagulants to control severe rodent infestations or rodents in wall voids, and equine operations who need to control burrowing pests like ground squirrels, would be forced to hire certified applicators, at increased costs.

### Impacts to Multiple Family Housing Units

- Landlords, building managers, etc., would need to be licensed to use any RUP rodenticide.
- Prepackaged single-use disposable bait stations may not adequately control infestations.
- There would be a requirement for many to hire certified applicators. Some housing and rental owners may not want to pay for expensive certified applicator companies and this would impact the health and safety of residents in underserved locations. The costs will likely be passed on to tenants who are poor and don't have the funds to make payments for such expenses.

### Environmental Justice Concerns

- Minority, low-income, and indigenous populations may be disproportionately overburdened by exposure to rodent populations and also to anticoagulant rodenticides.
- Mouse and rat infestations are most common in housing for lower socio-economic populations.
- Proper rodent prevention measures, especially exclusion, can be expensive and/or time-consuming for low-income households and in multi-family dwellings.
- Rodent prevention methods often rely on support from the entire community and may be more difficult in communities with a higher population density or with a lower quality of services (e.g., in areas with poor waste management services).
- Poorest populations may face the most frequent rodent infestations, and these populations face the highest health and safety risks both from rodent infestations (exposure to the diseases that are directly and indirectly transmitted by rodents) and from the use of chemical rodenticides (exposure to rodenticide itself).
- These populations may be disproportionately affected by EPA's proposed mitigation measures and changes to the use patterns or availability of the rodenticides, and may disproportionately be impacted by increases in costs or reduction in rodent control.

### Impacts to homeless/ transient populations

- As residential and urban use of rodenticides are impacted, populations of rodents could increase, affecting homeless and other disadvantaged people.

### Impact to Farm and Ranching Groups

- Certain kinds of licenses in some states, such as the limited rancher type licensee will no longer be able to purchase RUP rodenticides unless they get regular Private Applicator license or they may be forced to contact a certified applicator.
- Hantavirus incidences could be a problem at the ranch level associated with rodent control issues.
- Irrigation canal failure could increase due to these changes and the possible increase in ground squirrel burrowing.
- For some rodent species in western agriculture, the changes by EPA would create some use limitations since species have varying habits including burrowing, feeding,



reproduction, and hibernation differences. Certain restrictions on applications during the growing season and changing allowable applications when some animals are hibernating is the effective equivalent of an outright pesticide and use ban. Weather conditions and the time of the year and the growing season and non-growing season restrictions can quickly impede application attempts under the changes and restrictions.

### Forestry

- Forest managers would need new certification categories and this would create extra burdens to purchase and use RUP rodenticides.
- Changes in the uses and restrictions would have profound impacts in forestry systems, regeneration work, Christmas tree systems, ornamental cropping systems, and conservation, ESA, and water quality protection projects where buffers and riparian plantings are installed.

### Impact to Public Operator

- These sectors will need to get vertebrate pest endorsement in order to purchase and use rodenticides. There will be a variety of fiscal impacts.
- Additional staff will be required and multiple visits (every 2 days for 2 weeks) to application site to remove carcasses, high fuel costs associated with repeated visits to the site and labor costs for the time spent in travel and search.
- If carcass removal is considered “use,” then technicians will need to be licensed and certified.
- Applicators and users of rodenticides will be required to wear PF-10 respirators and gloves when handling certain rodenticide formulations. There will be a fiscal impact for purchase of PPE, training, fit test, and medical evaluation.
- Many new applicators will need to learn how to use Bulletins Live! Two, and EPA should take this into account for training, improving the website, and creating tools for mobile and handheld devices.

### Impact to Farmer/Owner who has Private Applicator license

- In many states the Private Applicators already have vertebrate pest as part of license.
- If the WPS training requirement is added to agricultural labels, this will be an extra cost to the grower for training employees.
- There will be an increased costs of rodenticides, manufacturer consolidation as they lose market share.
- There could be issues with product availability, supply chain shortages, offshore manufacturing, and the possibility of inferior product quality.
- Availability will become an issue, and will be crucial for a grower to be able to obtain rodenticides in a timely manner to control high populations that could severely damage crops.
- Applicators and users of rodenticides will be required to wear PF-10 respirators and gloves when handling certain rodenticide formulations.

- Restrictions on broadcast, below ground, and spot baiting applications of chlorophacinone and diphacinone to cropland could have substantial impacts on crop production, which relies upon broadcast and spot applications of chlorophacinone and diphacinone to manage many pests. When uncontrolled, these pests destroy crops, trees, and equipment, pose a significant food safety issue by contaminating commodities before harvest, and threaten worker safety by biting and transmitting diseases.
- Requirement of carcass search in large acreages would be nearly impossible, along with the requirement of frequency of carcass search (every 2 days for 2 weeks) to search for and dispose of carcasses.
- Carcass search would be burdensome due to high fuel costs associated with repeated visits to the site and labor costs for the time spent in travel and search.
- If unable to adhere to carcass search requirements, producers would be limited to single-use plastic bait station products. Bait stations are generally infeasible for control over large areas. Bait stations are typically mouse-sized, not rat-sized.
- The cost of bait stations and managing those stations would be substantially higher than the cost of broadcast applications.
- Bait stations are inefficient and expensive to maintain over larger areas. Other rodenticides may be less palatable to certain target pests than chlorophacinone and diphacinone and farmers may experience yield loss and reduced product quality.
- Rodents in large outdoor areas can proliferate and consume and contaminate food and forage, create burrows which can damage equipment, workers, or livestock, and damage grass stands and other natural resources.
- Costs associated with carcass search, removal, disposal, PPE, etc. may be transferred to consumers of agricultural products resulting in higher commodity prices.
- Hantavirus incidence could increase.
- Irrigation canal failure due to ground squirrel burrowing.
- Farmers may resort to using fumigants and traps, which could be more dangerous and costly, and will require additional certification and safety considerations.
- Yield losses could occur due to rodent damage.
- A complete economic analysis should be completed by EPA to assess the overall impacts to farms and all sectors.

#### Impacts to specific agricultural commodity growers

- Use of chlorophacinone and diphacinone on food and feed crops to control rodents will be prohibited, which will cause substantial impacts.
- The changes in the rodenticide uses in agricultural cropped areas and in association with areas near orchards, groves, vineyards, alfalfa that are adjacent to cropland, rangeland, pastureland, and fallow land could potentially result in complications and loss of crops and yields.

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- The timing of new allowed uses for when the animal control is really needed in those crop locations don't necessarily make sense for protecting both the cropland and fallow land and crop types like orchards, hops, and vineyards.
- There are still questions on plant uptake and therefore residues on food and feed crops that could be detected.
- There are numerous questions if use will be allowed during dormant season, near crops and field borders.
- EPA should more clearly think through the impacts on the agricultural industry and SLAs for the crops and industry sectors such as: Tree Fruit, Hops, Alfalfa, Alfalfa seed, Wheat, other grain crops, Vineyards and Juice Grapes, Berries, Grain (and granaries--area of high food abundance for rodents), Food processing, and Animal Production/Dairies.

We've attempted to provide summaries of the many SLA concerns about the restrictions in the PID. The changes would significantly increase the workload for SLAs and pesticide safety educators. The impacts to agriculture, non crop, urban sectors, homeowners, and underserved communities would be substantial. There would be significant impacts for managing rodents, crop and property losses, while putting the public more at risk for property impacts, health issues, disease exposure, and food safety impacts.

There would be significant impacts for hiring, and training pest control professionals. The SLAs would have significant burdens in handling the increased workload. Certification and training plans and the implementation of these plans would be complicated and jeopardized. The cost of the extra work for the SLA would be on the states, and the added control costs would fall to the property owner and also the consumer. SLAs, pesticide safety educators, farms, agriculture, urban property managers, and pest control companies would need to hire a substantially larger workforce and all the employees that are applicators or carcass searchers would all need to be certified. The impact of hiring applicators that can apply RUPs will be too costly for many and this will impact the general populations, schools, cities and counties, agriculture, and many small businesses. Some will opt to not hire control companies and the rodent issues will increase substantially, putting numerous populations at risk. Infestations and disease issues would grow and increase. These issues will increase and become more complicated with these types of pests as issues with weather variability and climate change continues to increase. Budget and financial constraints may lead to infestations growing and getting out of control.

We suggest EPA work to involve SLAs, SFIREG and the JWC, AAPCO, Association of Structural Pest Control Regulatory Officials (ASPCRO), Association of American Pesticide Safety Educators (AAPSE), and other organizations to work through many of these complex issues. The rodenticide PIDs were potentially going to be released for review and comment much earlier in 2022. SLAs and SFIREG were engaging with EPA for some time about these PIDs and were very interested in a possible ongoing dialogue and discussion about these details prior to an official public comment period. SFIREG did not learn of the PID details until they were release in November 2022. Various groups requested an extension to this comment period, and EPA denied those requests. We suggest that EPA take the time to engage with SLAs and

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SFIREG, and the other groups, about the impacts to SLAs and other parties to work through these proposals. We recommend more EPA engagement and certainly additional time to work through concepts, regulatory refinement, and solutions. SFIREG and SLAs are focused on providing science based information and consistent regulations for SLAs, EPA, the public, stakeholders, and industry. We thank EPA for the opportunity to comment and to express our concerns on this issue.

We look forward to working with EPA on these important science and regulatory processes. Thank you for your consideration.

Sincerely,



Gary Bahr  
SFIREG Chair

Science Liaison  
Office of Director  
Washington State Department of Agriculture  
Olympia, Washington  
c-360-349-0522  
[gbahr@agr.wa.gov](mailto:gbahr@agr.wa.gov)

PC: Liza Fleeson-Trossbach, AAPCO President  
AAPCO Board  
Full SFIREG  
Amy Brown, POM Chair  
Hotze Wijnja, EQI Chair  
Amy Sullivan, AAPCO Executive Secretary  
ASPCRO Board  
AAPSE Board