UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, DC 20460

March 6, 2014

MEMORANDUM

TO: Regional Pesticide Supervisors

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SUBJECT: JOINT OPP/OECA FY2015-2017 FIFRA COOPERATIVE AGREEMENT GUIDANCE

Attached is the final version of the joint OPP/OECA 2015-2017 FIFRA Cooperative Agreement Guidance as well as a FIFRA Workplan-Report Template and instructions. Please share the guidance, template and instructions with our state, tribal and territorial co-regulators in your region. Regions, states, tribes and territories should use this updated Guidance in negotiating FIFRA cooperative agreements and workplans for FY2015 - 2017. As in past years, we encourage the use of multi-year cooperative agreements for the period of the grant guidance if both the regional office and grantee agree that this approach will reduce administrative overhead.

The 2015-2017 FIFRA Cooperative Agreement Guidance incorporates the approach recommended by the EPA/State Workgroup and endorsed by regional managers to streamline the guidance, improve clarity, and increase flexibility, allowing grantees to focus on those national priorities which are of greatest local concern.

This Guidance is made up of the main guidance document, and 12 appendices which provide additional information if needed. The main guidance document contains a "matrix" or table which concisely summarizes six OPP and OECA program areas and activities that each grantee is required to support. It also contains a "pick-list" matrix which lists additional national program priorities that a grantee must choose from to support. While the document is large, the first 19 pages represent the main portion of the Guidance, and provides most of the key information needed to understand EPA's expectations for National Pesticide Program Cooperative Agreements.

The attached FIFRA Work Plan-Report Template is an Excel Spreadsheet that was created to significantly reduce the administrative burden associated with workplan development and accomplishment reporting for both grantees and regional personnel. The FIFRA template, developed by EPA with extensive input and support from states, promotes clarity in work plan expectations and end-of-year results, makes work plans and reports more consistent throughout the country, and facilitates compilation and review of national year-end data. However, the Agency has not yet obtained approval from the Office of Management and Budget (OMB) for this FIFRA template. Until such approval is obtained, the FIFRA template is intended solely to provide respondents with an alternate method of providing information to the Agency that is already required under the terms of the cooperative agreement (OMB Control No. 2030-0020). Until final OMB approval is obtained, grantees are welcome to take advantage of the considerable benefits offered by this template, or use other methods for work plan development and performance reporting.

This cover letter, final Guidance and appendices will be uploaded as Adobe PDF files to the EPA compliance website within the next week. The URL (website address) is: http://www.epa.gov/compliance/state/grants/fifra.html

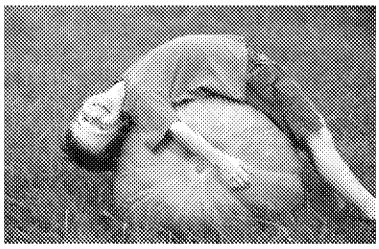
Thank you for the helpful comments you provided during the review cycle. If you have any questions, please contact either Dan Helfgott (703-308-8054) or Cindy Wire (415-947-4242) for pesticide program questions, or Julie Simpson at 202-566-1980 for pesticide enforcement related questions.

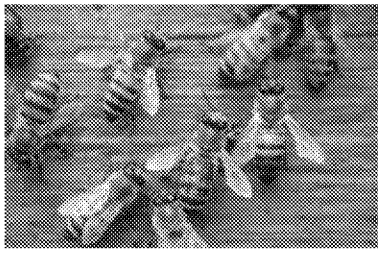
Thank you.

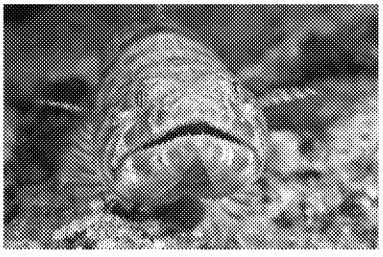
Attachments

2015-2017 FIFRA Cooperative Agreement Guidance

March 6, 2014







U.S. Environmental Protection Agency

Office of Pesticide Programs
Office of Enforcement and Compliance Assurance

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I. INTRODUCTION

The U.S. Environmental Protection Agency's (EPA or Agency) Office of Pesticide Programs (OPP) and Office of Enforcement and Compliance Assurance (OECA) are issuing the national FY 2015-2017 Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Cooperative Agreement Guidance (Guidance), to be used by the EPA regional offices in negotiating and overseeing cooperative agreements with states, territories and Indian tribes ("grantees"), as authorized under Sections 23(a)(1) and 23(a)(2) of FIFRA.[1]

The purpose of this Guidance is to identify pesticide program and compliance and enforcement program areas that must be addressed in state and tribal cooperative agreements and to provide information on work plan generation, reporting and other requirements.

OPP provides funds to support "program activities" for pesticide program development and implementation, including: education, outreach, training, technical assistance and evaluation activities. OECA provides funds to support "compliance and enforcement activities," which include compliance assistance, compliance monitoring, case development and enforcement. This joint Guidance is intended to help coordinate the pesticide program and compliance and enforcement activities in support of the goals of the National Pesticide Program. Thus, the two sets of activities are interconnected, but may be handled either independently or under a single cooperative agreement.

A. National Pesticide Program Goals

The goal of the National Pesticide Program, consistent with FIFRA, is to assure that pesticides are made available for use, and are properly sold, distributed, and used, in a way that is protective of human health and the environment. The National Pesticide Program protects people and ecosystems that may be exposed to pesticides, through its pesticide product registration and registration review program, outreach, technical assistance, and compliance and enforcement programs. Achieving these protective outcomes requires collaborative efforts by citizens, pesticide users, states, tribes, territories, regions, OPP, OECA, and other partners. States, tribes and territories serve an essential role as the EPA's "eyes and ears" on the ground to identify pesticide concerns; to provide EPA feedback from the field to determine if intended risk mitigation measures are effective; to monitor compliance with the regulated community; and to take appropriate enforcement action when necessary.

The National Pesticide Program areas reflected in this Guidance are developed by OPP, OECA and the EPA regional offices with extensive input from states and tribes, and are consistent with EPA's FY2014-2018 Strategic Plan and Agency priorities. To that end, the program areas listed in this Guidance reflect both national and regional pesticide concerns. However, the degree to which a particular pesticide issue, program area or activity is of concern in a particular state or tribe may vary. This Guidance attempts to

[1] Section 23(a)(1) of FIFRA, as amended, authorizes the EPA to enter into cooperative agreements with states, territories and Indian tribes ("grantees") to conduct pesticide enforcement programs and Section 23(a)(2) provides for certification and training programs. Pursuant to the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for FY1999 (Pub. L. No. 105-276, Title III, 112 Stat. 2499 (1998)), pesticide program implementation grants under Section 23(a)(1) of FIFRA are available for "pesticide program development and implementation, including enforcement and compliance activities. The regulations governing cooperative agreements are in Title 40 CFR Part 30 for institutions of higher education and Part 35 for states and tribes.

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recognize that reality and balance support for National Pesticide Program priorities, goals and performance measures, with providing grantees flexibility to focus on those national program areas which present the greatest concern locally. Through this approach, we believe all national priorities will be addressed, although not by each grantee or with the same level of effort, and local pesticide resources will be directed to where they are most needed.

B. Guidance Framework

The framework of the national Guidance has been revised to improve usability, and clearly communicate expectations to grantees. We have added charts in Sections II and III which concisely summarize the OPP and OECA program areas and activities that each grantee is required to support, and a pick-list of national program priorities that the grantee must choose from to support. For many grantees, these charts will provide most of the information needed to understand EPA's expectations for National Pesticide Program Cooperative Agreements. However, more details and context for each program area can be found in Appendix 1, Supplemental Information for Program Areas.

Programs areas listed in Sections II and III are designated as either required or as a pick-list program area. The grantee and the EPA regional office will negotiate the acceptable performance level and resources necessary for all activities included in the work plan.

- **Section II: Required Program Areas** – These areas are of particular importance during the cooperative agreement guidance period. While the level of effort invested in each required program area is negotiable between the grantee and EPA region, some level of effort is mandatory and must be reflected in grantee work plans.
- **Section III: Grantee Program Area Pick-List** – Grantees must select a subset of the listed program areas from the "pick list", based on regional and local considerations. All program areas on the pick-list are national priorities; however, EPA recognizes that the relative importance of each of these program areas may vary for each grantee based on their pesticide risk concerns. Grantees must include activities in their work plans to support one program area on the pick-list funded by OPP, and two programs areas funded by OECA. The selected program areas can either be aligned (i.e. activities for both OPP and OECA from the same program area) or from different program areas.

Most program areas and their associated activities are described broadly to allow grantees and regions the flexibility to negotiate specific work plan activities that reflect the grantee's needs, concerns and resources. However, in a few cases such as Worker Safety and Certification, the required activities are very specific and must be included in the work plan. For these program areas, it is felt that completion of the specific activities by the grantee is needed to meet the national goals of the program area.

The EPA acknowledges that certain activities and functions of a pesticide program are not predictable. For example, throughout a given time period, a situation may arise whereby the cooperative agreement recipient must act to address a crisis or EPA may be required to obtain certain information or institute certain activities in the field. To the extent possible, this Guidance allows regions and grantees to provide latitude within the agreements to account for such unforeseen circumstances. And if necessary, work plans may need to be amended and re-negotiated.

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Grantees may negotiate a Performance Partnership Grant (PPG) in lieu of pesticide program and enforcement cooperative agreements.[2] Under the PPG system, regions and grantees should continue to use this Guidance to ensure that program areas are addressed consistent with this Guidance. More information on PPGs can be found on page 12 of this Guidance.

C. Multi-Year Agreements

Regions are encouraged to pursue multi-year cooperative agreements and work plans for the period of this Guidance where both the region and grantee agree that such an approach would reduce administrative burden. However, such agreements and work plans are subject to availability of funds and changing priorities or current events.

D. Applicability of Guidance to Tribes

EPA recognizes that resources available, program capacity and needs for many tribes are not comparable to those of the state pesticide programs. Therefore, all required program areas or activities listed in this Guidance may not be appropriate for all tribes and do not necessarily need to be included in tribal cooperative agreements. Regions may negotiate the tribal cooperative agreements and work plans to focus on relevant program and enforcement areas and levels of attainment on a case-by-case basis relevant to the capacity and needs of the tribal pesticide program. A January 2011 document, *Guidance for Funding Development and Administration of Tribal Pesticide Field Program and Enforcement Cooperative Agreements*, provides more detail on funding tribal cooperative agreements. This can be viewed at: http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=P100AVNU.txt

E. Work Plan and Reporting Framework

EPA has developed a FIFRA Cooperative Agreement Work Plan-Report Template ("FIFRA template") for work plans and reports for cooperative agreements awarded under this Guidance. The FIFRA template, which is an Excel spreadsheet, was developed by EPA with extensive input and a considerable amount of support from states with the goal of significantly reducing the administrative burden associated with work plan development and accomplishment reporting for both the grantee and EPA regional personnel. The FIFRA template also promotes clarity in work plan expectations and end-of-year results, makes work plans and reports more consistent throughout the country, and facilitates compilation and review of national year-end data.

Although the FIFRA Cooperative Agreement reporting is currently approved by Office of Management and Budget (OMB) under OMB Control No. 2030-0020, the Agency has not yet obtained approval from OMB for this FIFRA template. Until such approval is obtained, the FIFRA template is solely intended to provide respondents with an alternate method of providing information to the Agency that is already required under the terms of the cooperative agreement. A link to the FIFRA template, instructions for its use, and a brief description can be found in Appendix 2, FIFRA Cooperative Agreement Work Plan-Report Template Description and Links. Reporting requirements are summarized in Section VII, Table 1, Summary of Reports and Annual Due Dates.

[2] States must comply with the requirements for PPGs codified at 40 CFR 35.130 thru 35.138. Tribes must comply with the requirements for PPGs codified at 40 CFR 35.530 thru 35.538.

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F. EPA Oversight Responsibilities

EPA's collaboration efforts with states began in the 1970's when FIFRA was amended to allow EPA to enter into cooperative agreements with states and tribes (FIFRA Section 23) and was further broadened to allow states to obtain primary enforcement responsibility for pesticide use violations (FIFRA Section 26). The role of the regional offices is to negotiate work plans, monitor the progress of work plan commitments, provide fiduciary oversight, and to assure states can maintain primacy. Appendix 3, State Primacy under FIFRA and EPA Oversight Questions and Answers, provides more information concerning "primacy" and EPA's role in overseeing a state's program where primacy has been granted.

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II. REQUIRED PROGRAM AREAS

REQUIRED program areas represent areas of work that are of special and unique importance at a national level during this guidance period. While all listed activities are required, the level of effort invested in each required program area and activity is negotiable between the grantee and EPA region and must be reflected in grantee work plans. Each of these program areas support Goal 4 of the Agency's FY14-18 Strategic Plan, Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

Goal	Work Expectations Specific Activities Negotiated between Grantee and Region	
	Activities Supported by OPP Funding	**Activities Supported by OECA Funding**
01. Required Program Area: Basic Pesticide Program		
Maintain a basic level of pesticide program implementation, compliance assistance, and enforcement to ensure a viable pesticide regulatory and	**Required Activities:** 01.00.01 Complete administrative/management, fiduciary and reporting requirements associated with this cooperative agreement. 01.00.02 Build or maintain staff and management expertise on pesticide program issues and enforcement (e.g. attend training opportunities through PREP, PIRT, in-service training, etc., or other appropriate activities). 01.00.03 Respond to pesticide inquiries, concerns, tips, and complaints from the public.	
enforcement program, achieve environmental results, and maximize success with the Agency's performance measures.	**Required Activities:** 01.01.01 Provide outreach, communication, and training as appropriate as a result of new emerging issues, rules, regulations, and registration and registration review decisions. 01.01.02 Report information on all known or suspected pesticide incidents involving pollinators to OPP (beekill@epa.gov) with a copy to the regional office.	**Required Activities:** 01.02.01 Project inspection numbers and report various inspection and enforcement accomplishments. The 5700 forms, ES Inspections Report, and performance measures (when final) forms contained in the FIFRA template may be used for this purpose. 01.02.02 Maintain adequate pesticide laws, rules, and associated implementation procedures. 01.02.03 Provide outreach and compliance assistance. 01.02.04 Draft, modify, or maintain a priority setting plan for inspections & investigations, addressing grantee and EPA- identified priorities (see Appendix 4, Enforcement Priority Setting Guidance; to be replaced by Compliance Monitoring Strategy when finalized). 01.02.05 During use inspections, monitor compliance with the label, including any ESA Bulletins, if applicable. 01.02.06 Develop/maintain a searchable inspection/investigation and case tracking system and track all inspections/investigations and cases. 01.02.07 Ensure a minimum of one state employee obtains and maintains an EPA inspector's credential. Where state authority is inappropriate or inadequate, or at EPA's request, conduct FIFRA inspections with EPA credentials, according to EPA procedures and guidance documents. 01.02.08 Refer all inspections conducted with federal credentials to the region.

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		01.02.09 Refer FIFRA cases to the region for enforcement consideration according to a mutually identified referral priority scheme. 01.02.10 Maintain and follow a matrix to develop and issue enforcement actions. 01.02.11 Follow up on significant or grantee and region agreed upon pesticide incidents referred by EPA as required by FIFRA Sections 26 and 27. 01.02.12 Conduct inspections consistent with the FIFRA Inspection Manual including collection of the appropriate amount of sale and distribution records as discussed in Chapter 6 "Product Sampling". 01.02.13 Maintain and follow a Quality Management Plan for the overall pesticide enforcement program. 01.02.14 Maintain and follow Quality Assurance Project Plan(s) for pesticide sample collection and analysis. 01.02.15 Maintain access to adequate laboratory support capacity. 01.02.16 Assist EPA in enforcing regulatory actions and monitoring Section 18, Section 24(c), and Experimental Use Permits.
02. Required Program Area: Pesticide Worker Safety: Worker Protection Standard		
Prevent or reduce occupational pesticide exposures, incidents and illnesses from pesticides, especially ones that pose high risks or potentially high exposures to workers. NOTE: an addendum to this Guidance will be issued when the Part 170 WPS proposed rule changes become final.	**Required Activities:** 02.01.01 Implement Part 170 worker protection standard (WPS) rule requirements and carry out program implementation requirements. 02. 01.02 Conduct WPS-related outreach and education. This includes communicating existing requirements to the regulated community and informing co-regulators, the regulated community, and other program stakeholders of any proposed changes or new requirements. 02.01.03 Support WPS worker & handler training. 02.01.04 Assure mechanisms and procedures are in place to enable coordination and follow-up on reports of occupational pesticide exposure, incidents or illnesses that may be related to pesticide use/misuse or WPS violations.	**Required Activities:** 02.02.01 Monitor compliance with the WPS requirements associated with use of high risk pesticides, high exposure scenarios or repeat offenders. Include activities that support both WPS and product use compliance. 02.02.02 Grantees may refer potential violations to the regional office for appropriate action.

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03. Required Program Area: Pesticide Worker Safety: Pesticide Applicator Certification		
Prevent or reduce pesticide exposures and incidents to humans and the environment by increasing the competence and expertise of applicators/handlers of restricted use pesticides. NOTE: an addendum to this Guidance will be issued once the Part 171 Pesticide Applicator Certification rule changes become final.	**Required Activities:** 03.01.01 Implement pesticide applicator certification programs in accordance with Part 171 and EPA approved certification plans. This includes communicating information about proposed rule changes that may be published for comment to co-regulators, the regulated community, and other program stakeholders. 03.01.02 Meet state/and tribal certification plan requirements for plan maintenance and annual reporting using the Certification Plan and Reporting Database (CPARD) 03.01.03 Monitor applicator training for quality assurance.	**Required Activities:** 03.02.01 Monitor compliance with the pesticide applicator certification requirements. Focus on sale/distribution of restricted use pesticides (RUPs) to applicators. One example is the fumigation sector(s) of concern.
04. Required Program Area: Container/Containment		
Prevent or reduce pesticide exposures to humans and the environment due to damaged pesticide containers and pesticide spills or releases.	**Required Activities:** 04.01.01 Provide technical assistance for the regulated community, as appropriate. 04.01.02 Alert EPA to changes in state regulations and tribal codes.	**Required Activities:** 04.02.01 Monitor compliance with container/containment requirements. Focus on product and user compliance with special emphasis on agricultural retailers/distributors that repackage pesticides into refillable containers, as well as RUP and Tox 1 category products.
05. Required Program Area: Soil Fumigation & Soil Fumigants		
Prevent or reduce incidents resulting from soil fumigation exposures.	**Required Activities <u>for High Use States only</u>** (CA, WA, ID, OR, WI, MI, FL, MN, NC, VA, AZ, NV, GA, CO, ND): 05.01.01 <u>As appropriate</u>, provide technical assistance, education, and outreach, to the regulated community.	**Required Activities**: 05.02.01 Monitor compliance with soil fumigation labels. Focus on product and user compliance with special emphasis on new label requirements.
06. Required Program Area: Pesticides in Water		
Ensure that pesticides do not adversely affect the nation's water resources.	**Required Activities:** 06.01.01 For pesticides scheduled for registration review, submit existing water quality monitoring data not already provided to EPA, housed in the USGS National Water Information System (NWIS), entered into EPA's STORET Data Warehouse, or otherwise readily/publicly accessible to the EPA via the web. See OPP Guidance for Submission of State and Tribal Water Quality Monitoring Data, Appendix 5. 06.01.02 <u>Evaluate</u>: Identify ***pesticides of concern*** (POC) by evaluating a list of ***pesticides of interest*** (pesticides which have potential to threaten local resources) to determine if those pesticides are found at concentration levels locally that are approaching or exceeding ***reference points*** and therefore are a threat to local water quality. The base list	**Required Activities:** 06.02.01 Monitor compliance with pesticide water quality risk mitigation measures, and respond to pesticide water contamination events especially where water quality standards or other reference points are threatened.

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	of pesticides of interest can be found in Appendix 6. 06.01.03 Manage: Actively manage ***pesticides of concern*** beyond the label to reduce or prevent further contamination of local water resources. 06.01.04 Demonstrate progress: Show the management strategy has been effective in reducing or maintaining concentrations below ***reference points.*** 06.01.05 Re-evaluate pesticides if there is new information that could affect risk (e.g., new hazard data, significant increase in use, a new OPP risk assessment or registration decision involving a water quality concern). 06.01.06 Report progress of activities in 06.01.02 – 06.01.05 in POINTS. 06.01.07 Where appropriate, consult with and/or coordinate prevention and protection of water resources with other agencies responsible for water resource protection.	

III. GRANTEE PROGRAM AREA PICK-LIST

The table below is a "pick list" of ten program areas. Grantees must, in negotiation with the region, include activities in the workplan that support one program area for OPP, and two program areas for OECA. The selected program areas can be aligned (i.e. activities for both OPP and OECA from the same program area) or can be selected from different program areas, depending on regional and local considerations. Activities listed under each program area are examples of activities that help achieve the program goal. If there are other activities that are more appropriate and help reach the intended goal, then they can be used. Each of these program areas support Goal 4 of the Agency's FY14-18 Strategic Plan, Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

Goal	Work Expectations Specific Activities Negotiated between Grantee and Region	
	Activities Supported by OPP Funding	**Activities Supported by OECA Funding**
07. Pick-List Program Area: Endangered Species Protection		
Limit potential effects from pesticide use to listed species, while at the same time not placing undue burden on agriculture or other pesticide users.	07.01.01 Provide outreach and education on the Endangered Species Protection Program to current and potential pesticide users and pesticide inspectors. 07.01.02 Provide risk assessment and risk mitigation support using EPA's stakeholder engagement process at:	07.02.01 Monitor compliance with Endangered Species Bulletins, and track and report compliance information on endangered species inspections as described in Appendix 1, Number 7. Endangered Species Protection, Section D (Reporting Requirements) and E (Performance Measures), on page 41 of this guidance.

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	http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2012-0442-0038 01. Provide information such as crop data, pesticide use data, and species location data to OPP for use in listed species-specific risk assessments for upcoming registration review cases. 02. Comment on exposure assumptions used in risk assessments. 03. Comment on the feasibility of proposed, listed species-specific mitigation measures during OPP's standard processes of registration and registration review. 04. Review draft bulletins, should any be developed in a state's area. 07.01.03 Establish and maintain relationships with local and regional fish and wildlife agencies. 07.01.04 Work with certification and training staff and cooperative extension services to provide endangered species information for pesticide applicator training.	
08. Pick-List Program Area: Bed bugs		
Minimize the potential for pesticide misuse/overuse and spread of bed bug infestations by increasing understanding of bed bug prevention and control approaches, and ensuring compliance with accepted control approaches.	08.01.01 Provide education, outreach and technical assistance on pesticide and integrated pest management control approaches, and guidance for responses to bed bug infestations.	08.02.01 Monitor product and user compliance. Focus on illegal claims and illegal use of products not registered for control of bed bugs with special emphasis on RUP and Tox 1 category products.
09. Pick-List Program Area: Pollinator Protection		
Ensure pollinators are protected from adverse effects of pesticide exposure.	09.01.01 Establish relationships with federal, state, tribal and local agencies, beekeeper organizations, grower organizations (*e.g.*, commodity groups), crop advisors, pesticide manufacturers (registrants), and other stakeholder groups within the region to assist where needed in combined pollinator protection activities. 09.01.02 Provide continuing educational opportunities and outreach to keep growers, applicators, and handlers up-to-date on the most recent methods to protect pollinators, such as IPM, BMPs, or softer applications.	09.02.01 Monitor user compliance with pollinator protection label language. The EPA Bee Incident Investigation Guidance, found online at: http://www.epa.gov/compliance/resources/policies/monitoring/fifra/bee-inspection-guide.pdf or similar state or tribal guidance, should be followed to the extent possible by the grantee when investigating pollinator incidents. 09.02.02 Conduct inspections and take enforcement actions directed at detecting and stopping distribution of unregistered or misbranded pesticides that could adversely affect pollinators and/or the quality of hive products.

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10. Pick-List Program Area: School Integrated Pest Management (IPM)		
Decrease exposure of children in public schools (grades K-12) to pests and pesticides through increased adoption of verifiable and ongoing school Integrated Pest Management (IPM) programs.	10.01.01 Provide education, outreach and/or training on School IPM approaches to public schools or educational organizations working with public schools. 10.01.02 Forge partnerships with other agencies and/or organizations to promote adoption of IPM in public schools.	N/A
11. Pick-List Program Area: Spray Drift		
Reduce spray drift incidents by increasing awareness and adoption of spray drift reduction techniques and technologies.	11.01.01 Conduct education and outreach activities that increase awareness and adoption of spray drift reduction techniques and technologies. 11.01.02 Gather spray drift incident data from the past 2-3 years to form an incident baseline and then gather additional incident data during the grant period. 11.01.03 Report gathered data annually in a separate file attached to the end-of-year report.	11.02.01 Monitor compliance with spray drift label language and report investigation findings as part of year–end reporting.
12. Pick-List Program Area: State and Tribal Coordination and Communication		
Where appropriate, support tribal pesticide program capacity building and efficient use of state resources by improving coordination, communication and cooperation between tribes and states to advance pesticide program implementation and increase program efficiencies.	12.01.01 When conducting training of state staff, offer tribal pesticide staff an opportunity to participate if space is available or can be made available. 12.01.02 Offer tribes an opportunity to ride along with state pesticide inspectors as training for tribal pesticide inspectors. 12.01.03 Share information on tips, complaints, violators, and/or incidents that may be relevant in Indian country. 12.01.04 Let tribes know when the state issues a FIFRA Section 24(c) or applies for a Section 18. 12.01.05 Provide lab support to tribes. 12.01.06 Other negotiated activities as appropriate.	12.02.01 Improve tribal capacity to enforce pesticide programs.
13. Pick-List Program Area: Supplemental Distributors		
Ensure that distributor products are properly registered, formulated and labeled.	N/A	13.02.01 Monitor compliance of distributor products. Focus on product integrity, including product composition, product labeling, and registration requirements under FIFRA. Place special emphasis on

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			(1) registrants, producers and supplemental distributors that handle large numbers of distributor products, (2) registrants, producers and supplemental distributors with a history of noncompliance with distributor products, (3) distributor products that are high risk (Tox 1 category and RUP products) and (4) distributor products making public health claims on the labeling.
14. Pick-List Program Area: Contract Manufacturers			
Reduce instances of illegal manufacture or mislabeling of products manufactured under contract.	N/A	14.02.01	Monitor compliance with contract manufacturing requirements. Focus on one or more of the following: manufacturers of disinfectants, RUPs, Tox 1 category products, and manufacturers with a prior history of FIFRA noncompliance.
15. Pick-List Program Area: Imports			
Eliminate the distribution of unregistered, misbranded, or adulterated imported pesticides.	N/A	15.02.01	Assist regions when necessary to monitor movement of imported pesticides within state or tribal lands.
16. Pick-List Program Area: National Data System			
Collect detailed enforcement data on a national level from grantees to better target pesticides violations and to explain the performance of the national program.	N/A	16.02.01	Work with OECA to determine what data to collect and how to utilize the data to enhance the effectiveness of the National Pesticide Program and illustrate the performance of the national pesticide compliance program.

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IV. ADMINISTRATIVE REQUIREMENTS

For the purpose of this section, "grantees" are referred to as "applicants" during the cooperative agreement application process. As required by 40 CFR Part 35.105, and to ensure an orderly administrative review, programmatic evaluation, and funding of cooperative agreement applications, applications should be received by the Regional Grants Management Offices at least 60 days prior to the beginning of the proposed budget period, or by the date the regional offices provide as a result of EPA's updated budget guidelines. Awards and funds will be made and distributed as promptly as possible once federal budget figures are finalized.

In accordance with 40 CFR Part 35.113, the EPA will not reimburse applicants for costs incurred before the date of award, unless it is a continuation award and the application was submitted by the applicant prior to the expiration of the previous budget period. If applications for continuation awards are not received in a timely manner, it will be necessary to request a formal deviation, approved by the Grants Administration Division, before any pre-award costs may be approved. Applicants should be aware that a request for formal deviation may delay award of funds further. If there is any question regarding this area, the Regional Grants Management Office should be contacted for clarification.

In addition to this Guidance document, regions and applicants should consult the appropriate regulations in 40 CFR Parts 31 and 35, the Administrator's Policy on Performance-Based Assistance, and the Assistance Administration Manual when preparing, negotiating, and evaluating applications. Applicants can find more information on grants policy, grants competition, regulations, and so forth at: http://www.epa.gov/ogd/grants/how_to_apply.htm. In addition, a FIFRA Cooperative Agreement Application Review Checklist is included in Appendix 7.

A. Standard Application Forms

The regulations (40 CFR Part 31.10) require applicants to use Standard Form 424 (revised 4/88). Application kits including all the necessary application forms may be obtained from the EPA website at: http://www.epa.gov/ogd/AppKit/application.htm . Beginning October 1, 2014, all applications must be submitted via the grants.gov website: www.grants.gov . The FIFRA Cooperative Agreement Work Plan-Report Template discussed in Appendix 2 can be used as the work plan during submission.

B. Performance Partnership Grants

Applicants have the option of applying for a Performance Partnership Grant (PPG) which allows a minimum of two eligible programs to be funded under one grant. If desired, applicants can apply for a "pesticide only" PPG that includes pesticide enforcement, field program and/or certification elements. In negotiating a PPG, regions and applicants should continue to use this FIFRA Cooperative Agreement Guidance to ensure that program and enforcement priorities are met. If a region and applicant wish to negotiate a PPG that appreciably modifies the levels of attainment in the FY 2015-2017 Guidance, then the senior management of that region should first discuss this shift in priorities with the appropriate National Program Manager. Regions and applicants should also consult the relevant PPG guidance documents for information.

States and tribes may apply for PPGs for a multi-year budget period not to exceed five years. The application must include a work plan that addresses each program and corresponds to the proposed budget period. The PPG work plan must contain sufficient commitments to carry out the work needed to adequately implement the core environmental program requirements and the programmatic basis for the

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PPG award and grant accountability. The FIFRA template can be used and submitted for the FIFRA portion of the work plan. PPG's are subject to the same reporting, joint evaluation and other accountability requirements described in 40 CFR Part 35. PPG work plan commitments must include core performance measures or accountability measures, as defined by appropriate environmental statutes, regulations and EPA or state policy.

Under a PPG applicants have the flexibility to realign resources among environmental programs based on negotiated priorities including those in the PPG work plan. In some cases, approval from EPA may be required prior to shifting resources. Applicants must have a consolidated PPG budget for accounting and reporting purposes. Recipients can meet PPG match requirements from a combination of program sources rather than with program-by-program matches. Match requirements for states can be found in 40 CFR Part 35.136(a) and (b). Match requirements for tribes are described in 40 CFR Part 35.536(b) and (c).

Applicants interested in a PPG should direct their inquiries to their regional contacts. Information is available at http://www.epa.gov/ocir/nepps/pp_grants.htm . In addition, states should check the "EPA Best Practices Guide for Performance Partnership Grants" at: http://www.epa.gov/ocir/nepps/ppgguide/2006-0325-ppg-guide.pdf . Please note that EPA is in the process of updating this PPG Guidance, so some provisions may no longer apply. Check with your regional office for details. Tribes should follow the "Best Practices Guide for Performance Partnership Grants with Tribes" at: http://www.epa.gov/ocir/nepps/pdf/ppg-guide-for-tribes.pdf for additional guidance.

C. Budget Requirements

1. OPP Cost-Sharing

For Certification Programs, FIFRA, Section 23(a)(2), limits EPA's share of the "total project costs" to not more than 50% of the total funding level. [Note: For tribal applicants, applying for a PPG the cost share is limited to no more than 10%. (*See* 40 CFR Parts 35.530 - 35.538.)] For other field programs, activities and program maintenance, a 15% match by applicants is recommended. This may include in-kind services.

2. OECA Cost-Sharing

For enforcement programs and activities, a 15% match by applicants is recommended. This may include in-kind services.

3. Budget Detail

When available, the applicant should include supportive itemized statements or factsheets to expand upon the expenditures proposed for all required and applicant pick-list program areas and activities; and program maintenance for the cost categories of personnel, travel and equipment and supplies. Budget details must conform to cooperative agreement requirements. Specific information regarding the level of detail can be obtained from Regional Grants Management staff. For PPGs, budget detail must be provided for all years the PPG covers, and then modified during annual negotiations as appropriate.

D. Work Plans

Each cooperative agreement application must be accompanied by a work plan consistent with the requirements in 40 CFR 35.107. The FIFRA Cooperative Agreement Work Plan-Report Template as described in Appendix 2 is consistent with these requirements. Work plans must specify:

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- The work plan components to be funded under the grant;
- The estimated work years and the estimated funding amounts for each work plan component;
- A performance evaluation process and reporting schedule in accordance with 40 CFR 35.115; and
- The roles and responsibilities of the applicant and EPA in carrying out the work plan commitments.

Beginning October 2012, EPA's Grants Policy Issuance 11-03 requires negotiated work plans to include three "essential elements" that link the work plan commitments to EPA's Strategic Plan. These essential elements are:

1. Strategic Plan Goal: all FIFRA cooperative agreement work plans are linked to two Agency goals in the Agency's FY14-18 Strategic Plan. OPP program work is linked to Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution. OECA enforcement work is linked to Goal 5: Enforcing Environmental Laws.
2. Strategic Plan Objective: OPP program work is linked to Goal 4, Objective 1: Ensure Chemical Safety. OECA enforcement work is linked to Goal 5, Objective 1: Enforce Environmental Laws.
3. Work Plan Commitments and Timeframe: all cooperative agreements must include the commitments for each work plan component and a timeframe for their accomplishment.

This policy supplements or reinforces, but in no way supersedes, existing requirements in 40 CFR Part 35, Subpart A. A current version of EPA's 2014-2018 Strategic Plan can be found on EPA's website at: http://www2.epa.gov/planandbudget/strategicplan

In addition, all work plans must discuss the drawdown frequency for each budget year to comply with EPA's Grants Policy Issuance GPI 12-6: Timely Obligation, Award and Expenditure of EPA Grant Funds. The FIFRA template provides an opportunity to address compliance with both these directives.

As indicated above, the cooperative agreement must include a timeframe and evaluation plan that is mutually acceptable to EPA and applicants. At a minimum, the plan should include a schedule for conducting timely end-of-year evaluations (EOY reports), preferably on-site (if the regional office's budget allows). While neither OPP nor OECA requires mid-year evaluation reports, regions may have their own requirements. Further, OPP and OECA recommend informal mid-year discussions to assure work plan commitments are on track. This is an opportunity for the region and grantees to assess progress and make any needed mid-year adjustments.

The applicant and the region should work closely together to ensure activities in the work plan support national, state, tribal, and local priorities, and are consistent with applicable federal statutes, regulations, circulars, and Executive Orders, as well as EPA delegations, approvals, or authorizations. The Agency recognizes that activities may change as national and local conditions and priorities are updated. Therefore, an updated work plan must be submitted annually for review and approval. This should be done with the application if applying for funding annually.

The work plan is negotiated between the applicant and region. Please note that if an applicant or region proposes a work plan that differs significantly from the program areas, goals, activities, or performance measures in this Guidance, the region must consult with the appropriate National Program Manager (OPP and/or OECA) before agreeing to the work plan. The components of the work plan are specified in the FIFRA template.

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E. Accountability under the State/Tribal Cooperative Agreement

According to 40 CFR 31.20, applicants must expend and account for funds awarded in accordance with state/territory/tribal laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures must be sufficient to: (1) track the expenditure of funds separately for at least the certification program, the other required program areas, and for each additional program area activity funded; (2) permit preparation of Financial Status Reports required by the regulations; and (3) permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Applicants must state in their application that they will ensure that the activities detailed in 40 CFR 31.20 will be followed.

Applicants must maintain accounting records for funds awarded for each component under each agreement including: receipts, matching contributions, and expenditures in accordance with all applicable EPA regulations and generally accepted accounting principles.

For continuing programs, a proper filing system should be in place to maintain accounting information at the start of the project period. New applicants must submit a description of the accounting filing system with their cooperative agreement application and the system should be evident within three months of the start of the project period.

The expenditures under the agreement must follow cost categories (i.e., budget line item or program elements) established in the original agreement, except as provided for in 40 CFR 31.30, recipients and sub-recipients can re-budget within the approved direct cost budget. Certain types of changes require prior approval [see 40 CFR 31.30(c) through 31.30 (f)].

F. Quality Management Plans (QMPs) and Quality Assurance Project Plans (QAPPs)

For projects involving environmental programs, EPA assistance agreement recipients must have a quality system in place conforming to the American National Standard Institute ANSI/ASQC E4-2004, Quality Systems for Environmental Data and Technology Programs-Requirements with Guidance for Use. This quality system shall be applied to all environmental programs within the scope of the assistance agreement. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

DOCUMENTATION NEEDED FROM APPLICANT:

1. All applicants applying for EPA assistance need to submit a Quality Management Plan (QMP) prepared in accordance with the specification provided in EPA Requirements for Quality Management Plans (QA/R-2) http://www.epa.gov/quality/qs-docs/r2-final.pdf, which describes the quality system implemented by the grantee.
2. The QMP will be reviewed and approved by the EPA Project Officer and the EPA Quality Assurance Manager as a condition for award of any assistance agreement. The QMP must be submitted as part of the application. If the QMP is not submitted as part of the application and the Agency decides to fund the project, the EPA will include a term and condition in the assistance agreement. This term and condition requires the applicant to submit the QMP within a specified time after award of the agreement and notifies the applicant work cannot begin involving environmental programs until the EPA Project Officer informs them that the QMP has been approved.

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3. The Assistance Agreement requires the applicant to submit Quality Assurance Project Plans (QAPPs) to the EPA for review and approval by the EPA Project Officer and EPA Quality Assurance Manager before undertaking any work involving environmental measurement or data generation. QAPPS must be prepared using EPA Requirements for Quality Assurance Project Plans (QA/R-5) http://www.epa.gov/quality/qs-docs/r5-final.pdf.
4. Approval of the applicant's QMP by the EPA Project Officer and the EPA Quality Assurance Manager, may allow delegation of the authority to review and approve QAPPs to the applicant based on procedures documented in the QMP.

AGENCY DOCUMENTATION:

The QMP for the EPA organization providing the financial assistance must define the process to be used to ensure that the assistance agreement adequately addresses Quality Systems issues and complies with ANSI/ASQC E-4. In addition, the QMP must describe how the EPA organization will conduct oversight of the assistance agreement to assure its implementation as documented.

The same QMP must also define the respective responsibilities of the EPA Project Officer and the EPA Quality Assurance Manager in reviewing and approving QMPs and QAPPs submitted to the EPA Project Officer for review and approval. Request for information or questions should be addressed to Denise Rice (703-347-0282) or rice.denise@epa.gov.

COOPERATIVE AGREEMENTS GREATER THAN $200,000

Agency Policy Directive FEM-2012-02 requires grantees applying for cooperative agreements exceeding $200,000 that involve the generation or use of environmental data to demonstrate laboratory "competency". Competency is defined as the ability to apply knowledge and skills when collecting and evaluating data. This can be done either prior to award or after the award if this requirement will delay the beginning activities under the award. More information about this requirement can be found online at: http://www.epa.gov/fem/lab_comp.htm

G. Certification Concerning and Disclosure of "Influencing Activities"

Persons (including state agencies) who request or receive grants or cooperative agreements exceeding $100,000 shall file with the awarding agency a certification that the person has not used, and will not use, federal funds to influence the award of the grant or cooperative agreement. Such persons shall also file a disclosure form if they used, or have agreed to use, non-federal funds to influence the award of the cooperative agreement. Both the certification and the disclosure forms can be found in the application kit online at: http://www.epa.gov/ogd/AppKit/application.htm.

H. Debarment and Suspension Certification

The applicant must include EPA form 5700-49, the Certification Regarding Debarment, Suspension, and Other Responsibility Matters. This form certifies that the applicant is not ineligible for assistance due to disbarment, suspension, or other infraction.

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V. APPLICATION REVIEW PROCEDURES

Beginning October 1, 2014, all applications must be submitted via the Grants.gov website: www.grants.gov . Regions will receive these applications from the Grants.gov site, and will then review the application to ensure all of the required elements have been addressed. For additional information, see Appendix 8, EPA Pesticide State/Tribal Cooperative Agreement Application Review Procedures.

VI. ALLOTMENT OF STATE/TRIBAL COOPERATIVE AGREEMENT FUNDS

Both program and enforcement allotments for states and tribes are based on formulas for many of the program areas. Allotments are made annually and distributed to the regions. Actual final state allocations awarded by the EPA regions may vary from those calculated by the national formulas due to the fact that regions are authorized to shift funds between grantees and across non-enforcement pesticide programs to address local conditions, priorities and special projects not considered in the national formulas. The only exception to this is funding allocated for applicator certification programs. The reasons for varying from the allocations determined by national formulas must be documented by the regions. For more information about the program and enforcement allotment formulas, contact your region or the appropriate National Program Office.

VII. REPORTING AND ENFORCEMENT MEASURES

A. Reporting

Recipients of cooperative agreement funding must submit reports as required by the EPA assistance agreement regulations or as negotiated with the regions. The FIFRA Cooperative Agreement Workplan-Report Template discussed in Appendix 2 may be used for grantee reporting under the FIFRA cooperative agreements. The FIFRA template includes the following reporting forms: the 5700-33H Forms, the Endangered Species Inspections Report Form and the performance measures form (when finalized). While this information is required, grantees can use whatever format they would like for submission of required information until the FIFRA template and forms are approved. Grantees will also enter data into the Certification Plan and Reporting Database (CPARD) for worker safety, and enter data into the Pesticides of Interest Tracking System (POINTS) database for pesticides in water. Information entered into CPARD and POINTS does need not to be repeated in the FIFRA template.

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Table 1, Summary of Reports and Annual Due Dates

TEMPLATE REPORTING FORMS & DATABASES	GRANTEE SUBMISSION DATE TO REGION	REGION SUBMISSION TO FIFRA GRANTS MAILBOX[1]	GUIDANCE IN APPENDIX
End-of-year Cooperative Agreement Evaluation Reports	Annually, as negotiated with the region; within 90 days after project period ends.	February 28th	2
Performance measures form (when finalized) [2]	Annually, as negotiated with the region; within 90 days after project period ends.	January 15th	N/A
EPA 5700-33H Form[2]	Annually, as negotiated with the region; within 90 days after project period ends.	January 15th	9
EPA 5700-33H WPS[2]	Annually, as negotiated with the region; within 90 days after project period ends.	January 15th	10
EPA 5700-33H[2] Container/Containment	Annually, as negotiated with the region; within 90 days after project period ends.	January 15th	11
Endangered Species Inspections Report Form[2,3]	Annually, as negotiated with the region; within 90 days after project period ends.	January 15th	N/A
Certification Plan and Reporting Database (CPARD)	December 31st	N/A	N/A
Pesticides of Interest Tracking System (POINTS)	December 31st	N/A	N/A
Existing Pesticide Water Quality Monitoring Data for consideration in Pesticide Registration Review	As specified on a case by case basis.	As specified on a case by case basis.	5

[1]Regions should submit a copy of their end-of-year reports to the grantees at the same time.
[2] Information contained in these forms may be provided through the FIFRA template or in an alternative format.
[3]This information is required for all grantees whether or not Endangered Species is selected from the pick-list.

Information contained in these reports is used to ensure accountability of resources, verify that cooperative agreements are consistent with this FIFRA Cooperative Agreement Guidance, help support National Pesticide Program goals and performance measures, and provide feedback from the field on the success of regulatory requirements.

Grantees will submit all inspection information annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and submit this information to a joint OPP/OECA mailbox: FIFRA-EOYReports@epa.gov by January 15th each year. Grantees will submit their end-of-year reports to the regions annually, as negotiated with the regions, within 90 days after the grant project period ends. Once regions receive the end-of-year reports from grantees, they will review, comment and submit the end-of-year reports electronically to the same mailbox by February 28th each year.

1. High Level Pesticide Incident Reporting

Recipients are required to report to the regions high level pesticide incidents involving serious adverse effects which may require close cooperation with EPA or other agencies to conduct an investigation or to

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bring the incident to resolution. The region will then forward this information to the Branch Chief of the Government and International Services Branch in OPP, and the Branch Chief of the Pesticides, Waste, and Toxics Branch in the Office of Compliance, in OECA. See Appendix 12, Reporting and Coordination of High Level Pesticide Incidents, for more information.

All high level pesticide incidents must be reported to the regional offices as soon as possible, but no later than 24 hours after the report of the incident. Initial communication regarding the incident should include the location of the incident, the pesticide or substance involved or suspected, the date of the incident, the target site/pest (if there is one), the source of information, a brief description of the incident, a contact person, and when the reporting agency will be able to provide an update.

Information on high level incidents will be useful to OPP to determine if there are patterns of incidents requiring new risk mitigation, such as label changes or additional regulation. For the FY15-17 grant period, investigations involving pollinators are considered high level and should be routinely reported because of the information they may provide as to the causes of pollinator decline. All known or suspected pesticide incidents involving pollinators should be reported to OPP at: beekill@epa.gov with a copy to the regions.

2. Enforcement Measures/Measures eReporting

The Office of Management and Budget (OMB) created the Program Assessment Rating Tool (PART) to enable it to review the effectiveness of government programs. PART was developed to assess and improve program performance so that the federal government could achieve better results. As of FY 2011, OMB no longer requires submission of the PART measures. However, a workgroup, with representatives from EPA, states and regions, developed new enforcement performance measures that will replace the old PART measures. These measures are being finalized in spring 2014 and will be captured in the Work Plan Report-Template when final. Grantees will report on these performance measures annually, beginning in January 2015.

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APPENDIX 1:

SUPPLEMENTAL INFORMATION FOR PROGRAM AREAS

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SUPPLEMENTAL INFORMATION FOR PROGRAM AREAS

This document provides additional information on required and grantee pick-list program areas to supplement the information listed in Sections II and III of the FIFRA Cooperative Agreement Guidance. The goal of this appendix is to provide background information that clarifies the expectation for each program area.

GENERAL INFORMATION

This appendix has two sections "Required Program Areas" and "Grantee Program Area Pick-List". The program areas in these sections are listed in the order they appear in the Guidance, and contain background information that may be useful. The goal, program description and enforcement considerations are listed for each program area.

REPORTING REQUIREMENTS AND PERFORMANCE MEASURES

Recipients are required to report annually on all required program areas, and those program areas selected from the Grantee Program Areas Pick-List. The FIFRA Cooperative Agreement Workplan-Report Template discussed in Appendix 2 may be used for grantee reporting under the FIFRA cooperative agreements. In some cases, there are additional reporting requirements notated in the program area descriptions below. Some of these program areas may also require specific information for performance measures associated with that program.

REQUIRED PROGRAM AREAS

There are six required program areas described below which correspond with Section II of the FY 2015-2017 FIFRA Cooperative Agreement Guidance on page 5.

1. BASIC PESTICIDE PROGRAM

A. Goal

The Basic Pesticide Program and the activities described in this section of the Guidance supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

The baseline activities mandated for the "Basic Pesticide Program" are those activities that are considered regular, routine work which is unlikely to change much from year to year. However, these activities are also those that EPA believes are necessary to maintain a viable and credible pesticide regulatory and enforcement field program, to achieve environmental results and support the National Pesticide Program's performance measures.

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All grantees are expected to invest some level of effort to support Basic Pesticide Program activities and these activities must appear in grantee work plans. The level of effort and resources devoted to the basic program activities may be negotiated between the grantee and EPA regional offices.

i. Laboratory Support

Each year, EPA provides a small grant on a rotating basis to state labs that support pesticide monitoring and enforcement activities. Traditionally, the funds have been used to support the purchase of lab equipment. Today, the funds may now be used to support the pesticide monitoring and enforcement activities of the lab beyond the purchasing of equipment. The funds cannot be used by other parts of a state's pesticide enforcement program, and must comply with all appropriate grant regulations and policies.

C. Enforcement Considerations

EPA's Strategic Plan Goal 5 is to enforce environmental laws. The pesticide compliance and enforcement activities grantees perform help monitor, identify, correct, and deter noncompliance and reduce chemical risks. Compliance monitoring activities help support other Agency goals including reducing chemical risks and protecting underserved and vulnerable populations. Grantee activities should be consistent with the national Compliance Monitoring Strategy when finalized.

i. Technical Assistance

The region and grantee should agree on the technical assistance activities to be conducted where appropriate. These activities may include:

- Provide outreach materials to improve compliance, for example, in areas where regulatory requirements are new or violations are occurring due to a lack of understanding;
- Conduct seminars or public meetings with the regulated industry to explain requirements or answer questions;
- Conduct compliance assistance activities;
- Provide remedial training for violators; and
- Develop programs which reflect the EPA's policies on self-audits.

When new EPA policies are issued, grantees are encouraged to reflect such policies within their programs as warranted.

Grantees are encouraged to use the National Agriculture Center (Ag Center) services to support technical assistance. The Ag Center was developed by OECA to help producers of agricultural commodities comply with all environmental requirements, prevent pollution before it occurs, and reduce costs associated with compliance by identifying flexible, common-sense ways to achieve compliance. The Ag Center provides information and technical support to state regulatory programs to assist them in meeting the compliance assistance needs of their regulated agricultural communities.

The Ag Center relies on existing distribution mechanisms, such as USDA-Extension, state pesticide regulatory agencies, and crop consultants to communicate information to the agricultural community. Grantees should include in their compliance programs a commitment to work, through the regions, with the Ag Center to identify information/compliance assistance needs and to help field test materials.

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Grantees are also encouraged to provide feedback to the Ag Center on its services to ensure their needs are being met. For more information visit the Ag Center website at: http://www.epa.gov/oecaagct/agctr.html

ii. Types of Inspections

Common inspections include the following:

Targeted Producer Establishment Inspections (PEIs): These inspections should be targeted with the intention of conducting inspections at all PEIs over an extended period of time on a routine cycle. Emphasis on PEIs focuses resources at the source of the product and therefore, assures product label changes have been incorporated, products are registered, product labels and labeling are in conformance with their registrations, and assures the integrity of the products. Grantees should request that the regions provide name, address and products reported as produced at that establishment for each PEI prior to an inspection. Because pesticide production data is generally treated as confidential business information (CBI), grantees should not attempt to collect production data on the amount produced at the establishment if the inspection is conducted utilizing FIFRA credentials and citing FIFRA inspection authority. State and tribal inspectors may request that production information be sent to the regional office for verification. If the establishment reports unregistered pesticides being produced for export the inspector should document Foreign Purchaser Acknowledgement Statements (FPAS) for the unregistered products.

Contract Manufacturers: Contract manufacturing is a common practice within the industry. Any person producing a pesticide under contract to the registrant, whether as a toll manufacturer, supplemental registrant, or refilling establishment is an agent of the registrant and as such, is held to the standards imposed on the registrant at the time of registration. Contract manufacturing is typically carried out through contractual agreements but often without rigorous oversight by the registrant. This lack of oversight can lead to adulterated, misbranded or even unregistered products being sold or distributed. The resulting pesticide products may pose unreasonable risk to health or the environment. Inspections targeted at contract manufacturing facilities will help ensure that all pesticide production at such facilities is appropriately regulated.

Dealer/Distributor/Retailer (Marketplace) Inspections: These inspections should be conducted on a routine basis to ensure product packaging and labeling compliance as well as compliance with container/containment regulations, custom blending policies, and requirements for the sale of restricted use pesticides. In addition, potential violations found in advertisements, including e-commerce ads, as well as tips/complaints, may require investigation and enforcement action.

E-Commerce: In order to assure compliance with FIFRA, these entities (both large and small) must be aware of the basic regulatory requirements of FIFRA. The Association of American Pesticide Control Officials (AAPCO) in cooperation with the EPA has developed an outreach/compliance assistance guidance intended for widespread distribution to pesticide e-commerce sites. It is intended to provide the e-vendor or the potential e-vendor with the basic requirements for selling or distributing pesticides and pesticide services under state and federal laws.

In addition, EPA developed e-commerce compliance/enforcement strategy documents. Contact the regional office for more information on these documents. They ensure that pesticides and pesticide services are marketed in accordance with state and federal laws and regulations. The goal is to ensure

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that pesticides that are distributed and sold in e-commerce are treated the same as pesticides marketed in the more traditional manner. Grantees should include inspections of websites selling pesticides and pesticidal products as part of their core marketplace inspections.

Misuse: States and territories (but not tribes) have primary responsibility under FIFRA for pesticide use violations. Tribes with pesticide enforcement cooperative agreements with the EPA will be accorded the same responsibility to investigate and take enforcement action in instances of pesticide use violations as states have under FIFRA's primacy provisions, if they have tribal laws and regulations governing use violations on tribal lands. Investigations conducted by tribal inspectors using the EPA credentials must be turned over to the regional office for enforcement action. States should continue to address pesticide use violations, particularly as it relates to WPS, food safety, structural pest control, and drift.

States and regions should review their current criteria for Section 27 referrals and ensure that they address any allegations of adverse effects on human health especially those involving agricultural pesticides and WPS violations. The criteria for Section 27 should also address those instances of serious harm to humans or the environment which the state becomes aware of first. Both regions and states should track tips/complaints received and their disposition. See additional information provided on Section 26 and 27 below.

Imports: When requested by a region, grantees should conduct inspections for imported pesticides with special emphasis on determining if a pesticide is registered in the United States, and the uses on the label are consistent with the FIFRA approved label. These may include shipments detained at ports of entry or foreign trade zones that the region has determined through Notices of Arrival or other information may be in violation of FIFRA. Import inspections conducted by states or tribes must be done using federal EPA credentials and EPA forms.

Antimicrobial Pesticides: Antimicrobials are used in homes, hospitals, cafeterias, restaurants, and many other institutions. While all pesticide products are required to work as claimed by the manufacturer, the EPA is particularly concerned about the effectiveness of antimicrobial pesticides because their efficacy is not easily observable, and because of the public health implications. Grantees may be asked to collect samples as needed to ensure efficacy of these products.

Cancellations, Suspensions, Other Major Regulatory Actions, Recalls, and National High Risk Initiatives: Grantees are required to implement cancellation or suspension orders, National Compliance Strategies for canceled or suspended pesticide products and other major regulatory actions. Grantees will conduct inspections and other compliance monitoring activities to assure compliance with major pesticide regulatory actions within the time frames specified in the nationally issued Compliance Monitoring Strategies. Inspections and other compliance monitoring activities may address: (a) major cancellation actions; (b) all suspensions under FIFRA Section 6; (c) FIFRA Section 3(c)(2)(B) suspensions; and (d) other major pesticide regulatory actions (i.e., label improvement programs, etc.).

EPA may require registrants and distributors to recall pesticide products which have been both suspended and canceled. Once these recall requirements are effective, grantees will need to inspect for compliance and enforce where applicable. This applies only to pesticides suspended under Section 6. Once these recall requirements are effective, the grantees and regional offices should discuss the relative priority of the different activities being conducted under their enforcement cooperative agreement and

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renegotiate work activities as appropriate. Recommended procedures for recalls and disposal are found in 40 CFR Part 165. Violations of EPA recalls should be referred to the appropriate region. Grantees may also be requested to participate in national initiatives to address specific risks. OECA will work with regions and grantees to develop and implement such initiatives. Because the workload in this area cannot be anticipated in advance, it is understood that grantees may renegotiate the outputs in the cooperative agreement upon receipt of requests to conduct activities in the above areas.

iii. Monitoring Section 18 Exemptions, Section 24(c) Registrations, and Experimental Use Permits

Both federal and state agencies may be exempted from any provision under FIFRA by the Administrator if an emergency condition exists. Each work plan should reflect how the grantee plans to monitor and follow-up on *Section 18 exemptions* to ensure compliance with the terms and conditions of Section 18s within the state, especially suspected misuse violations. The number of Section 18 inspections should be negotiated between the region and the grantee.

Section 24(c) allows the state to register additional uses of currently registered pesticides in their state. If the 24(c) uses proposed by the state are approved by EPA, the state shall monitor the sale, distribution and use of the particular pesticide in accordance with the 24(c) requirements. Each cooperative agreement work plan should reflect how the state plans to monitor and follow-up on Section 24(c) registrations to ensure compliance with the terms and conditions of Section 24(c)s within the state, especially suspected misuse violations. The number of Section 24(c) inspections should be negotiated between the region and the grantee.

Section 5 allows any person to apply for an *Experimental Use Permit (EUP)* to accumulate information necessary to register a pesticide. If approved, the EUP contains terms and conditions for the distribution and use of the experimental pesticide. Each work plan should reflect how the grantee plans to monitor and follow-up on EUPs to ensure compliance with the terms and conditions of the EUP, especially suspected misuse violations. The number of EUP inspections should be negotiated between the region and the grantee.

iv. Section 27 Referrals

Section 27 of FIFRA requires EPA to refer to the states any information the Agency receives indicating a significant violation of pesticide use laws. In accordance with the Final Interpretive Rule governing FIFRA Sections 26 and 27, EPA in consultation with each state should identify, in writing, criteria for formal referral to the state. These criteria should consider those pesticide activities in the state that present the greatest potential for harm to health and the environment. The negotiated written agreement between the state and the region should contain the criteria for the selection of significant pesticide use cases.

All pesticide use cases identified as "significant" will be referred to the state by EPA in writing, and will be formally tracked as set forth in the OECA's Final Interpretive Rule. All other cases will be referred to the state and will not be formally tracked under Section 27.

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2. PESTICIDE WORKER SAFETY: WORKER PROTECTION STANDARD

A. Goal

The goal of this program area is to prevent or reduce occupational pesticide exposures, incidents and illnesses from pesticides, especially ones that pose high risks or high exposures to workers and handlers. Activities to support worker safety and the competence of pesticide applicators are key contributors to Goal 4 of the Agency's FY14-18 Strategic Plan, Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

The pesticide worker safety priority area is also a key part of OPP's overall work to support the Agency's Environmental Justice efforts. The WPS program is critical to assuring that agricultural farmworkers, which represent some of the most economically disadvantaged people in the U.S., are protected from occupational pesticide hazards. Grantee activities, such as outreach and education efforts to this environmental justice community, are important to help protect this vulnerable population from occupational pesticide hazards and ensure their safety in the workplace.

B. Program Description

Ensuring effective implementation of the Agency's pesticide worker safety program remains a high priority for EPA and is important to the Agency's overall strategy to ensure chemical safety, prevent pollution, advance environmental justice and protect children's health. The principal means for accomplishing the Agency's worker safety program goals is through implementation of the Worker Protection Standard (WPS) and Pesticide Applicator Certification regulations (40 CFR Parts 170 and 171). Additional information of the pesticide WPS Program can be found at http://epa.gov/pesticides/health/worker.htm. For more information on pesticide applicator certification, visit: http://www.epa.gov/oppfead1/safety/applicators/applicators.htm

As resources allow, grantees are also encouraged to undertake work on one or more of the optional activities listed. The Agency believes these optional activities will enhance program implementation and lead to better overall protection for pesticide workers. Grantees with high populations of farmworkers or unique pesticide worker safety issues should consider a higher level of activity in this program area.

i. Supporting WPS Worker & Handler Training

Materials for Training Providers: Grantees will assist with the distribution of WPS training materials and coordinate with employers and WPS training providers to assure adequate WPS training is occurring and that sufficient WPS training materials and resources are available. Grantees should provide information to WPS covered establishments and WPS training providers on how to obtain WPS training materials from EPA's Agricultural Center (www.epa.gov/agriculture or 1-888-663-2155).

Grantees should also consider the additional optional activities listed below to greatly enhance their WPS program:

- Support WPS Train-the-Trainer Programs. The EPA encourages grantees to support WPS train-the-trainer (T-t-T) programs that will improve the quality of WPS trainers and WPS training programs. In association with a cooperative agreement partner, OPP carried out a national T-t-T pilot that led

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to the development of a national model WPS T-t-T program for WPS worker training (includes national T-t-T instructor handbook and companion materials). The EPA encourages grantees to promote and use the materials to establish WPS T-t-T programs and support existing programs.

- Work with Community-Based WPS Training Providers. Grantees should work with community-based training providers, such as AFOP/Americorp and other groups, to assure training providers are meeting WPS requirements and any applicable grantee requirements. Training providers should also be appropriately linked with members of the agricultural community so their services can be utilized more effectively.

- Develop Cooperative Relationships with Farmworker Service Organizations. Grantees should identify and work with groups that provide services to farmworkers to establish cooperative relationships and better communications and linkages. Establishing such relationships could result in more productive communication networks that will support the objectives of the program and promote better coordination on occupational pesticide incidents and/or WPS complaints.

- Support the National Strategy for Outreach to Health Care Providers. The National Strategy for Outreach to Health Care Providers is an important component of the Agency's pesticide worker safety program. It is the cornerstone of the EPA's effort to improve recognition and management of pesticide poisonings by health care providers, and is key to facilitating better communications regarding pesticide incidents.

ii. Part 170 Worker Protection Standard (WPS) Rule Requirements and Changes

The Agricultural Worker Safety Program includes the Worker Protection Standard (WPS, 40 CFR Part 170) regulations and the Pesticide Applicator Certification (40 CFR Part 171) regulations. In effect since 1992, the WPS regulations are intended to protect workers on farms, forests, nurseries, and greenhouses from occupational exposure to pesticides. Agricultural workers are exposed to pesticide residues on plants or when mixing, loading or applying pesticides. More than 2 million farmworkers nationwide receive protections under this regulation.

On February 20, 2014, EPA announced proposed regulatory changes to the Worker Protection Standards that address pesticide safety training, notification, communication materials, use of PPE, and decontamination supplies. These amendments are intended to reduce the severity of pesticide exposure and prevent unreasonable adverse effects among agricultural workers, pesticide handlers and vulnerable groups, including minority and low income populations, farmworker children, farmworker families and the general population. Grantees are encouraged to provide input and comments on the proposed regulatory changes to the Agency. Grantees should conduct outreach on the proposed rule and its contents to the regulated community and WPS program stakeholders. Grantees will be expected to implement changes once the rule is published as final and the new requirements go into effect.

C. Enforcement Considerations

EPA's goal for the Worker Protection requirements is to help create a safe work environment in which agricultural workers, their employers, and pesticide handlers can perform tasks without concern about pesticide exposure. For this reason, grantees must conduct agricultural use inspections focused on WPS compliance. Enforcements activities include:

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- Grantees should track each WPS inspection as either a Tier I or Tier II inspection. WPS tips and complaints should be included in establishing a priority setting plan.

- The appropriate number of inspections to be conducted should be consistent with the number of farms and farm employees covered by WPS. The appropriate number of WPS inspections is to be negotiated between grantees and regional offices.

- Routine Tier I WPS use inspections should be conducted so as to assure coverage of agricultural establishments regulated under the WPS. Grantees should focus their worker protection compliance monitoring activities on the types of establishments where high risk pesticides are used or high exposure scenarios are encountered (i.e., areas that have the highest likelihood of pesticide worker and handler risk). Examples include: (1) timing inspections during periods of pesticide application to ensure compliance with key worker provisions; (2) visiting sites with labor intensive crops and/or those crops that traditionally require a lot of hand labor; (3) timing inspections during the growing season to coincide with high risk labor practices and worker exposure scenarios; and (4) timing inspections during times when high risk pesticides would be applied at a specific time of year as a matter of general crop practice.

- States should follow the EPA WPS Agricultural Inspection Guidance. State enforcement actions should be reported in the work plan accomplishments report with a brief narrative description about each noteworthy civil or criminal penalty enforcement action resulting from a WPS inspection. The EPA believes that it is important to communicate to the public the impact of the WPS compliance and enforcement program to protect pesticide workers beyond numerical targets.

- States should provide information on the number of other enforcement actions resulting from WPS inspections such as stop sale/use orders and warning letters in each of the reporting categories.

- Particular attention should be given to follow-up inspections at agricultural establishments where prior enforcement actions for WPS violations were taken. Follow up inspections should occur in a timely manner as the grantee deems appropriate.

A regional review of WPS actions should be included as part of mid- and end-of-year regional reviews to ensure enforcement actions are consistent with state enforcement response policies. Regions should review no less than 10 percent of the case files as part of their oversight responsibilities.

3. PESTICIDE WORKER SAFETY: PESTICIDE APPLICATOR CERTIFICATION

A. Goal

The goal of this program area is to prevent or reduce pesticide exposures and incidents to humans and the environment by increasing the competence and expertise of applicators/handlers of restricted use pesticides. The Pesticide Worker Safety Program: Pesticide Applicator Certification and the associated activities also support the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

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B. Program Description

Grantees must assure pesticide applicator certification programs are being implemented and maintained in accordance with their EPA approved certification plans. Certification plans and programs should be updated as needed to address current competency standards, national security concerns, and emerging regulatory issues or requirements. As part of this activity, grantees should assure applicator exams are updated as needed, and they should coordinate with training providers to assure applicator training materials/programs are updated as needed.

Grantees must assure their State/Tribal Certification Plans are maintained and kept current within the Certification Plan and Reporting Database (CPARD) in accordance with the requirements in 40 CFR Part 171. Grantees should update their plans in CPARD annually, making any necessary updates and all pertinent information to reflect any changes to their Certification programs and plans made during the year. Additionally, grantees must use the database system for submitting their required annual Certification Program accomplishment reporting information. Grantees should work with their region if any technical assistance is needed for using CPARD.

Grantees will monitor initial certification and recertification training programs to assure the quality and consistency of training programs, and they should participate in applicator training programs as resources permit. Grantees will work with training providers to assure training programs are providing the information required to assure appropriate applicator knowledge and competency.
Additional optional suggested activities include:

- The Pesticide Applicator Certification proposed rulemaking package is expected to be published in 2016. Grantees are encouraged to provide input and comments to the Agency when the proposed amendments are published for comment. Grantees should conduct outreach on the proposed rule and its contents to the regulated community and applicator certification program stakeholders. Grantees will be expected to implement any changes when the rule is published as final and the new requirements go into effect.

- Promote Integrated Pest Management (IPM) concepts in applicator certification programs. The EPA encourages grantees to promote voluntary adoption of IPM concepts and principles in their pesticide applicator certification and recertification training materials and programs to raise awareness about and adoption of IPM. Grantees should consider the following activities to promote IPM: review/revise initial certification programs to assure adequate coverage of IPM; and review/revise recertification training programs to assure adequate coverage of IPM concepts and principles, and making IPM-related outreach and education materials and resources available to applicators.

- Support Certification and Training Assessment Group (CTAG) projects. The Agency continues to actively work on projects and activities stemming from the CTAG process and recommendations. Grantees should keep abreast of the ongoing CTAG projects and activities and identify potential opportunities for collaboration with the EPA and CTAG. Grantees should also provide input and comment on CTAG issue papers and other CTAG documents. NOTE: Visit the CTAG website for more information about activities and opportunities for involvement (http://www.ctaginfo.org).

- Undertake efforts to measure program outcomes. Grantees should consider conducting program assessments or developing program measures that help document certification program outcomes. This may include such things as developing processes to document positive behavior change as a

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result of training and/or certification, or developing pre- and post-test evaluations for certified applicators that may help document the increased competency that resulted from certification and training.

- Use exam development and validation principles. Where resources permit, grantees should use exam development and validation principles to revise their applicator exams and help lead to improved competency of applicators.

C. Enforcement Considerations

Monitor compliance with certification requirements, and focus on sale/distribution of restricted use pesticides (RUPs) to applicators in fumigation sector(s) of concern due to the high potential for severe, acute incidents from exposure.

D. Specific Reporting Requirements

The annual Certification Program accomplishment reporting information must be entered into CPARD annually by December 31st of each calendar year **regardless of the actual grant project period**. By properly and completely filling out the reporting section of the CPARD system, states/tribes will provide the annual C&T accomplishment reporting information that contains all of the information required by Part 171. States and tribes should work with their regional office to get any technical assistance needed to assure they can access and properly use the CPARD system.

4. PESTICIDE CONTAINER AND CONTAINMENT REGULATIONS

A. Goal

The goal of this program area is to prevent or reduce pesticide exposures to humans and the environment due to damaged pesticide containers and pesticide spills or releases. The Container-Containment Rule Implementation supports Goal 4 of the Agency's FY14-18 Strategic Plan, Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5, Enforcing Environmental Laws.

B. Program Description

The Agency published a final rule on Standards for Pesticide Containers and Containment Structures on August 16, 2006, and amended the rule on October 29, 2008. Compliance with the full Container and Containment Rule was required by August 16, 2011. Therefore the activities associated with existing regulations and most of the work will be related to inspections, enforcement and reporting.

The Pesticide Container and Containment Rule established requirements for pesticide container design and filling/refilling procedures, and labeling standards and language to facilitate the removal of pesticide residues from containers prior to disposal or recycling. The rule also established requirements for containment of stationary pesticide containers and procedures for container refilling operations. These requirements provide greater protections to users of pesticides and to the environment by mandating better management and disposal of pesticides and pesticide containers and preventing the release of pesticides to the environment in the event of leaks or spills.

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Grantees will work to ensure compliance with current container/containment requirements, will provide outreach materials when requested, and will notify EPA of any changes to state regulations and tribal codes. Many outreach materials are available on EPA's Pesticide Container and Containment website.

i. Change in State Regulations and Tribal Codes

States that are changing their state regulations and tribes that are changing their tribal code to implement the container and containment regulations should keep OPP, OECA and regions informed as they adopt these changes.

States with Equivalent Containment Regulations. (Compliance date 8/17/2009) As required in 40 CFR 165.97(d), the 21 states determined to have state pesticide containment regulations that are equivalent to the federal containment regulations must notify EPA within six months of any revision to the state's containment regulations by sending a letter to the director of EPA's Office of Pesticide Programs.

States and Tribes that are Implementing the Federal Containment Regulations. (Compliance date 8/17/2009) States and tribes that are adopting the federal regulations by reference into their state regulations or tribal code or that are drafting state or tribal pesticide containment requirements should keep EPA HQ and Regions informed of their plans and progress.

Residue Removal Compliance Programs under FIFRA Section 19(f)(2). (Compliance date 8/17/2011 for both the residue removal requirements in the label regulations and the residue removal requirements in the repackaging regulations) States that are revising state regulations or statutes to establish a program that is adequate to ensure compliance with the residue removal requirements under FIFRA Section 19(f)(2) should keep the EPA region informed of their plans and progress.

C. Enforcement Considerations

For FY2015-2017, grantees should focus on product and user compliance with special emphasis on agricultural retailers/distributors that repackage pesticide into refillable containers, as well as RUP and Tox 1 category products. This emphasis was selected to focus on the highest risk, both in terms of the hazard of the pesticides and the sector that does the most repackaging of all pesticides into refillable containers.

The Agency is aware that certain states may have inspectional jurisdiction for pesticide containment and pesticide production or labeling divided between two state agencies. When inspectional jurisdiction is divided, the state lead agency should coordinate with other state entities having inspectional jurisdiction to ensure that the state agencies are working in cooperation. In states where this situation occurs, the state lead agency should note the jurisdictional issues, that the other agency is aware of the requirements, and report on the relevant activities of each state agency.

5. SOIL FUMIGATION AND SOIL FUMIGANTS

In 2009, EPA issued an amended Registration Eligibility Decision (RED) for the soil fumigants methyl bromide, chloropicrin, metam sodium/potassium, and dazomet. This action required a series of risk mitigation measures implemented through label changes which should now be reflected on products in the marketplace and followed by soil fumigant users.

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A. Goal

The goal of this program area is to prevent or reduce incidents resulting from soil fumigation exposures. This program area supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

Grantees in high soil fumigant use states that believe additional outreach is necessary to the outreach efforts already completed should take additional steps. High use states (California, Washington, Idaho, Oregon, Wisconsin, Michigan, Florida, Minnesota, North Carolina, Virginia, Arizona, Nevada, Georgia, Colorado, and North Dakota) should ensure the regulated community is fully informed about new label requirements and that appropriate mechanisms exist to provide technical assistance and ensure compliance with the new soil fumigation use requirements. Ensuring state/territory/tribal officials and fumigant users understand the new label requirements is an important component of the risk mitigation.

i. Technical Assistance

Grantees in high use states should provide technical assistance to pest management professionals, public health advocates, the general public, or other stakeholders. Grantees should consider:

- providing education and outreach to affected agricultural and commercial pesticide handling establishments about new risk mitigation labeling requirements;
- providing outreach to health care providers that treat fumigant exposure-related illnesses;
- establishing community-based grant programs; and
- employing other innovative approaches to promote compliance.

Where feasible, grantees should use materials already developed and available at the Soil Fumigant Toolbox website. To assure efficient use of resources, grantees should take steps to avoid duplication of efforts in developing any new outreach or presentation materials already available at the Soil Fumigation Toolbox website and by consulting with the OPP/PRD's soil fumigant team, regions, and other grantees where possible. Where appropriate, grantees should contribute relevant information to the soil fumigant team for possible addition to the Soil Fumigant Toolbox.

C. Enforcement Considerations

Reducing risk is ultimately accomplished through compliance with and enforcement of new labels that require protective buffer zones around treated fields, comprehensive fumigation management plans for applications, and training for certified applicators supervising fumigations, among other measures. Grantees should conduct use inspections to ensure compliance with the new soil fumigation label requirements. Grantees should also consider establishing relationships with other federal, state, tribal and local agencies within their region to assist in compliance and enforcement activities.

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6. PESTICIDES IN WATER

A. Goal

The goal of the Pesticides in Water Program is to ensure that pesticides do not adversely affect the nation's water resources and pose a risk to human health or the environment. Reducing the concentration of pesticides in urban and agricultural watersheds is a strategic target in the Agency's FY14-18 Strategic Plan (see Section E below), and supports Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws. Work in this program area will protect the environment by implementing EPA's statutes and taking regulatory actions to ensure pesticides continue to be safe and available when used in accordance with the label.

B. Program Description

Grantees are required to conduct the following activities consistent with the level of effort negotiated with the EPA regional office and reflected in the work plan:

1. **Submit Existing Data:** Provide OPP any existing water monitoring data for pesticides that are undergoing registration review and that were not already submitted to EPA or readily accessible to OPP.
2. **Evaluate Pesticides of Interest:** Identify ***pesticides of concern*** (POC) over time by evaluating a list of ***pesticides of interest*** (pesticides which have potential to threaten local resources) to determine if those pesticides may be found at concentration levels locally that are approaching or exceeding ***reference points*** and therefore are a threat to local water quality.
3. **Manage Pesticides of Concern:** Over time, actively manage ***pesticides of concern*** beyond the label to reduce or prevent further contamination of local water resources.
4. **Demonstrate Progress:** Show the management strategy has been effective in reducing or maintaining concentrations below ***reference points***.
5. **Report Progress:** Enter progress of evaluations, management of pesticides of concern, and effectiveness of management strategies into POINTS annually.

These terms and activities are more fully explained below.

Where appropriate, grantees are encouraged to consult with or coordinate prevention and protection of water resources with other agencies with responsibilities for water resource protection.

1. Submit Existing Data

Grantees should provide OPP with any existing water monitoring data they may have collected for pesticides that are undergoing registration review and that has not already been submitted to EPA, available in the Agency's STORET (short for STOrage and RETrieval) Data Warehouse, linked in the Pesticide of Interest Tracking System (POINTS), or available through other data sources readily accessible to OPP. Providing OPP access to existing water quality monitoring data will help ensure that the Agency has the best available information when conducting its pesticide risk assessments and making registration review decisions.

Ideally, monitoring data sets should be provided in electronic format, i.e., a readable database format that is easy to import into a spreadsheet. Grantees may submit a link to a website, forward electronic

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data files to OPP's water monitoring mailbox at: OPPWaterMonitoringData@epa.gov, or submit data through another method mutually agreed upon by the grantee and EPA. The Agency would like access to all water monitoring data a state or tribe may have collected relevant to pesticides going through registration review. However, water monitoring data would be most useful for risk assessment purposes if it included the following:

- Location (latitude & longitude, if possible, or other reliable location information);
- Sample media (e.g., water, filtered water, bed sediment, tissue);
- Water body type (stream, river or other flowing body; lake, reservoir, or other static body; ground water, nature of aquifer, e.g., surficial or confined);
- Date sampled (month/day/year), and time if available;
- Chemical analyzed and reported concentration;
- Analytical method used and detection limit or limit of quantitation;
- Study objective (i.e., purpose and design of the monitoring study); a copy of a report describing the purpose and design of the monitoring study or internet web address leading to this information would be useful if available;
- Depth to water level for groundwater;
- Well characteristics including well depth, screened interval, and aquifer type if known (e.g., confined vs. unconfined); and
- Well purpose (e.g., ambient vs. drinking water).

A complete set of desirable data characteristics and procedures for submitting water quality monitoring data can be found in Appendix 5, OPP Guidance for Submission of State and Tribal Water Quality Monitoring Data, or online at: http://www.epa.gov/oppsrrd1/registration_review/water_quality_sop.htm.

2. *Evaluate Pesticides of Interest*

Over time, grantees must conduct an evaluation of all ***pesticides of interest*** to determine whether a human health or environmental ***reference point*** is *likely* to be approached or exceeded in localized areas of a state or tribe, and the pesticide should be elevated to a ***pesticide of concern***. Pesticides that are determined to be a pesticide of concern will need to be managed by the grantee as described in subsection 3 below.

Pesticides of interest are those pesticides that have the *potential* to occur in ground or surface water at concentrations approaching or exceeding a human health or ecological ***reference point***. A pesticide of interest could be an active ingredient alone or the active ingredient collectively with degradates of toxicological concern. For the purposes of this FIFRA Grant Guidance, ***pesticides of interest*** are those pesticides that have been identified by the states in the survey conducted by SFIREG in 2005 (listed in Appendix 6), plus any others that are the cause of water quality impairments under CWA §303(d) within the state or tribe, those identified by OPP as a water quality concern during reregistsration and registration review, and any other pesticides a grantee wishes to add.

The ***reference point*** is used to judge the severity of contamination with regard to potential human health or aquatic life effects. Human health reference points may be based on values such Maximum Contaminant Levels (MCL: http://water.epa.gov/drink/standards/hascience.cfm), Health Advisory Levels (HAL); human health benchmarks (www.epa.gov/pesticides/hhbp), or state/tribal water quality criteria or standards. Aquatic life reference points may be based on values such as EPA Office of Water

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aquatic life criteria (http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm), OPP aquatic life benchmarks (http://www.epa.gov/oppefed1/ecorisk_ders/aquatic_life_benchmark.htm), or state/tribal water quality criteria or benchmarks.

In most cases, evaluations of pesticides of interest can be based on available monitoring data from within a state or tribe. An evaluation may also be based on the pesticide's environmental fate and use patterns, performance in the field, available prospective monitoring studies, peer-reviewed scientific literature, modeling data, or monitoring results and experience from other states or tribes with comparable conditions.

In reviewing the list of pesticides of interest, if states or tribes believe there is no reasonable exposure expected (due to factors such as soil type, use pattern, or volume of use), this will be considered having conducted an evaluation. The pesticide would not need to be elevated to a pesticide of concern, and no further management will be required. If a state or tribe previously conducted an evaluation of a pesticide of interest prior to this Guidance, this will also be considered having completed an evaluation.

An evaluation is considered complete once the grantee makes a conclusion that the pesticide of interest is or is not likely to approach or exceed a human health or environmental reference point in localized areas of a state or tribe, and therefore whether the pesticide should be elevated to a pesticide of concern and managed. For purposes of the performance measures described in the sections below, a pesticide can only be counted as "evaluated" once. However, grantees should **re-evaluate** the pesticide if there is new information (e.g., new hazard data, new EPA risk assessment indicating a pesticide water quality concern), new use patterns, or increased risk of exposure for the pesticide. Typically, regions do not need to negotiate specific commitments in the work plans for re-evaluations. However, the number of re-evaluations should be reported by the grantee as described in the sections below entitled, "Reporting Requirements" and "Performance Measures."

After evaluation, if a grantee finds the pesticide that is the cause of a water quality impairment under CWA §303(d) is not of concern, this information should be shared with the state water agency with responsibility for managing the list.

Any data sets or technical reports used in support of the listing decision or which may be of value in delisting the pesticide should be shared with OPP for consideration in the registration review process. A list of active ingredients that are scheduled for registration review can be viewed at: http://www.epa.gov/oppsrrd1/registration_review/schedule.htm

Over time, EPA will be looking for states and tribes to evaluate 100% of the *pesticides of interest.* Grantees will negotiate the schedule of evaluations and level of effort with the regions to reflect differences in their capabilities, available information, program authorities, resources available, and the relative priority of their pesticides in water concerns in relation to other pesticide concerns that may exist. However, grantees should place priority on evaluations of pesticides of interest for which water quality concerns are identified in FIFRA reregistration or registration review.

3. Manage Pesticides of Concern

Pesticides that are identified as a concern following the evaluation must be managed. At the state or tribal level, a pesticide is ***actively managed*** when extra or focused activities are carried out to prevent or reduce contamination of water by a particular active ingredient so that it is prevented from reaching the

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water quality standard or other reference point, or brought below the reference point. Where appropriate, grantees are encouraged to consult with or coordinate prevention and protection of water resources with other agencies with responsibilities for water resource protection.

The following examples of active management were identified by the EPA/State Workgroup that developed the national pesticide water quality measures in 2005. They are not meant to be inclusive and regions can negotiate other activities with states and tribes to manage pesticides of concern:

- Applicator or user education, hands-on training, or public outreach on practices that minimize the amount of the pesticides of concern that enter water;
- Water quality assessment to identify vulnerable water resources and conducting outreach to applicators and growers on locally-specific management practices that should be taken to protect water quality in these sensitive areas;
- Promotion and adoption of voluntary BMPs judged to prevent or reduce contamination by a particular pesticide e.g., riparian buffer zones, filter strips, no-till cultivation;
- Management control decisions based on spatially and temporally focused surveillance monitoring;
- Targeted inspections and enforcement of existing water quality-related label restrictions and cancellation notices;
- Designation as state or tribal "Restricted Use" due to water quality concerns;
- Imposition of other use or label restrictions designed to reduce contamination of a pesticide;
- Denial of state registration due to water quality concerns;
- Activities specific to assessing and addressing CWA § 303(d) "impaired waters."
- Activities specific to assessing and addressing urban and agricultural watersheds that exceed USGS NAWQA benchmarks for pesticides.

The schedule, priority and level of effort assigned to managing pesticides of concern should be negotiated in consideration of the resources available to the state or tribe and the relative priority of pesticide in water issues in relation to other pesticide issues the state or tribe is facing. However, OPP recommends that grantees and regions consider placing priority on managing pesticides of concern that have also been identified as water quality concerns in FIFRA reregistration or registration review.

Overtime, EPA will be looking for 100% of *pesticides of concern* to be managed.

4. *Demonstrate Progress*

Overtime, states and tribes should be able to demonstrate that the management actions they have taken have been successful at keeping (or returning) pesticide concentrations in water below a reference point, or that they can certify widespread adoption of control measures. Examples for how grantees can demonstrate progress toward reduction or maintenance of pesticide concentrations include:

- Targeted monitoring of water samples from vulnerable use areas that determines that mitigation measures are preventing residue levels from approaching or exceeding a reference point;
- Downward trends in concentration levels established by monitoring data in geographic areas where the pesticide of concern is being used (data from USGS, registrant, USDA, or other sources); and
- The results of targeted surveys or inspections that document the wide adoption of voluntary or regulatory measures which have been proven via research to protect water quality.

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5. *Report Progress*

Grantees must report their progress of evaluations, management of pesticides of concern, and effectiveness of management strategies into POINTS annually as described in Section D below.

C. Enforcement Considerations

States and tribes are expected to monitor compliance with pesticide water quality risk mitigation measures, and respond to pesticide water contamination events especially where water quality standards or other reference points are threatened.

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D. Reporting Requirements

Grantees must annually report the national water quality measures listed in the performance measures section below in the Pesticides of Interest Tracking System (POINTS). POINTS can be found at http://points.wsu.edu . If available, states should also submit any data from water monitoring acquired during the grant year to EPA via the OPP's water monitoring mailbox at: OPPWaterMonitoringData@epa.gov. **All states and tribes must submit the measures data by December 31st of each grant year regardless of the actual grant period, including any available new information from monitoring.** In addition to the data sets themselves or links to data on the web, states and tribes are encouraged to cite other studies, reports, literature or information on water quality monitoring to improve or upgrade baseline data on pesticide effects on human health and the environment. If no progress on the performance measures is made, grantees should just roll over their data in POINTS from the previous reporting year.

From the POINTS system data, OPP expects to be able to:

- Determine how pesticides of interest were evaluated;
- Determine which pesticides of concern have been identified by states and tribes;
- Identify pesticides of concern that are being actively managed by states and tribes, what management strategies are demonstrating success, and which pesticides may need more effective management at the national level e.g., label changes, special studies;
- Identify pesticides for which national water quality standards, aquatic life criteria, or other national regulatory standards or reference points are needed;
- Demonstrate that state and tribal water quality management programs are effective at reducing pesticide risks to water quality *locally*; and
- Identify states in which the FIFRA lead agency is using its resources to address pesticide impaired waters under CWA §303(d).

EPA access to this information will not only further inform and influence its risk assessment and risk management process leading to better registration decisions, it will also provide information the Agency can use to measure it's progress in protecting human health and the environment from pesticide risk to water quality.

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E. Performance Measures

Work conducted in this program area will help the Agency show progress towards its national program goals and performance measures. Specifically, the Agency's FY14-18 Strategic Plan uses the following performance measure as an indicator of program success:

- By 2018, no watersheds will exceed aquatic life benchmarks for targeted pesticides. (Data for 2012 provides the most recent percent of agricultural watersheds sampled by the USGS National Water Quality Assessment (NAWQA) program that exceeds the National Pesticide Program aquatic life benchmarks for azinphos-methyl (7 percent) and chlorpyrifos (7 percent). Urban watersheds sampled by NAWQA program that exceeds the National Pesticide Program aquatic life benchmarks for diazinon (0 percent), chlorpyrifos (0 percent), and carbaryl (9 percent).)

In addition, there are programmatic performance measures listed below that will be used to track the performance of the National Pesticides in Water Program. These measures are automatically calculated from data reported annually by grantees into POINTS. This approach is designed to measure the pesticide lead agency's progress in: 1) identifying Pesticides of Concern by evaluating a list of Pesticides of Interest that may have the potential to threaten water quality locally; 2) taking actions to manage Pesticides of Concern; and 3) can demonstrate improvement in water quality related to pesticides.

Measure 1: Pesticides of Interest Evaluated to Identify Pesticides of Concern

Over time, EPA will be looking for states and tribes to evaluate 100% of the Pesticides of Interest. The metric is:

$$\frac{\text{Evaluated Pesticides of Interest}}{\text{Number of Pesticides of Interest}} \times 100$$

Measure 2: Pesticides of Concern Managed

The second measure is aimed at quantifying state and tribal efforts to manage Pesticides of Concern. The schedule and priority of which pesticides need further management is a state or tribal decision to be negotiated with the region. Over time, EPA will be looking for 100% of Pesticides of Concern to be managed. The metric is:

$$\frac{\text{Number of Pesticides of Concern managed}}{\text{Number of Pesticides of Concern identified}} \times 100$$

Measure 3: Demonstrated Progress

The third measure is aimed at quantifying the number of pesticides for which some form of management has ***demonstrated progress*** toward keeping (or returning) pesticide concentrations in water to below a reference point. The metric is:

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$$\frac{\text{Number of Pesticides of Concern managed for which there is demonstrated progress toward reduction or maintenance of concentrations below the Reference Point}}{\text{Number of Pesticides of Concern managed}} \times 100$$

Measure 4: Re-Evaluations

A pesticide can only be counted as "evaluated" once. However, grantees should re-evaluate a pesticide if there is new information/data (e.g., new hazard data, new EPA risk assessment indicating a pesticide water quality concern), new use patterns, or increased risk of exposure for the pesticide. A grantee may report a re-evaluation in POINTS when they have considered the new information and documented a conclusion as to whether there are concerns locally that pesticide levels are approaching or exceeding a reference point. The number of re-evaluations will not typically be a negotiated commitment. However, in order to get credit for this work, grantees should track the number of evaluations done annually in POINTS.

Measure 5: No Longer a Pesticide of Concern

Ultimate success in the Pesticides in Water Program is that the state/tribe has managed the pesticide of concern so well that it is no longer a pesticide of concern. That is, the levels of the pesticide in local water resources are no longer approaching or exceeding the reference point because of cancellation, restriction, or another effective management strategy. Therefore, states and tribes must report in POINTS the number of pesticides of concern that have been managed and after re-revaluation, are no longer considered a pesticide of concern for their state or tribe. This measure is merely a reporting measure and another means to demonstrate progress. Grantees will not be expected to make commitments on this measure and EPA will not set any targets.

GRANTEE PROGRAM AREAS PICK-LIST

The following section corresponds with Section III of the FIFRA Cooperative Agreement Guidance on page 8. There are ten Grantee Pick-List Program Areas which are listed in the order they appear in the Guidance.

7. ENDANGERED SPECIES PROTECTION

The focus of EPA's Endangered Species Protection Program (ESPP) is to evaluate whether pesticide use in a certain geographic area may affect any listed species. If enforceable, pesticide use restrictions are necessary to protect listed species in that area, and the information is relayed through Endangered Species Protection Bulletins.

A. Goal

Through risk assessment and mitigation, the goal under the ESPP is to limit any potential effects from pesticide use to federally listed threatened or endangered species, while at the same time, placing no

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undue burden on agriculture or other pesticide users.

The ESPP supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

If selected from the Grantee Program Area Pick-List, state and tribal pesticide lead agencies may select from the following list of activities to support the ESPP. A grantee can choose to do one or more of the activities or to do part of an activity, in accordance with the need, level of resources and expertise available in their state or tribe.

i. Outreach and Education

During the term of this grant Guidance, states and tribes can educate current and potential pesticide users and pesticide inspectors about the ESPP. Topics that could be covered include field implementation aspects of the Program as described in the Federal Register notice (70 FR 66392, Nov. 2, 2005).

For pesticide users, the topics could include:

- the generic endangered species label statement referring pesticide users to Bulletins;
- how to find a Bulletin, including the use of OPP's dedicated website (www.epa.gov/espp/), Bulletins Live;
- what a Bulletin is, what it conveys and how to use it; and
- information about inspections and enforcement per the OECA grant Guidance (e.g., Bulletins are part of the label and will be enforced under FIFRA through routine pesticide use inspections).

For pesticide inspectors, the topics could include:

- how to read Bulletins;
- how to access historic Bulletins for inspections;
- familiarity with local Bulletins and the species addressed in them; and
- the goals of the Program; i.e., to protect listed species from possible harm due to pesticide use, while at the same time, not placing unnecessary burden on agriculture or other pesticide users.

In the event that no Bulletins are available for a particular area, education efforts could focus on one or more of the following:

- habitat protection training sessions for pesticide applicators, inspectors and others who must follow the provisions of the program;
- concepts and benefits of integrated pest management (IPM); and
- ways to reduce pesticide spray drift and pesticide runoff to avoid exposure to endangered species.

ii. Risk Assessment and Risk Mitigation Support

Support provided by states and tribes can be in response to litigation, registration review or other registration activities. Information can be provided to EPA using OPP's Stakeholder Engagement Process. Activities may include:

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- providing information such as crop data, pesticide use data, and species location data to OPP for use in listed species-specific risk assessments for upcoming registration review cases. These cases may be identified on EPA's website at: http://www.epa.gov/oppsrrd1/registration_review/schedule.htm. A registration review docket is opened and a work plan developed for each pesticide case. The work plans articulate data EPA believes it needs and discusses the assessments that will be conducted and the time frames for those assessments. OPP would find it most useful for grantees to provide any relevant endangered species information they may have 18 months prior to the projected date for completing a risk assessment;
- commenting on exposure assumptions used in risk assessments;
- commenting on the feasibility of proposed, listed species-specific mitigation measures during OPP's standard processes of registration and registration review; and
- reviewing draft Bulletins, should any be developed in a state's area.

iii. Establish and Maintain Relationships

Build and maintain relationships with local and regional fish and wildlife agencies. Activities may include:

- providing draft Sec. 18 and 24(c) submittals for review and comments;
- evaluating site-specific listed species/pesticide concerns (i.e. water sampling);
- collaborating on certification & training presentations and workshops; and
- developing joint outreach materials.

iv. Work with Certification and Training Staff and Cooperative Extension Services

Provide endangered species information to Certification and Training Staff and Cooperative Extension Services for Pesticide Applicator Trainings. Activities may include:

- incorporating endangered species information such as Bulletins into certification and training. This activity will help keep state staff up to date on the progress of EPA's Endangered Species Program.

C. Enforcement Considerations

OECA is not requiring targeted endangered species use inspections. However, an inspector should document user compliance with a specific bulletin if it can be determined during a routine use inspection that an applicator used a pesticide for which an Endangered Species Bulletin exists.

D. Reporting Requirements

Grantees should annually collect, summarize, and report to EPA compliance and non-compliance information for all inspections where Endangered Species Bulletins are applicable as described in Section E below (this information should be provided whether or not this program area is selected from the pick-list). To help OPP assess the effectiveness of endangered species risk mitigation requirements and Endangered Species Bulletins, please include some information on the pesticide products and bulletin provisions that were violated. The Endangered Species Inspections Report Form found in the FIFRA Cooperative Agreement Workplan-Report Template discussed in Appendix 2 may be used for this purpose.

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The FIFRA template may also be used to submit an end-of-year report that documents endangered species activities conducted as agreed to in the cooperative agreement work plan. Grantees providing risk assessment and risk mitigation support for use in listed species-specific risk assessments for upcoming registration review cases should do so by commenting on the open dockets using the Stakeholder Engagement Process identified at: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2012-0442-0038

E. Performance Measures

To determine the effectiveness of the ESPP and the approaches listed above to limit potential effects from pesticide use on federally listed threatened or endangered species, OPP will use compliance information submitted annually to apply to the following formula to measure progress:

Yearly percent of inspections where endangered species requirements were in place and followed = $(a-x)/a$, where:

- a is the number of use and for cause inspections where it could be determined that the pesticide product was labeled requiring the applicator to follow the pesticide use limitations and any applicable Endangered Species Protection Bulletins; and
- x is the number of use and for cause inspections where the pesticide applicator was alleged to be in violation of the Endangered Species labeling requirements, including any applicable Endangered Species Protection Bulletins.

This is a program-specific performance measure.

8. BED BUGS

A. Goal

The goal of this program area is to minimize the potential for pesticide misuse/overuse and spread of bed bug infestations by increasing understanding of bed bug prevention and control approaches. Efforts to provide bed bug outreach and assistance supports Goal 4 of the Agency's FY14-18 Strategic Plan: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

This priority also supports the Agency's environmental justice goals because economically-challenged segments of the population may have more trouble controlling an infestation due to the relatively high cost of effective treatment, the presence of multifamily housing, and limited access to information.

B. Program Description

Over the last several years, bed bug complaints and infestations have increased markedly in some areas of the country, and the spread of bed bug infestations are predicted to increase. People seeking effective, cheap and rapid solutions have in some cases resorted to the use of unregistered pesticide products or misuse of registered products. To address this issue, grantee efforts should focus on:

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1) promoting the use of integrated pest management for bed bug control;
2) encouraging use of pesticides effective against bed bugs that do not pose unreasonable risks to people or the environment;
3) discouraging the use of unregistered pesticides or the overuse of registered pesticides as measures to control bed bugs;
4) providing information to the public on bed bug infestations;
5) collaborating with other agencies and stakeholders to share information on bed bug control; and
6) ensuring product and user compliance, focusing on illegal bed bug control claims and the illegal use of products not registered for control of bed bugs.

Where feasible, grantees should use outreach materials already developed and available at the EPA Bed Bug Clearinghouse on the EPA website (http://www.epa.gov/bedbugs/bedbug-clearinghouse.html). However, if grantees are considering developing additional bed bug outreach materials, they should take steps to avoid duplication of existing materials by consulting with the EPA Bed Bug Clearinghouse and by communicating plans with the EPA regional office. Bed bug outreach materials developed by the grantee should also be added to the EPA Bed Bug Clearinghouse.

C. Enforcement Considerations

Enforcement considerations/actions related to the inappropriate use of pesticides for bed bugs include:

1) Monitor product and user compliance;
2) Focus on the prompt investigation of the illegal pesticide products and the illegal use of products not registered for control of bed bugs;
3) Investigate misuse/overuse of existing pesticides labeled for bed bugs;
4) As state laws permit, examine false advertising and illegal claims associated with bed bug products;
5) Monitor 25(b)products labeled for bed bugs, and ensure their labeling is compliant;
6) Monitor internet advertisement/sales/distribution of pesticides labeled for bed bugs, and take the appropriate enforcement action for violations.

9. POLLINATOR PROTECTION

A. Goal

Though risk assessment, mitigation, education, and outreach, EPA's goal under the Pollinator Protection Program is to ensure pollinators are protected from adverse effects of pesticide exposure. This Pollinator Protection Program supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

Grantees selecting this Grantee Pick-list Program Area will focus activities on education and outreach to growers, applicators, pesticide handlers and bee keepers to encourage adoption of methods and practices intended to protect bees, such as IPM, stewardship and best management practices (BMPs). Grantees should establish and develop relationships within their state or tribe (*e.g.*, other state or tribal agencies, local agencies, beekeeper organizations, grower organizations, crop advisors, USDA researchers,

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pesticide registrants), and the federal government to promote and assist where needed in pollinator protection activities as they relate to the use of pesticides.

C. Enforcement Considerations

Grantees should monitor compliance with pollinator protection label language. The EPA Bee Incident Investigation Guidance, or similar state or tribal guidance, should be followed (available online at: www.epa.gov/compliance/resources/policies/monitoring/fifra/bee-inspection-guide.pdf). Additionally, grantees should conduct inspections and enforcement actions directed at detecting and stopping distribution of unregistered or misbranded pesticides that could adversely affect pollinators and/or the quality of hive products.

D. Specific Reporting Requirements

Pollinator incidents and investigations provide OPP valuable information as to the extent to which pesticides may impact pollinator health, and are associated with pollinator declines. Therefore, grantees must report the results of investigations of all known or suspected pesticide incidents involving pollinators to OPP at: beekill@epa.gov with a copy to the regions.

Basic elements of an incident report are explained in the Guidance referenced above. Useful baseline information includes the location and date of the incident, the species affected, the approximate total number of each species affected, the suspected pesticide(s), whether the pesticide(s) was/were in use at the time of the loss, the crop/area on which the pesticide was applied, and whether residues were detected.

10. SCHOOL INTEGRATED PEST MANAGEMENT (IPM)

Pest control and pesticide use in schools poses special challenges and concerns. Our nation's children spend a considerable amount of their time in schools, as do teachers and school support staff. The National Center for Education Statistics estimates that in 2010, nearly 50 million students attended public elementary and secondary schools, with enrollment rates steadily increasing every year. With this in mind, the Agency is pursuing a program to encourage the adoption of integrated pest management (IPM) practices as a means to reduce exposure to, and risk from pests and pesticides in schools and on school grounds. The focus of this program is public schools at the elementary through secondary levels (grades K-12). More information can be found at http://www.epa.gov/pesticides/ipm/.

A. Goal

The goal of this program is to decrease exposure of children in public schools (grades K-12) to pests and pesticides through increased adoption of verifiable and ongoing IPM programs. Activities to advance school IPM support the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. This activity also supports EPA's children's health goals. See the approaches and regional roles and responsibilities listed in the Agency's "Strategic and Implementation Plans for School Integrated Pest Management: Federal Fiscal Years 2012-2014 (Sept. 6, 2012)," found at http://www.epa.gov/pestwise/ipminschools/strategicplan.pdf.

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B. Program Description

Efforts under this program area should increase the adoption of verifiable IPM practices in public schools, including the use of reduced risk pesticides, biopesticides, cultural, and physical tools to reduce sources of food, water, and shelter for pests in school buildings and grounds. Verifiable school IPM is an ongoing activity that includes all of these documented elements: understanding pests; setting action thresholds for key pests, i.e., knowing when to take action against key pests; monitoring for pests, their locations and populations; removing conditions that allow pest infestation; and using one or more effective pest control methods including sanitation, structural maintenance, and nonchemical methods in place of or in combination with pesticides.

Key activities for this program area include:

- Support existing and/or develop new relationships, through partnerships, coalitions, and networks that promote and support school IPM, foster the efficient transfer of information, encourage collaboration, reduce duplication of effort and accelerate school IPM adoption within a state (e.g., state departments of education, health, or environment; state associations of school administrators; state PTAs; state associations of school boards; state structural pest control boards; and the local Service Employees International Unions).
- Disseminate existing educational and outreach materials to the states' public school systems and conduct educational programs on IPM for school administrators, facility managers, custodial and kitchen staff, school nurses, teachers, students and other key players as appropriate. The EPA's Center of Expertise for School IPM is a great resource for training materials, brochures, presentations, and other educational and outreach materials that may be needed.

Where feasible, grantees should use outreach materials already developed and available from the EPA's Center of Expertise for School IPM. However, if grantees are considering developing additional school IPM outreach materials, they should take steps to avoid duplicating existing materials by consulting with the EPA's Center of Expertise for School IPM and by communicating plans with the School IPM Coordinator in your EPA regional office. School IPM outreach materials developed by the grantee should also be contributed to the EPA's Center of Expertise for School IPM. For more information about EPA's School IPM program and available resources, visit: http://www.epa.gov/pesticides/ipm/ .

C. Enforcement Considerations

None.

11. SPRAY DRIFT

In 2014, EPA initiated the voluntary Drift Reduction Technology (DRT) Program to encourage the identification and use of pesticide spray application technologies verified to substantially reduce spray drift. Such technologies may include spray nozzles, shrouds and shields and drift-reducing adjuvant chemicals used for aerial or ground boom applications to row and field crops. OPP will encourage manufacturers to test their technologies to verify and quantify drift reduction potential, and OPP will encourage registrants to label their agricultural pesticides for application with these technologies. As a result of this program, OPP expects to see an increased adoption of drift reduction technologies on

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pesticide labels and by pesticide applicators.

A. Goal

Reduce spray drift incidents by increasing awareness and adoption of spray drift reduction techniques and technologies. The Drift Reduction Technology (DRT) Program supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

Grantees that select this program area should conduct education and outreach activities that increase awareness and promote adoption of spray drift reduction techniques and technologies.

Additionally, grantees should gather agricultural spray drift incident data from the past 2-3 years to form an incident baseline and then gather additional incident during the grant period. This agricultural spray drift incident data, collected over time, can help the EPA gauge the effectiveness of DRT Program. The key parameter to collect is number of incidents investigated by the grantee related to spray drift of agricultural pesticides. More detailed information includes: state or tribe where the incident occurred, identifying if the incident is the result of aerial or ground application, if DRT equipment was used and if so identification of the technology used, pesticide product used, target site (e.g., row/field crop or orchard), drift site (e.g., home, school, crop, wetland), effect of concern observed, and enforcement action (e.g., no action, notice of warning, civil penalty, criminal penalty). Grantees should consult with OPP for further guidance on incident data for collection.

C. Enforcement Considerations

Grantees should investigate allegations of spray drift and take appropriate enforcement action. Grantees should also provide information on the actions taken as a result of their investigations as part of their end-of-year report.

D. Reporting Requirements

The data as described above will help inform the EPA and states/tribes about the success of the new DRT program and provide ideas for making further improvements to reduce spray drift incidents. This information should be reported annually in a separate file attached to the end-of-year report.

12. STATE AND TRIBAL COORDINATION AND COMMUNICATION

It is a goal of the Tribal Pesticide Program Council (TPPC) to encourage tribes, where appropriate and feasible, to increase their communications and coordination with state pesticide programs as a resource to build capacity for tribal pesticide programs.

Increased coordination can be low-cost and low effort, and can reap many benefits for tribes and states while still respecting tribal sovereignty and jurisdiction. It can improve tribal access to programmatic and technical expertise, support and training. It can also provide states with greater assurance of adequate pesticide program protection in Indian country within or contiguous to their borders and

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resources.

A. Goal

Where appropriate, support tribal pesticide program capacity building and efficient use of resources by improving communication and cooperation between tribes and states to advance pesticide program implementation and increase program efficiencies. Efforts to build tribal pesticide program capacity through this approach support the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws. This priority can also support the Agency's tribal and environmental justice goals, including the Administrator's commitment to enhance state, tribal and local partnerships. This approach is also consistent with Principle #6 of the agency's 1984 Indian Policy, which encourages communication and cooperation between tribal, state and local governments.

B. Program Description

Grantees selecting this program area will work with tribes within their borders to strengthen relationships, increase understanding and respect of jurisdictional issues, and identify areas for capacity building. All efforts and approaches must support and respect tribal sovereignty and jurisdiction. Examples of areas where state pesticide programs may be able to offer low-cost support to tribal pesticide programs, or vice-versa, include:

- Offering a few seats to tribal pesticide program staff or managers when training is conducted for state personnel;
- Allowing tribal inspectors to accompany state inspectors on inspections for training purposes;
- Offering tribes access to or use of state tools, templates, checklists or databases;
- Sharing information on tips and complaints, violations or incidents that may be relevant to Indian country;
- Having states routinely inform tribes when they issue a FIFRA Section 24(c) or request a FIFRA Section 18 from the EPA;
- Sharing pesticide monitoring data;
- Establishing state technical and program expert contacts for tribal pesticide personnel; and
- Offering tribes access to state laboratories.

C. Enforcement Considerations

This approach does not authorize state compliance assurance or enforcement in Indian Country.

13. SUPPLEMENTAL DISTRIBUTORS

In accordance with 40 CFR 152.132, a registrant may sell his/her registered product under another person's name and address instead of his/her own. This arrangement is called "supplemental distribution" and the product is referred to as a "distributor product". For a supplemental distributor to distribute a pesticide, the registrant must notify EPA by submitting a complete Notice of Supplemental Distribution of a Registered Pesticide Product Form (EPA 8570-5) signed by both the registrant and the distributor. 40 CFR 152.132 limits what can differ between a distributor product label and the primary registered product label approved by EPA. The distributor is considered an agent of the registrant for all

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intents and purposes under FIFRA.

A. Goal

The Supplemental Distributor initiative supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

Because distributor products may be produced under contract to the registrant, by either the supplemental distributor (if the distributor has a registered establishment) or a third party producer, unapproved changes in the formulation or labeling of the product could occur if the registrant is not vigilant in overseeing the actions of the producer.

Targets may be identified by looking at state registration records for distributor products that are being sold within a state. States and tribes may also work with OPP to develop a list of registrants within the state or tribal boundaries that produce "high risk" or large numbers of distributor products.

C. Enforcement Considerations

Inspections conducted to support this initiative may be conducted as part of routine marketplace and targeted producer establishment inspections the state or tribe conducts. During marketplace inspections, inspectors should pay careful attention to distributor product labeling. States and tribes should target those producer establishments that may be producing either "high risk" or large quantities of distributor products. Inspections targeting these products will help ensure that all pesticide production at such facilities is appropriately regulated.

14. CONTRACT MANUFACTURERS

Contract manufacturing is a common practice within the industry. Any person producing a pesticide under contract to the registrant, whether as a toll manufacturer, supplemental registrant, or refiller establishment is an agent of the registrant and as such, is held to the standards imposed on the registrant at the time of registration.

A. Goal

The Contract Manufacturing program area supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

Contract manufacturing is typically carried out through contractual agreements but often without rigorous oversight by the registrant. This lack of oversight can lead to adulterated, misbranded or even unregistered products being sold or distributed. The resulting pesticide products may pose unreasonable risk to human health or the environment.

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C. Enforcement Considerations

Inspections targeted at contract manufacturing facilities will help ensure that all pesticide production at such facilities is appropriately regulated. Contract manufacturing facilities may be identified by analyzing Section 7 production reporting data.

15. IMPORTS

A. Goal

The Imports program area supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws.

B. Program Description

States and tribes are expected to assist regions when necessary to monitor movement of imported pesticides within state or tribal lands.

C. Enforcement Considerations

Grantees should conduct inspections for imported pesticides upon regional request. The specifics of these inspections should be arrived at after consultation and negotiation with the regional office. These may include shipments detained at ports of entry or foreign trade zones that the region has determined through Notices of Arrival or other information may be in violation of FIFRA.

16. NATIONAL DATA SYSTEM

The Agency's recent work with grantees to develop new enforcement performance measures highlighted the need to develop a national data system that collects detailed enforcement data on a national level from states and tribes in order to better target pesticide violations and to explain the performance of the national program to a variety of audiences. The Agency plans to develop a National Data System for reporting grantee end-of-year information.

Grantees conduct inspections but may not report the results of the inspections in a manner that provides the most informative data to the EPA and each other for identifying trends in noncompliance and for showing the performance of the National Enforcement Program. A National Data System will provide the national program with better tools to target compliance inspections, and will better illustrate the benefit of our efforts to enforce pesticide laws to the public.

A. Goal

The National Data System program area supports the Agency's FY14-18 Strategic Plan, Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution, Objective 1: Ensure Chemical Safety. Enforcement activities under this program area support EPA's Goal 5: Enforcing Environmental Laws. The goal of this effort is to collect detailed enforcement data on a national level from states and tribes in order to better target pesticides violations and to explain the performance of the national program.

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B. Program Description

Grantees that select this program area will work with OECA and the regional office to design and develop the National Data System. Grantees will also work with OECA to determine how to report the data so that the inspection results are reported consistently and accurately.

C. Enforcement Considerations

For FY 2015 to 2017, tribes and the EPA will work to develop the infrastructure of the National Data System and begin to collect the data that best serves the needs of the national program and highlights the performance of the program.

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APPENDIX 2:
FIFRA WORK PLAN-REPORT TEMPLATE DESCRIPTION AND LINKS

FIFRA Work Plan-Report Template

EPA has developed a FIFRA Cooperative Agreement Work Plan-Report Template ("FIFRA template") for work plans and reports for cooperative agreements awarded under this Guidance. The FIFRA template, which is an Excel spreadsheet, was developed by EPA with extensive input and a considerable amount of support from states with the goal of significantly reducing the administrative burden associated with work plan development and accomplishment reporting for both the grantee and EPA regional personnel. The FIFRA template also promotes clarity in work plan expectations and end-of-year results, makes work plans and reports more consistent throughout the country, and facilitates compilation and review of national year-end data. In addition, the FIFRA template could serve as a starting point for the design of the new National Data System.

The FIFRA template incorporates proposed work activities from the national FIFRA cooperative agreement Guidance, provides space for proposed and negotiated grantee work activities, space for grantee progress reports on negotiated work, and space for EPA comments and recommendations as part of the grantee evaluation by EPA regional project officers. If this template is used, it will replace current work plans and end-of-year reports. The FIFRA template also contains all forms needed for annual reporting, and allows additional data files to be attached. The FIFRA template can be accessed online at: http://www.epa.gov/compliance/state/grants/fifra.html

While the FIFRA template is a change in the format of work plans and reports, it does not change the type of information reported or the processes used by regional offices and grantees in submitting cooperative agreement applications, negotiating work plan commitments, and reporting on the progress of those commitments. This template is not intended to change the normal workflow process between the grantee and the EPA project officer.

Although the FIFRA Cooperative Agreement reporting is currently approved by Office of Management and Budget (OMB) under OMB Control No. 2030-0020, the Agency has not yet obtained approval from OMB for this reporting template. Until such approval is obtained, the reporting template is solely intended to provide respondents with an alternate method of providing information to the Agency that is already required under the terms of the cooperative agreement.

FIFRA Work Plan-Report Instructions

With any new tool, there will be a period of learning and adjustment. This instruction manual focuses solely on explaining how to use the FIFRA template within the Excel environment. The link for the manual is: http://www.epa.gov/compliance/state/grants/fifra.html

Software Needs

The FIFRA template was designed using Microsoft Office's Excel 2007, and should run on any newer version of Excel as well.

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APPENDIX 3:
STATE PRIMACY UNDER FIFRA AND EPA OVERSIGHT QUESTIONS AND ANSWERS

Q 1 What does primacy mean under FIFRA and how does it relate to program oversight?

FIFRA provides that states, which have met certain criteria, shall be granted primary enforcement responsibility for pesticide use violations. Specifically, Section 26 (a) reads:

> *"In General. For the purposes of this Act, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State –*
>
> *(1) Has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this Act;*
> *(2) Has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and*
> *(3) Will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation."*

Section 26 (b) continues on to explain how primacy may also be obtained through a cooperative agreement with the Agency or if the state has an approved Section 11 certification plan that meets the criteria set forth in section 26(a).

While these three mechanisms for obtaining primacy represent differing paths, the underlying criteria that need to be met to obtain and retain primacy are essentially the same.

The EPA published its Final Interpretive Rule in the Federal Register on January 5, 1983, (48 FR 404 – 411) for state primary enforcement responsibilities under FIFRA. This interpretive rule indicates that states with FIFRA primacy will be the entities with primary enforcement responsibility for pesticide use violations. EPA will refer any significant reports of pesticide misuse to the states for follow-up. While EPA retains the authority to conduct pesticide use/misuse inspections and enforce against pesticide misuse, EPA will defer conducting pesticide use/misuse inspections or enforcement proceedings for pesticide misuse to states with primacy unless the state fails to meet specific criteria described in the interpretive rule, or the state requests or defers the inspection or enforcement to EPA.

EPA's oversight of state programs does not end once a state has primacy. Primacy is the basis of a continuous relationship between the state and EPA for successful implementation of FIFRA. The intent of Congress that EPA continue to provide ongoing review of state programs to assure that states maintain an adequate pesticide regulatory program is reflected in the language from section 26, such as "during any period", "adopted and is implementing" and "will keep such records and make such reports showing compliance with paragraphs (1) and (2)". Expectations regarding the level and types of ongoing or continuing program oversight activities do not differ between the various mechanisms to obtain primacy.

Section 27 (b) and 40 CFR 173 each discuss that the Agency may rescind primary enforcement authority in whole or in part when it determines that a state is not carrying out such responsibility. This language further

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conveys the intent that the Agency must provide ongoing evaluations of state programs on which to base any such determination.

The expectation and importance of ongoing EPA evaluations to assure state program adequacy has been re-emphasized via various GAO and/or OIG reports. The most recent and notable review of EPA oversight of state enforcement programs (http://www.epa.gov/oig/reports/2012/20111209-12-P-0113.pdf) was critical of EPA's oversight of state air, RCRA, and water programs. While this report focused solely on the air, water, and RCRA programs, its findings are important considerations for all EPA programs. Over time, all programs, including various aspects of the pesticide program, have been and will continue to be, subject to various levels of review by the GAO and/or the OIG. EPA's ongoing reviews to assess program adequacy are critical to assuring both state and national programs are viewed as credible, transparent, and effective. In the current budget environment, where programs viewed as non- or under- performing may be subject to additional reductions in resources, the imperative for states and regions to work together to assure each of our programs continue to meet these obligations is even more important.

The framework established in FIFRA for pesticide regulation gives primacy to states, and provides for oversight by EPA, requiring both parties to work together for effective pesticide regulation to occur. Communication and cooperation are essential to success. If communication is incomplete or irregular, or cooperation does not happen, pesticide regulatory programs will not perform well at either the state or federal level.

Q 2. What should I expect from EPA in terms of program oversight? What are the types of items that will be looked at regarding primacy and the cooperative agreement?

EPA reviews of state FIFRA programs are required to be undertaken for the following purposes:

1. Program Reviews.
   Verifying that the state program continues to meet the requirements for maintaining primacy; identifying areas of concern that represent potential problems for maintaining primacy; and offering suggestions to address problem areas.

2. Grant Reviews.
   Assuring that federal funds are managed appropriately to accomplish the goals of the grant; that activities/products meet expectations relative to the scope, numbers, and/or quality as described in the work plan; and identification of assistance needed to meet these goals.

While not required under either review, EPA may use those processes to identify shared opportunities to improve program implementation or ways to work together to improve pesticide regulation.

The oversight activities of grant reviews and program reviews can intersect and often the reviews occur at the same time. 48 FR 404 – 411 and 40 CFR 173 discuss EPA's criteria for assessing the need for the rescission of primacy under Section 27(b) of FIFRA. The FR states that "in deciding whether a State is not carrying out, or cannot carry out its use enforcement responsibilities, the Administrator will apply the criteria for an adequate program set forth in Unit II to the performance of the State during the time the State had primacy." These criteria are what EPA will examine as a part of its obligations to assure the implementation of state programs continue to meet the requirements for primacy. The criteria include:

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1. Adequate laws and regulations. To be considered "adequate," a state's legislation must address at least the following areas:
   a. Same use prohibitions as contained in FIFRA (FIFRA 12(a)(2)(G), 12(a)(2)(H), 12(a)(2)(P) and 12(a)(2)(F));
   b. Authority to enter premises or facilities to inspect and collect samples; and
   c. Flexible array of enforcement remedies suitable to the gravity of a violation.
   d. In addition to the initial determinations required to obtain primacy, ongoing reviews will evaluate any changes to laws and regulations to assure these do not adversely impact a state's ability to implement a program consistent with FIFRA.

2. Adequate procedures for enforcing the laws. The Agency will examine the efficacy of procedures adopted by the state to implement its pesticide laws and the state's adherence to these procedures. This may include reviews of SOPs, tracking systems, etc., but as reflected in 48 FR 409-410, the Agency will be particularly interested in the remedies the state has actually applied to various use violations. This aspect of the review will be used to determine whether there is sufficient correlation between the gravity of a use violation and the severity of the enforcement response to assure that the state's arsenal of remedies is being applied in a flexible yet effective manner. More specifically, and as more thoroughly discussed in the FR Notice, this examination of procedures will include an evaluation of the following:

   a. State training programs for state enforcement personnel;
   b. Sampling techniques and laboratory capabilities;
   c. Complaint processing to assure timely response;
   d. Compliance monitoring and enforcement; and
   e. State education programs to determine if the programs are informing its constituencies of applicable pesticide use restrictions and responsibilities and promoting voluntary compliance.

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APPENDIX 4:

ENFORCEMENT PRIORITY SETTING GUIDANCE

(to be replaced by the national Compliance Monitoring Strategy when finalized)

An effective priority-setting process will enable grantees to concentrate their compliance monitoring, enforcement programs, and training on specific pesticide production, distribution and use activities which pose the greatest risk to health and the environment. In applying for pesticide enforcement cooperative agreement monies, states and tribal priority-setting plans will be expected to include: 1) a list of the priorities; 2) an explanation of the criteria for establishing priorities; 3) a review of information sources and listing of problem areas; 4) a ranking of problem areas to be dealt with; and 5) a distribution of the available resources to the problem areas based upon the magnitude of the problem. The required content and the recommended format are discussed below.

A priority-setting plan can either be addressed in the work plan or attached as a separate document. Once it is approved by EPA, grantees need not submit the entire plan again as part of their cooperative agreement applications. They only need to reference the plan, include any amendments to the plan, and resubmit an updated list of priorities annually. However, the plan must be revised every 5 years.

I. CONTENT

The priorities to be addressed by the grantee must include the National Enforcement Priorities. Grantees must evaluate these priorities as part of their own priority-setting process and assign resources to them according to their ranking in their overall priority-setting scheme. The priority-setting plan should identify the type of inspections to be conducted in support of the national priorities, and why these categories were selected. Additional non-inspectional enforcement and compliance activities addressing the national priorities should be identified as well.

The priority setting plan should provide an explanation of the criteria used for setting priorities and how these criteria are weighed in establishing priorities (for example, the criterion of harm to human health would, likely weigh more than property damage).

Priorities should be based on the following criteria, in addition to any other criteria pertinent within the state. The greatest emphasis should be placed on items "A" and "B."

A. *Degree of harm to human health and the environment*: grantees should take into account the degree of harm to human health or the environment, whether actual or potential, when setting priorities. With regard to this criterion, grantees should use the National FIFRA Enforcement Response Policy which can be found on EPA's website at: http://www2.epa.gov/sites/production/files/documents/fifra-erp1209.pdf and the FIFRA Worker Protection Standard Penalty Policy at: http://www2.epa.gov/sites/production/files/documents/fifrawps.pdf. It is important to factor in the degree of harm associated with the violation, even if there are a low or declining number of violations recorded. For example, 8-10 violations with a low level of harm may be less of a priority than 2-3 violations with a higher level of harm.

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B. *Identification of violations:* For new priority-setting submissions, grantees will be expected to submit information on the types of violations and where violations are occurring. Once this information is systematically evaluated, grantees will be able to use it in concert with degree of harm to the environment and human health as a basis for determining priorities. In the meantime, grantees should use the full range of violations data currently at their disposal. Specifically, grantees should consider what if any, recommendations they should make with regard to needed changes in the certification and training programs to follow-up on trends in the violations data.

C. *Follow-up to federal priorities or state regulations or requirements:* EPA national enforcement priorities for pesticides, state regulations, public pressure or political exigencies may alter the priorities arrived at in A, B and C, and should be accounted for in the priority-setting plan, if possible.

D. *Economic loss (optional):* Economic loss due to a pesticide violation may be measured by dollars or by other criteria. The method chosen to measure economic loss must be explained in the priority-setting plan.

E. *Environmental indicators such as relevant ecological studies (optional):* When available, relevant ecological data or environmental assessments should be factored into the priority-setting procedure. A groundwater survey may reveal, for example, high levels of groundwater contamination from pesticides used in center-pivot systems.

F. *Maintaining a Regulatory Presence (optional):* Certain inspectional activities, such as marketplace or producer inspections, may have a low violations rate and are seldom driven by complaints. They are therefore more difficult to justify in the priority-setting process. A criterion for determining priorities, therefore, can be based on a state's need to maintain a minimum enforcement presence in selected parts of the pesticide community.

It is recognized that a sizable number of inspections throughout the course of the fiscal year will be devoted to following up on tips and complaints, and unforeseen emergencies. The criteria above should be used in prioritizing follow-up to tips and complaints, using primarily criteria A and B as the determining factors. (Follow-up to tips, complaints and referrals could be listed as a priority.)

II. FORMAT

The priority setting plan can either be included in the grantee's work plan or as an attachment. It should include the fiscal years the plan covers and information on the priority areas. For each priority area, provide the information sources (i.e. a review of violations data, toxicity data, tips and complaints, etc.) that were used in establishing priorities. Discuss why the area was identified as a priority. As an example, there was a high degree of actual or potential harm to human health or the environment or both.

Identify the number of inspections to be conducted to follow-up on this priority area. Also state under which categories (e.g., agricultural use, etc) these inspections fall and why these categories were selected. Identify non-inspectional and/or training enforcement activities, if any, (i.e., enforcement fact sheets to be distributed) as follow-up to a given priority area.

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APPENDIX 5:

OPP GUIDANCE FOR SUBMISSION OF STATE AND TRIBAL WATER QUALITY MONITORING DATA

Inclusion of Water Quality Monitoring Data in OPP's Registration Review Risk Assessment & Management Process

Goal:

This Guidance describes the process for the submission of state and tribal surface and groundwater monitoring data, including but not limited to Clean Water Act (CWA) 303(d) & 305(b) data, for consideration in exposure characterizations for ecological and human health risk assessments and in risk management decisions for pesticide registration review.

Target Audience: State and Tribal Pesticide Lead Agencies; State and Tribal Water Agencies.

Background:

EPA's Office of Pesticide Programs (OPP) published the final rule for pesticide registration review on August 9, 2006 with an effective date of October 10, 2006. This program ensures that all pesticides continue to meet current health and safety standards. The Congressional goal is to review all existing pesticides every 15 years. To support this process, OPP is interested in obtaining all available pesticide monitoring data that states and tribes may have for surface water and groundwater.

How Does OPP Use Water Monitoring Data from States and Tribes?

Monitoring data provide snapshots of pesticide concentrations in time at specific locations. In order for OPP to make the best use of this data, we need supporting information that will allow us to put the results in context with the larger picture of pesticide exposures in the environment. The more likely the monitoring sites reflect areas that have a likelihood of pesticide occurrence in water (based on pesticide use as well as local runoff and/or leaching vulnerability), sampling occurs during the time frame in which pesticides are expected to be used, and the sampling is frequent enough to estimate exposures for the endpoints of concern, the more likely OPP will be able to incorporate that data quantitatively in its risk assessment.

Typically, monitoring data is screened to identify any detection above modeled values and is not evaluated in a comprehensive manner unless the screening/Tier 1 assessments identify a risk of concern that triggers more refined/Tier 2 assessments. For Tier 2 assessments, when OPP uses monitoring data quantitatively it means that the data can be used as a direct measure of exposure in an ecological or human health dietary assessment. This is a high hurdle to clear because much of the monitoring data available are often not targeted to a particular use pattern or of sufficient frequency to capture durations of concern. How monitoring data is used quantitatively is dependent on the ancillary data and key among these is sample frequency. Sample frequency relative to the duration of concern (e.g., daily peak vs. annual mean) is a key

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driver in determining how monitoring data is used quantitatively. However, with adequate ancillary data, monitoring data may be used as direct inputs into risk assessment models. Also, it is possible that while a data set may not be national in scope, it may provide a quantitative measure on a regional or local scale in which case it could be used as a local refinement to national modeling.

If OPP cannot use a monitoring data set quantitatively, it may still be valuable in providing context to the exposure assessments. For instance, detections of a given pesticide can provide a measure of a lower bound estimate of exposure for purposes of risk assessment. While the data may not be robust enough to ensure a high-end exposure has been observed, the detections do indicate that transport has occurred in the study. At a minimum, qualitative data can provide a balance against modeled estimates and can be useful for characterization of risk conclusions. For example, refinements to modeling sometimes use alternative assumptions that may reduce predicted concentrations. However, if these predicted concentrations approach or are lower than those seen in monitoring data, then this may call into question the appropriateness of the refinement.

For more information on how OPP uses water quality monitoring data in its aquatic exposure assessments, see the document ***Evaluation and Use of Water Monitoring Data in Pesticide Aquatic Exposure Assessments*** located on OPP's website at: http://www.epa.gov/oppsrrd1/registration_review/water_quality.htm

What are the Most Important Elements Needed for OPP to Use the Data?

OPP recognizes that the types of water quality data collected might be different among monitoring programs. Water monitoring data would be most useful for risk assessment purposes if it included the following elements for surface water and groundwater:

- Study objective (i.e., purpose and design of the monitoring study); a copy of a report describing the purpose and design of the monitoring study or internet web address leading to this information would be useful if available
- Location description (latitude & longitude, if possible, or other reliable location information)
- Water body type (stream, river or other flowing body; lake, reservoir, or other static body; groundwater; nature of aquifer, e.g., surficial or confined)
- Date sampled
- Sample media (e.g., water, filtered water, bed sediment, tissue)
- Chemical analyzed and reported concentration
- Analytical method and detection limit (LOD) or limit of quantitation (LOQ)
- Depth to water level for groundwater
- Well characteristics, such as well depth, screened interval, and aquifer type if known (e.g., confined vs. unconfined)
- Well purpose (e.g., ambient vs. drinking water)

What Other Important Information Aids in Interpreting Monitoring Data?

- Quality assurance (QA)/quality control for sample collection and analytical methods, including a discussion of any limitations of the data
- Time of sample [e.g., date, time; duration (if a composite), timing to stream hydrograph(if flow-weighted sample)]
- Sample collection method (e.g., grab or composite)
- Time frame and duration of monitoring sampling

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- Land use, including cropping pattern, agriculture/urban, etc. preferably in immediate vicinity of sample site though general information on specific pesticide use sites would be useful
- Pesticide usage that could affect water quality at sampling location
- Did the sampling methodology and analytical methods go through a formal QA process? If yes, is this process documented (e.g., in a report or on a website address)?
- For pesticides that adsorb to sediments: percent organic carbon, bulk density, etc.
- For some chemicals, environmental conditions (e.g., temperature, pH, hardness, turbidity) may affect mobility and persistence. If this is known to occur, information on the parameter would be helpful in interpreting the data.

Should I Submit Data that are already Publicly-Available?

As a matter of routine, OPP typically checks and reviews the following sources for pesticide monitoring data: 1) United States Geological Survey (USGS) National Water-Quality Assessment (NAWQA) Program; 2) EPA's STORET (short for STOrage and RETrieval) Data Warehouse; 3) United States Department of Agriculture Pesticide Data Program (PDP) Drinking Water Monitoring. If a state's or tribe's monitoring data are already contained within these sources, then simply let OPP know. If your data are available on another publicly-accessible website, please send us the link.

How Do I Know Which Pesticides OPP is Re-evaluating?

1. *Federal Register* (FR) Notification:
    a. Registration Review Initial Docket Openings for Comment: At the beginning of a review cycle, OPP notifies the public of docket openings through an FR Notice and seeks comment on OPP's anticipated chemical-specific work plans and data needs. [Dockets are generally opened for comment in the months of September, December, March, and June]
    b. Registration Review Draft Risk Assessments for Comment: In general, OPP expects to release draft risk assessments on a quarterly basis for public comment through an FR notice.
    c. Registration Review Proposed Decisions: OPP will announce the release of proposed decisions for public comment through an FR notice.

2. E-mail Notification: In addition to notification through the FR, OPP also notifies the EPA Office of Water (OW) and EPA Regional pesticides and water staff of pesticide cases undergoing re-evaluation in order to facilitate communication with state and tribal partners regarding these actions.

The schedule for chemicals currently in review and those scheduled for review over the next four years can be found on EPA's website at: http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.

When Should I Submit Data to OPP?

Data can be submitted to OPP at any time during the registration review process, which generally takes about six years. However, data are of most value approximately six months prior to initiating work on a draft risk assessment. OPP and OW will notify EPA Regional pesticides and water staff on a yearly basis, targeting the first quarter of the fiscal year, of the draft risk assessments that OPP intends to release for public comment that year. Regions will work with state and tribal water and pesticide agencies to submit identified data. OPP will publish draft risk assessments for public comment (generally for 60 days) and ask for comment, as well, on possible/practical risk management options for identified risks.

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Where Should I Submit the Data?

1. Submit to OPPWaterMonitoringData@epa.gov
2. If file sizes are too large to send via e-mail, contact your EPA Regional office

Who Do I Contact for Further Information?

EPA Headquarters: Tracy L. Perry, Pesticide Re-Evaluation Division, Office of Pesticide Programs, telephone number: (703) 308-0128; fax number: (703) 308-8090; email address: perry.tracy@epa.gov

EPA Regions:

Region 1: Rob Koethe, Koethe.Robert@epa.gov, (617) 918-1535

Region 2: Audrey Moore, Moore.Audrey@epa.gov, (732) 906-6809

Region 3: John Butler, Butler.John@epa.gov, (215) 814-2127

Region 4: Richard Corbett, Corbett.Richard@epa.gov, (404) 562-9008

Region 5: Bruce Wilkinson, Wilkinson.Bruce@epa.gov, (312) 886-6002
Holly McDonald, McDonald.Holly@epa.gov, (312) 886-6012

Region 6: Jerry Collins, Collins.Jerry@epa.gov, (214) 665-7562

Region 7: Damon Frizzel, Frizzel.Damon@epa.gov, (913) 551-7560

Region 8: Peg Perreault, Perreault.Peg@epa.gov, (303) 312-6286

Region 9: Patti TenBrook, TenBrook.Patti@epa.gov, (415) 947-4223

Region 10: Gabriela Carvalho, Carvalho.Gabriela@epa.gov, (206) 553-6698

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APPENDIX 6:
BASE LIST OF PESTICIDES OF INTEREST

State List of Pesticides of Water Quality Concern Source: This list was developed by a state survey for Water Resource Monitoring Programs and Analytical Parameters in October 2005. The survey was conducted by the SFIREG Water Quality/Pesticide Disposal Working Committee (now known as the Environmental Quality Issues Working Committee). This list includes chemicals of concern for both ground and surface water.

Active Ingredient	Reg. Review Docket Opening	Active Ingredient	Reg. Review Docket Opening
2,4-D	Dec-14	Lambda-cyhalothrin	Dec-14
Acetochlor (+ ESA, OXA)	Jun-14	Lindane (voluntarily cancelled, use of existing stocks permitted until 10/1/09)	Cancelled
Alachlor (+ ESA)	Jun-14	Malathion	Jun-14
Aldicarb (+ degradates)	Jun-14	Mesotrione	Jun-14
Atrazine (+ DEA, DIA, DACT, Hydroxy)	Jun-14	Metalaxyl	Dec-14
Azinphos-methyl (cancelled 9/30/2012; existing stock 9/2013)	Cancelled	Metolachlor (+ ESA, OXA, S-Metolachlor)	Sept-14
Bentazon	Mar-14	Metribuzin (+ DA, DADK, DK)	Dec-14
Bromacil	Jun-14	Metsulfuron Methyl	Sept-14
Carbaryl	Sept-14	MSMA + other arsenical herbicides	Mar-14
Carbofuran	Cancelled	Napropamide	Sept-14
Chlorothalonil	Mar-14	Norflurazone (+ degradates)	Sept-14
Chlorpyrifos (+ TCP)	Mar-14	Pendimethalin	Sept-14
Clopyralid	Mar-14	Phenoxy herbicide group	12/2013-6/2014
Copper Pesticides	Sept-14	Phosmet	Jun-14
Dacthal (+ degradates) (cancellation being prepared)	Jun-14	Picloram	Dec-14
DBCP	Cancelled	Prometon	Mar-14
Diazinon	Jun-14	Prometryn	Mar-14
Dicamba	Dec-14	Propazine	Jun-14
Dimethenamid	Jun-14	Propiconazole	Dec-14
Diuron	Mar-14	Simazine (+ DACT, DIA)	Jun-14
Endosulfan (7/31/16 last use date on several minor crops)	Cancelled	Sulfometuron (et. al.)	Jun-14
Esfenvalerate	Dec-14	Tebuthiuron	Dec-14
Ethoprop	Dec-14	Terbacil	Mar-14
Glyphosate (+ AMPA)	Jun-14	Thiamethoxam	Dec-14
Hexazinone (+ Metabolite B)	Mar-14	Tralkoxydim	Sept-14
Imazamethabenz	Jun-14	Triallate	Sept-14
Imazapyr	Jun-14	Triclopyr	Jun-14
Imidacloprid	Dec-14	Trifluralin	Jun-14
Isoxaflutole	Jun-14		

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APPENDIX 7:
FIFRA COOPERATIVE AGREEMENT APPLICATION REVIEW CHECKLIST

This optional checklist is provided as a reference only to assist new grantees in completing the budget and work plan requirements related to the cooperative agreement application. The FIFRA Cooperative Agreement Work Plan-Report Template can be used as your work plan. The EPA application kit contains a separate budget sheet for the application. Regional staff may also want to use this checklist to make sure the work plan is complete.

State or Tribe and Lead Agency: _____

Project Period: _____

A. Budget

1. Is there a proposed budget for the following areas if the grantee requests funds in these areas? Does the proposed budget follow the cost categories and include itemized statements per grant Guidance?

certification (minimum 50% match)	YES	NO
enforcement (minimum 15% match)	YES	NO
other specific program areas (minimum 15% match)	YES	NO
additional program activities	YES	NO
pesticide management program maintenance	YES	NO
Quality Management Plan review (as appropriate)	YES	NO

Comments:

2. Are the costs reasonable in relation to the projected outputs or outcomes for the following areas?

certification	YES	NO
enforcement	YES	NO
other specific program areas	YES	NO
additional program activities	YES	NO

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pesticide management program maintenance YES NO

Comments:

B. Narrative Statement

1. Is there a discussion of performance to date regarding areas for which the grantee requests funding?

YES NO

Comments

2. Has the grantee certified that there are no impediments to carry out the proposed program? The grantee must have:

Authority to conduct the proposed program?	YES	NO
Authority to accept federal funds?	YES	NO
Designation as the Lead Agency?	YES	NO

Comments:

3. Are expected benefits to both the grantee and EPA identified? YES NO

C. General Work Plan Components

1. Has the grantee addressed each of the applicable work plan activities, as described in the attached Guidance?

OPP	YES	NO
OECA	YES	NO

2. Has the grantee provided the information contained in the Guidance to support requests for funding for additional program activities?

YES NO

Comments:

3. Has the grantee provided a schedule for all work plan activities related to:

the specific program areas?	YES	NO
meeting QMP requirements?	YES	NO

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additional program activities? YES NO

Comments:

4. Is there an evaluation plan which includes a schedule for mid-year (if required) and end of-year cooperative agreement evaluations?

YES NO

Comments:

5. For new grantees, is there a description of the accounting and filing system?

YES NO

Comments:

D. Enforcement

1. Identification of Work Years and Funding.

	Federal	State	Total
	_____	_____	_____
Work years*			
Inspectional	_____	_____	_____
Administrative	_____	_____	_____
Clerical	_____	_____	_____
Analytical	_____	_____	_____
Other	_____	_____	_____
Total	_____	_____	_____

*Include only those work years actually performing outputs under the cooperative agreement and funded with the dollars indicated above.

a. Are work years to be funded identified by type of activity (inspectional, administrative, clerical, analytical, or other) and cost?

YES NO

Comments:

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2. Is a minimum of 50 percent of the total work years directed to inspectional activities?

YES NO

Comments:

3. Are the budgeted inspectional/analytical work years reasonable in relation to the projected outputs?

YES NO

Comments:

4. Has the need for a pesticide enforcement program been adequately addressed?

YES NO

Comments:

5. Has the grantee submitted/referenced a priority-setting plan which addresses the national enforcement priorities and state/tribal priority problem areas?

YES NO

Comments:

6. Has the grantee submitted a completed projected inspection commitments?

YES NO

Comments:

7. Has the grantee agreed to conduct targeted inspections? YES NO

Comments:

8. Does the grantee commit to consistency with national compliance monitoring strategies?

YES NO

Comments:

9. Does the grantee commit to using the Guidance provided in EPA's updated Pesticides Inspection Manual when conducting inspections?

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YES NO

Comments:

E. Quality Assurance

1. Does the grantee have an EPA approved Quality Management Plan (QMP)?

YES NO

Comments:

2. Are the following quality assurance practices addressed in the application/QMP?

(a)	Submittal of Updated Quality Assurance Plan;	YES	NO
(b)	Use of standard analytical methods;	YES	NO
(c)	Cross-contamination screening program;	YES	NO
(d)	Performance evaluation sample program;	YES	NO
(e)	Back up Analysis Procedure;	YES	NO
(f)	Training of Analytical Chemists;	YES	NO
(g)	Laboratory Reviews;	YES	NO
(h)	Provisions of Analysis Results;	YES	NO
(i)	Submission/Retention of Reports;	YES	NO

Comments:

F. Enforcement Capability

1. Has the grantee submitted procedures for forwarding inspection reports with suspected violations to EPA?

N/A YES NO

Comments:

2. Does the application provide for an annual written agreement between the state and EPA for the selection, referral, and tracking of significant pesticide use cases under FIFRA Sections 26 and 27?

N/A YES NO

Comments:

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3. Does the application provide as an attachment or reference an up-to-date enforcement response policy (ERP) which the grantee is following? (Note: If EPA has the current ERP, then resubmittal is unnecessary.)

YES NO

Comments:

Does the state agree (in the application) to follow the ERP?

YES NO

Comments:

4. Is there any reference to procedures for resolving cross jurisdictional issues between states and tribes?

N/A YES NO

Comments:

5. Tracking/Management System:

(a) Does the grantee have a management system for tracking all inspections, violations, and enforcement actions, and rapid identification of the status of a case?

YES NO

Comments:

(b) For new grantees, is there a description of the system?

YES NO

Comments:

(c) Does the work program or Quality Management Plan address maintenance of tracking documents and associated files and length of time maintained?

YES NO

Comments:

G. Reporting

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1. Does the application provide for the timely submittal of accomplishment reporting?

YES NO

Comments:

2. For new grantees, is there a description of the accounting filing system?

YES NO

Comments:

3. Is there an evaluation plan which includes a schedule for timely completion of mid-year (if required) and end-of-year evaluations?

YES NO

Comments:

4. Does the application address any unresolved issues identified in the most recent mid-year and end-of-year evaluations?

YES NO

Comments:

5. Does the application address submittal of the annual reporting requirements as required by the FY15-17 FIFRA Cooperative Agreement Guidance?

YES NO

Comments:

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APPENDIX 8:
EPA PESTICIDE STATE/TRIBAL COOPERATIVE AGREEMENT APPLICATION REVIEW PROCEDURES

A. General

In determining the amount of assistance to award each grantee, the regional office will consider the grantee's annual allotment, the extent to which the grantee's work plan is consistent with this Guidance document, and the reasonableness of the anticipated cost of the grantee's program relative to the proposed outputs or outcomes.

The Regional Administrator will review each cooperative agreement application received and will either approve, conditionally approve, or disapprove the application within 60 days of receipt (40 CFR Part 35.110 - 113).

B. Application Review Panel

The regional office should ensure that a copy of the application be provided to the following for review and evaluation:

- Regional program office
- Regional Grants Administration Office
- Other regional office as appropriate to the regional procedures

The region has responsibility for reviewing all applications to ensure adequacy and compliance with the grant Guidance and applicable cooperative agreement regulations. If a regional program office wishes to consult with headquarters regarding an application, input can be sought as follows:

For questions concerning Worker Safety Programs or Container/Containment:
Kevin Keaney, Chief
Certification Worker Protection Branch
Field and External Affairs Division (7506P)
Office of Pesticide Programs
Office of Chemical Safety and Pollution Prevention
Phone - 703/305-7666

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For questions concerning other program activities:

Dan Helfgott, Chief
Government and International Services Branch
Field and External Affairs Division (7506P)
Office of Pesticide Programs
Office of Chemical Safety and Pollution Prevention
Phone: 703/308-8054

For questions concerning Enforcement activities:

Julie Simpson, Chief
Pesticides, Waste and Toxics Branch
Monitoring, Assistance and Media Programs Division
Office of Compliance (2227A)
Office of Enforcement and Compliance Assurance
Phone: 202/566-1980

C. Technical and Programmatic Review

A technical and programmatic review will be made by the application review panel to determine the merit of the proposed outputs and outcomes in view of the national pesticide program areas in this Guidance, and any additional regional priorities. In reviewing applications the Regions may wish to use the FIFRA Cooperative Agreement Application Review Checklist (Appendix 7) as a means of consistently recording whether major, basic administrative requirements have been met. The review should evaluate the pesticide program cooperative agreement application to determine whether:

- The application contains work plan commitments, and time frames for accomplishing the commitments, in accordance with the national Guidance, and any regional guidance as appropriate.

- The grantee's objectives and expected results for any supplemental programmatic or enforcement activities are consistent and compatible with the national Guidance, and any regional guidance as appropriate.

- The resources (funds and work years) requested are reasonable when compared to the projected outputs and outcomes in the work plan for the specific program areas, or any additional programmatic or enforcement supplemental activities.

The region should also determine if successful completion of the work plan is possible in view of the grantee's existing program and enforcement authority, resources, quality system and other applicable, known issues.

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D. Time Factor Guidelines

As a result of a survey conducted in 1997, EPA, in consultation with SFIREG, developed the following output time factors for use as a guide in evaluating pesticides enforcement cooperative agreement applications with regard to inspection and sample analysis activities. These time factors are used for comparing the number of inspectional and/or analytical work hours to be funded with the number of inspections to be conducted and the number of samples to be collected and/or analyzed.

Activity	Work hours to Complete Activity
Agriculture Use Inspection	20
Agricultural Follow up Inspection	20
Nonagricultural Use Inspection	15
Nonagricultural Follow up Inspection	20
Experimental Use Inspection	15
Producer Establishment Inspection	15
Marketplace Inspection	05
Import Inspection	10
Export Inspection	10-15
Applicator License and Records Inspection	05
Dealer Records Inspection	05
Sample Collection and Preparation	05
Sample Analysis	
Residue	25
Formulation	11

The time factor values should take into account all inspectional or analytical time spent to complete an activity, including travel time, document preparation, sample shipment, etc. The work hours should also include the prorated time for administrative activities of inspectors and chemists. In general, only the inspection and analytical work hours should be used to calculate productivity levels. Additional time spent by staff other than inspectors or chemists for administrative, case preparation, legal, clerical, and program planning activities time may be charged if the activities are prerequisites to conducting the activity.

Regions will use the time factors as a guide for negotiating and evaluating pesticide enforcement applications. With regard to inspection and sampling activities, the projected number of inspections, samples, and analyses multiplied by the established time factors should approximately equal the number of work hours which each grantee requested to complete the projected outputs under the cooperative agreement. The Agency considers productivity levels between 85% and 115% of the established standard to be in the acceptable range. It is

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understood that deviations from these time factors may occur because of differences in travel time, local procedures, etc. To ensure equal treatment of all grantees, a normal work year consists of 1800 hours after allowing for leave and holidays.

E. Administrative Review

The Regional Grants Administration Office will perform an administrative review and evaluation to determine whether the application meets the requirements of the EPA Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments found at 40 CFR Part 31 and regulations for State and Local Assistance found at 40 CFR Part 35. The references to specific sections of Part 35 are below:

For States
Pesticide Enforcement: Part 35.230 - 35.235
Certification & Training: Part 35.240 - 35.245
Pesticide Program: Part 35.250 - 35.252

For Tribes
Pesticide Enforcement: Part 35.640 -35.645
Certification and Training: Part 35.646-35.649
Pesticide Program: Part 35.650-35.659

At each stage of the evaluation, the grantee may be required to provide further information, or may need to amend the application to satisfy the concerns of the Agency.

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APPENDIX 9:

GUIDELINES FOR EPA FORM 5700-33H WITHIN THE FIFRA WORK PLAN-REPORT TEMPLATE

Every pesticide enforcement cooperative agreement, negotiated between EPA and the state or tribe, must include a workplan, which includes output projections broken down into eleven inspection categories. The FIFRA template may be used for this purpose. The work plan must also specify that participating states and tribes are to report back to the Agency, at least annually or as negotiated with the region, on the actual number of inspections conducted by inspection category, and the resulting enforcement actions, also by standard categories [e.g., civil complaint, criminal action, number of warnings].

All grantees participating in the FIFRA cooperative agreement program must project and report accomplishments for the pesticide enforcement program. EPA Form 5700-33H in the FIFRA Cooperative Agreement Work Plan-Report Template (FIFRA template), and may be used as a method of providing this required information to the Agency.

If a grantees uses the 5700 forms, the guidelines and definitions below should be followed to insure uniform reporting.

A. Reporting Under the Cooperative Agreement

The Agency encourages grantees to provide the Agency with summaries of their total yearly pesticide inspection and enforcement accomplishments. The Agency believes that this summary will not only provide a more accurate picture of grantee inspection and enforcement programs, but also give a more realistic national view as well. Total program accomplishments include all activities conducted under the cooperative agreement, including those completed with "state/tribal funds."

B. Output Projections

Output projections must be submitted in the work plan and included with the cooperative agreement application. These numbers represent the grantee's annual commitments under the cooperative agreement. EPA Form 5700-33H found in the FIFRA template may be used to report projections.

When asked, states should negotiate with their regional office and commit to conducting an agreed-upon number of federal facility inspections. These would fall under the other categories of inspections listed on the reporting form, but would be conducted at federal facilities. The number of inspections to be conducted at federal facilities must be negotiated and included in cooperative agreement applications.

Grantees are not asked to make projections for activities to be conducted outside of the cooperative agreement program.

C. Accomplishments

In order to evaluate performance under the pesticide enforcement cooperative agreement work plan, accomplishments must be reported annually. The accomplishments reported must include inspections conducted, samples collected, and enforcement actions taken. Reports must be submitted to the regional

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office by the grantee as indicated in the FY15-17 FIFRA Cooperative Agreement Guidance. EPA Form 5700-33H in the FIFRA Template may be used for this purpose.

Grantees must submit their inspection information to the regions annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and submit it to a joint OPP/OECA mailbox: FIFRA-EOYReports@epa.gov by January 15th each year.

The following are uniform reporting requirements for reporting accomplishments:

1. Inspections should be reported only if an appropriate inspection report is completed.

2. The **initial reason** for the inspection **determines** the appropriate inspection **category** for reporting.

3. If more than one type of inspection (of the eleven standard inspection categories) is conducted for the same visit, and each inspection is completely documented, then each inspection can be counted as a separate inspection.

4. Grantee enforcement actions resulting from inspections may be reported on Form 5700-33H in the FIFRA template. This includes enforcement actions for both federal and state/tribal violations.

5. Enforcement actions should be reported for the period in which they are **issued**, regardless of when the inspection was conducted.

6. Enforcement actions are to be reported under the inspection category heading for the initial inspection which led to the enforcement action.

7. Enforcement actions which are not the result of inspections in the field are to be reported in the narrative portion of the report.

See Section D, Inspection Category Definitions, below for additional uniform reporting requirements for use and follow-up inspections.

D. Inspection Category Definitions

The eleven standard inspection categories listed on EPA Form 5700-33H are defined, for uniform reporting purposes, as follows:

It is understood that many states/tribes conduct inspections which are not specified as separate inspection categories on Form 5700-33H or defined in these guidelines. Grantees should consult with their regional office to determine which inspection categories most closely match such inspections. Inspections that do not fall within one of the eleven standard inspection categories of the form should be reported in the narrative portion of the accomplishments report. Inspection reports of all inspections conducted using EPA credentials must be forwarded to EPA.

Use Inspections

A use inspection may be initiated as an observation of an actual pesticide application or as an inspection following an application. This type of inspection is usually selected using a neutral or routine inspection scheme. Use inspections also include the investigation of the many facets of the use of a pesticide including storing, handling, mixing, loading, and disposal. Section 18 and Section 24(c) use inspections will be included in this category for reporting purposes. Uniform reporting requirements are:

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- Use inspections are differentiated from for cause inspections by the initial reason for the inspection.
- Use inspections are initiated without a reason to believe that a violation has occurred or is occurring.
- Use inspections remain use inspections even if a violation is encountered.
- A use inspection requiring multiple visits should be reported as only one use inspection even though many sites may be visited.

For example, in a use inspection all of the following sites may be visited: application site, adjoining property, dealer where the pesticide was purchased to review sales records, and place of business of certified applicator to review records. The visits to the dealer and applicator should not be reported as separate inspections if these visits were part of the use inspection.

a. Agricultural Use Inspections

Agricultural use inspections include the inspection of pesticide applications in conjunction with the production of agricultural commodities as defined in 40 CFR Section 171.2(a)(5) as follows:

> The term "agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons) primarily for sale, consumption, propagation or other use by man or animals.

b. Non-agricultural Use Inspections

Non-agricultural Use Inspections include the inspection of non-agricultural pesticide applications.

<u>For Cause Inspections</u>

A For Cause inspection is usually initiated in response to a complaint, damage report, referral, tips, etc. following a pesticide application. Section 18 and 24(c) follow-up inspections will be included in this category for reporting purposes. Due to the potential for harm to human and the environment, it is important that the inspector initiate For Cause inspections as soon as possible after the receipt of an alleged misuse.

Uniform reporting requirements are:

- For Cause inspections are differentiated from use inspections by the initial reason for the inspection because the inspector may be required to visit a number of sites, interview various persons and/or collect a number of samples.
- For Cause inspections are initiated when there is reason to believe that a violation has occurred or is occurring.
- For Cause inspections remain for cause inspections even if a violation is not detected.

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Agricultural For Cause Inspections

Agricultural For Cause inspections are inspections of a suspected misuse of pesticides in conjunction with the production of agricultural commodities as defined in 40 CFR Section 171.2(a)(5).

Non-agricultural For Cause Inspections

Non-agricultural For Cause inspections are inspections of suspected misuse of pesticides in all categories of non-agricultural applications.

Experimental-Use Inspections

An experimental-use inspection may be an actual observation of an application or a For Cause inspection of records to determine compliance with the experimental-use permit. All inspections must be conducted on site; telephone calls or correspondence reviews will not be counted as inspections.

Producer Establishment Inspections

A producer establishment inspection (PEI) is an inspection of an establishment where pesticides or devices are produced and held for distribution or sale, for the purpose of inspecting the facility's products and obtaining samples. While conducting PEIs, product labels, containers and records should be examined for compliance. Inspection of the books and records required by Section 8 are also part of these inspections. Note: inspections involving the container/containment rules are typically conducted during PEIs.

Marketplace Inspections

A marketplace inspection is an inspection conducted at the retail, distribution, wholesale, or user level for the purpose of determining product registration status, proper storage and display, any labeling violations, any product decomposition, and for collecting official samples. To be counted as an output, the marketplace inspection must be documented in accordance with the provisions set forth in the EPA Pesticides Inspection Manual.

Import Inspections

An import inspection is an actual inspection of a product being imported into the United States to determine whether the product is in compliance with FIFRA. Telephone calls and review of import papers in the inspector's office will not be counted as inspections.

Export Inspections

Export inspections are considered to be intensive Section 8 books are records inspections that will involve the review and collection of a large number of documents and several affidavit statements by regional/state inspector(s) from responsible company officials. Inspection activities will consist of three (3) parts: pre-inspection document collection and review; on-site inspection activities to review and obtain additional documents; and inspection report writing and organization of inspection documents.

An export inspection is an inspection directed toward those pesticides that are intended for export to determine whether they are prepared and packaged in accordance with the specifications and directions of the applicable foreign purchaser and consistent with the EPA Statement of Policy on the Labeling

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Requirements for Export Pesticides, Devices, and Pesticide Active Ingredients and the Procedures for Exporting Unregistered Pesticides.

Certified Applicator License and Records Inspections

This type of inspection is normally conducted at a pesticide applicator's place of business. The purpose of the inspection is to determine if: (1) the applicator is properly certified and/or licensed, (2) the required records are being maintained, (3) the applicator is applying pesticides only in those areas for which certification has been issued and (4) the records indicate that all applications have been made in compliance with all applicable laws and regulations.

Inspections of non-certified applicators, pest control operators, etc., for the purposes described above should also be reported in this category.

Restricted-Use Pesticide Dealer Records Inspections

This type of inspection is conducted on-site at dealers who sell restricted-use pesticides. The purpose of the inspection is to determine if: (1) the dealer is properly licensed or certified (if required) and maintaining the required records and (2) restricted-use pesticides are being sold only to certified applicators or other properly authorized persons by reviewing the dealer's records.

E. Sample Definitions

Physical samples refer to extracted volumes or other substances taken for analysis in determining product formulation, use dilution and residue concentrations.

Documentary samples are samples collected when physical samples of pesticides or devices are not collected. Generally they consist of a complete label, photographs of the pesticide container or the device and all labeling accurately representing what accompanied the formulation or device in the channels of trade.

Since the number of samples is also used for determining laboratory workload and productivity, documentary or non-physical samples should be differentiated so as not to be reported as sample projections on EPA Form 5700-33H. Documentary samples may be projected in the narrative portion to accompany EPA Form 5700-33H, if a grantee would like to do so. However, as stated above, only physical samples are required to be projected.

F. Sample Accomplishments

With respect to samples collected, both physical and documentary samples shall be reported.

G. Enforcement Action Category Definitions

Enforcement actions initiated as a result of an inspection may be reported on EPA Form 5700-33H within the FIFRA Template.

It is understood that many grantees initiate enforcement actions which are not specified as one of the standard categories for enforcement action on EPA Form 5700-33H or defined in these guidelines. The state/tribe should consult with their regional office to determine which reporting categories most closely match such enforcement actions. Enforcement actions not readily falling within one of the ten standard

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categories on the form should be reported in the enforcement action category **"Other Enforcement Actions" and described in the narrative portion of the accomplishments report.**

The eleven standard categories of enforcement actions listed on EPA Form 5700-33H are defined, for uniform reporting purposes as follows:

1. Civil Complaints Issued
Civil Complaints include any written notice proposing a monetary penalty for a violation. These actions should be reported during the period in which they are issued to the respondent.

2. Criminal Actions Referred
Criminal Actions are those legal actions pursued in a court of law. These actions should be reported during the period in which the case is referred to the judicial system (e.g., State Attorney General, District Attorney or County Prosecutor).

3. Administrative Hearings Conducted
An Administrative Hearing is when an alleged violator is required to appear before a state, tribal or federal hearing officer to explain why the violation occurred. For purposes of the 5700-33H form, states/tribes should only report administrative hearings that are not associated with other enforcement actions. These actions should be reported during the period in which the hearing is conducted.

4. License/Certificate Suspension

5. License/Certificate Revocation

6. License/Certificate Conditioning or Modification
These are usually administrative actions taken to further restrict the use of restricted-use pesticides by certified applicators by suspending, revoking or modifying the terms of the applicator's license or certification.

7. Number of Warnings Issued
To be counted, warnings must be a **written notification** pointing out the violation(s) and placing the recipient on notice that further violation may result in additional enforcement action. Warnings should be reported during the period in which the warning was issued.

8. Stop-Sale, Seizure, Quarantine, or Embargo
All official written orders for removing products in violation from sale or use should be reported in this category.

9. Cases Forwarded to EPA for Action
This includes all inspection files that document violations of FIFRA and are forwarded to EPA for enforcement action.

10. Other Enforcement Actions
This is any other written, verifiable enforcement action initiated by the state, tribe or federal agency that is not comparable to one of the above enforcement action categories.

11. Number of Cases Assessed Fines
This figure indicates the number of enforcement cases resulting in the assessment of a monetary fine (e.g., civil complaint settlements, criminal court actions, or administrative hearing orders).

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H. Narrative

Accomplishment Reports should be accompanied by a narrative portion as described below:

Inspections Conducted
Inspections which do not fall within one of the eleven standard inspection categories should be reported in the narrative.

Enforcement Accomplishments
Enforcement actions not readily falling within one of the standard categories on the form should be reported in the enforcement action category "Other Enforcement Actions" and described in the narrative portion.

Enforcement actions which are not the result of inspections in the field may be reported in the narrative.

Some examples of what would be included under "other enforcement actions" include the following; advisory letters, agreements on remedial action, notices of intent to sue, consent agreements, reports of substandard treatments, treatment correction notices, and stop work order notice.

A "field notice" would be included under the category of "other enforcement actions" (as opposed to the "warning" category) only if it does not meet the definition of a "warning" as described in item number 7.

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APPENDIX 10:

GUIDELINES FOR WPS EPA FORM 5700-33H WITHIN THE FIFRA WORK PLAN-REPORT TEMPLATE

All grantees participating in the FIFRA cooperative agreement program must project and report accomplishments for their pesticide enforcement program. EPA Form 5700-33H is contained in the FIFRA Cooperative Agreement Work Plan-Report Template (FIFRA template), and may be used as a method of providing this required information to the Agency. This information will provide a more accurate picture of a grantee's inspection and enforcement program, and provide a more realistic national view as well.

WPS Agricultural Inspections Enforcement Reporting
Grantees must submit required information annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and submit the information to a joint OPP/OECA mailbox: FIFRA-EOYReports@epa.gov by January 15th each year. WPS EPA Form 5700-33H is divided into two sections. The left side of the form is divided in four columns to collect total number of WPS inspections conducted in a reporting period:

1. WPS Tier I Inspection column: is subdivided in two columns, *Use and For Cause* to collect total number of WPS Tier I agricultural use inspections, and the total number of Tier I for cause inspections conducted during the reporting period. This includes capturing the number of inspections conducted at facilities claiming the Immediate Family Exemption. The total number of inspections at facilities claiming the Family Exemption, a subset of the total Tier 1 and Tier II inspections, is recorded in the Immediate Family Exemption block.

2. WPS Tier II Inspection column: is subdivided in two columns, *Use and For Cause* to collect total number of WPS Tier II agricultural use inspections, and the total number of Tier II for cause inspections conducted during the reporting period. This includes capturing the number of inspections conducted at facilities claiming the Immediate Family Exemption. The total number of inspections at facilities claiming the Family Exemption, a subset of the total Tier 1 and Tier II inspections, is recorded in the Immediate Family Exemption block.

3. Total Inspections column: is to collect total number of WPS Tier I and Tier II inspections.

4. Inspections at Facilities Claiming Family Exemption Column: is a subset of the WPS Tier I and Tier II to collect data on inspections conducted at facilities claiming family farm exception to provide EPA with better data on the size of this component in the regulated community.

Note: The C&T portion of the form does not need to be completed.

WPS Enforcement Actions
Some Enforcement Action Categories are deleted from the EPA Form 5700-33H because they are not applicable to WPS enforcement. Report total number of enforcement actions taken under the inspection heading (Tier I - Use or For cause, Tier II - Use or For cause).

Violations during WPS Inspections
The right side of the WPS EPA Form 5700-33H is for collecting violations documented during WPS inspections. There are ten WPS Violation Categories listed in the first column.

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The second column is for reporting number of violations. Number of WPS violations is going to be greater than the number of enforcement actions on the left hand side of the form. The goal of this section is to highlight areas of the WPS Rule where compliance difficulties remain, where compliance assistance activities and enforcement targeting may be focused, and used to monitor national trends. Each state in-turn should use this data to feedback into future compliance efforts and future enforcement targeting.

EPA recommends that all grantees with enforcement programs provide this information to fulfill our goal. If you are interested in additional information, links to additional materials are provided below for your convenience.

U.S. EPA Worker Protection Standard Agricultural Inspection Guidance
The WPS Agriculture Inspection Guidance provides useful information to inspectors on how to conduct thorough and nationally consistent agricultural inspections under EPA's WPS program.
http://epa.gov/compliance/resources/policies/monitoring/fifra/wpsinspectionsguide.pdf

Risk-Based Inspection Targeting Strategy for Worker Protection Compliance Monitoring Activities
States and tribes should verify compliance with the WPS through both routine inspections and inspections targeted to focus on establishments or situations that pose the highest risk to pesticide workers and handlers in agriculture. This Guidance provides a targeting approach states and tribes can use to identify the establishments and situations in the state or area of tribal jurisdiction that represent the highest risk to pesticide workers and/or handlers.
http://www.epa.gov/compliance/state/grants/fifra.html

FIFRA Worker Protection Standard End-of-Year Case File Review Form
This form provides a standard checklist of items regions should evaluate in reviewing state or tribal case files including aspects of the inspection and any follow up enforcement action.
http://www.epa.gov/compliance/state/grants/fifra.html

FIFRA Cooperative Agreement Work Plan-Report Template
This link will take you to the FIFRA Cooperative Agreement Work Plan-Report Template which contains all reporting forms including the WPS EPA Form 5700-33H.
http://www.epa.gov/compliance/state/grants/fifra.html

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APPENDIX 11:

GUIDELINES FOR CONTAINER/CONTAINMENT EPA FORM 5700-33H WITHIN THE FIFRA WORK PLAN-REPORT TEMPLATE

Introduction
All grantees participating in the FIFRA cooperative agreement program must project and report accomplishments for their pesticide enforcement program. EPA Form 5700-33H is contained in the FIFRA Cooperative Agreement Work Plan-Report Template (FIFRA template), and may be used as a method of providing this required information to the Agency.

Grantees must submit all required information annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and forward the information to a joint OPP/OECA mailbox: FIFRA-EOYReports@epa.gov by January 15th each year.

Types of Inspections
The left side of the Container/Containment EPA Form 5700-33H is set up to collect the number of inspections for two types of inspections: (1) producer establishment inspections with containment and (2) non-PEI containment only inspections. These types of inspections are described below in the definitions section.

Container/containment information could be collected during other types of inspections, such as producer establishment inspections (without containment) and marketplace inspections. The number of PEIs and marketplace inspections should be reported annually as outlined in the Guidance, and may be reported on the standard EPA Form 5700-33H within the FIFRA template.

The right side of the form is for collecting Container/Containment potential violations documented during inspections. Nine violation categories are listed and they are defined below. The totals here should represent the violations found during any type of Container/Containment inspection, i.e., producer establishment inspections with containment; non-PEI containment only inspections; PEIs without containment; or marketplace inspections.

Definitions
Producer Establishment Inspection with Containment - A producer establishment inspection (PEI) with containment is an inspection of an establishment where agricultural pesticides are held in stationary bulk containers prior to being repackaged (produced) and held for distribution or sale; for the purpose of inspecting the facility's products, obtaining samples, and ensuring that secondary containment of the stationary containers is compliant. When conducting a PEI, product labels, containers, containment and records should be examined for compliance. Inspection of the books and records required by Section 8 also are part of these inspections. In order for a PEI inspection to count as a containment PEI, the inspector must inspect the containment areas. These inspections are a subset of PEIs on the general 5700-33H form and should be included in that total.

Non-PEI Containment Only Inspection – A non-PEI containment only inspection is conducted at a facility engaged in custom blending of pesticides or commercial application of pesticides that have

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stationary pesticide containers that are subject to the regulations or a pesticide dispensing area. Containment and dispensing areas should be examined to determine if they are in compliance. These inspections are not included under another category on the general 5700-33H. States that are implementing state pesticide containment regulations (that provide at least equivalent environmental protection to the federal pesticide containment regulations) are encouraged – but not required – to report their non-PEI containment only inspections.

Violations

1. **Deficient labeling (i.e. cleaning and disposal instructions)** – Violations of any of the labeling requirements for refilling statements and cleaning instructions.

2. **Deficient container design (valves, openings)** – Violations of the requirements for container design (DOT regulations); marking; tamper-evident devices; one-way valves; container integrity; vent, gauge, and/or shutoff valve standards.

3. **Producing Establishment registration violations** – Violations of the establishment registration, reporting or record keeping requirements.

4. **No contract manufacturing agreement, residue removal instructions, list of acceptable containers** – Failure to provide or possess a contract manufacturing agreement (or the repackaging contract), residue removal and cleaning procedure, list of acceptable containers, or current labeling.

5. **Deficient management procedures & operation** – Failure to visually inspect containers prior to refilling, clean containers prior to refilling if necessary, or securely attach labels.

6. **Record keeping** – Failure to keep records of the residue removal procedure, list of acceptable containers, or contract manufacturing agreement at all or maintain them for 3 years; for each time a container is filled, the EPA registration number, the date of repackaging, or the serial number or identifying code of the container.

7. **Secondary containment & pads – capacity/design** – Violations of the requirements for design, construction materials, appurtenances, configurations of drains, and stormwater control.

8. **Secondary containment & pads – site management** – Violations of the requirements for operation, inspection, and maintenance.

9. **Secondary containment & pads – record keeping** – Failure to keep records of the person conducting inspection or maintenance and date, conditions noted and maintenance performed, how long non-stationary tanks remained at the facility, or construction date of the structure at all or maintain them for 3 years.

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APPENDIX 12:

REPORTING AND COORDINATION OF HIGH LEVEL PESTICIDE INCIDENTS

Grantees are required to report to the regions high level pesticide incidents involving serious adverse effects which may require close cooperation with EPA or other agencies to conduct an investigation or to bring the incident to resolution. While some EPA regions have established processes with their grantees to ensure proper reporting, this is not a universal practice nor is there a formal process between EPA regions and headquarters. This document does not require a change to any existing process, provided the existing process is the functional equivalent of this requirement.

Each EPA region and its grantees shall determine the best way to capture this process in their work plans.

1. Each regional office, OPP-FEAD and OECA-OC and OCE will identify primary and backup points of contact (POCs) to ensure timely transmission of incident information to each other if a high level incident occurs.

2. In case of a high level incident: Each regional office, OPP-FEAD and OECA-OC and OCE shall use its best professional judgment to identify a high level incident. At the discretion of each EPA region and its grantees, they may create specific (additional) criteria to assist in identifying high level incidents, including the FIFRA referral guidelines for FIFRA Section 27(a). A grantee should not wait until it has complete or confirmed information before proceeding, but should appropriately caveat and qualify such information. Examples of high level incidents may include but are not limited to:
   - Human fatality;
   - Hospitalization of exposed human;
   - Confirmed exposure to 5 or more individuals (if a low risk pesticide is involved the number can be higher; if children are involved, fewer than 5 will initiate process);
   - Widespread environmental contamination, or potential thereof;
   - Widespread wildlife fatalities;
   - Significant damage to crops;
   - Confirmed exposure or death to livestock (10 or more);
   - Confirmed exposure or death to pets;
   - Potential for significant media coverage based on specific use incident;
   - Potential for illegal food crop or commodity pesticide residues;
   - Significant fire, spill or improper disposal involving pesticides;
   - Homeland Security issues (e.g., pesticides implicated in a situation impacting large population, food/water supply or livestock; or pesticides is needed to control pathogen, virus or bacteria); and
   - Alleged pollinator incidents.

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3. When a grantee considers an incident to be high level, it will initiate the process by reporting the incident to the regional POC as soon as possible, but no later than 24 hours after receiving incident information. The initial contact shall be via phone (by direct contact, not voice mail), to be followed up by e-mail. The initial information shall include at a minimum (if available) the following items: location (preference for lat/long, township or other), pesticide or substance involved or suspected, date of incident, target site/pest (if there is one), source of information, a brief description of incident, identity of future contact person, and when the reporting agency will be able to provide an update.

4. The regional POC will relay the information to headquarters and their own regional management as soon as possible but no later than 24 hours after their communication was received. The initial call should go to the OPP-FEAD POC. Again, the regional POC shall make direct phone contact with the primary or secondary contacts (no voice mails). The regional POC will then follow up with a brief e-mail (or forwarding of the state/tribe e-mail) relaying basic details of the incident. At this point, the regional POC also needs to ascertain if this is the type of incident that would require notification of the Regional Incident Management System (this may be a Regional Incident Coordination Team (RICT) or an Emergency Response Center). Each region has a 24/7 emergency phone number. Other federal agencies will be notified by the regional POC when the situation warrants.

5. The OPP-FEAD POC will notify OECA-OC and OCE and each will disseminate the incident report to other parts of their organization, as appropriate (e.g., upper management, human health specialist, incident coordinator, water quality coordinator, etc).

6. If an EPA headquarters or regional office learns of an incident through a tip, via media coverage or other source of information, EPA will implement this process in the reverse order to assure that the grantee is aware of it.

7. After all affected EPA offices are informed, subsequent information may be communicated via the original process when circumstances require, or other appropriate method.

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