

**FISCAL YEAR 2008 - 2010 JOINT EPA OPP/OECA STATE/TRIBAL
COOPERATIVE AGREEMENT GUIDANCE**

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SECTION 1: INTRODUCTION

1.1 Purpose of this Guidance

The purpose of this guidance is to: (1) identify pesticide program and compliance and enforcement activities that should be pursued under cooperative agreements with states to support the performance measures for the National Pesticide and Enforcement Programs; (2) identify other activities eligible for state/tribal cooperative agreement funds in fiscal years 2008 - 2010, (3) describe requirements and expectations of applicants; and (4) provide anticipated funding information. This guidance, developed by EPA's Office of Pesticide Programs (OPP) and Office of Enforcement and Compliance Assurance (OECA), is specifically directed to the EPA Regional Offices that negotiate cooperative agreements to conduct pesticide program development, implementation activities, and compliance/enforcement activities. OPP and OECA are issuing this guidance for fiscal years 2008 - 2010.

Section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, authorizes EPA to enter into cooperative agreements with states, territories, and Indian tribes (hereafter referred to collectively as "applicants") 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 FY 1999, pesticide program implementation grants under section 23(a)(1) of FIFRA are available for "pesticide program development and implementation, including enforcement and compliance activities.

This joint guidance is intended to help coordinate development/coordination activities and compliance/enforcement under the pesticide program. Thus, the two sets of activities are interconnected, but may be handled under two independent cooperative agreements.

1.2 Organization of this Guidance

This Guidance contains information on applying for both the pesticide program and enforcement cooperative agreements.

- Section 2 describes the application process for pesticide program state/tribal cooperative agreements for Fiscal Years 2008 – 2010 and is similar to that for Fiscal Years 2005-2007. Section 2 also includes information on activities that may be funded for pesticide program activities.
- Section 3 explains the pesticide enforcement activities that may be funded during the FY 2008 – 2010 cooperative agreement cycle.
- Section 4 provides reporting and evaluation guidance.
- Section 5 provides general cooperative agreement authorization and administrative requirements.
- Section 6 discusses review procedures, and

- Section 7 contains information regarding allotment of pesticide program and enforcement cooperative agreement funds.

This guidance document also contains several appendices.

- Appendix 1 provides a checklist to be used by both the applicants and the regions when reviewing the application for specific information.
- Appendix 2 outlines EPA Application Review Procedures.
- Appendix 3a contains the Guidelines for Using EPA Form 5700-33H. This form is to be used by the regions, in conjunction with the grant work plan and mid and end-of-year evaluation reports, to provide both grant output projections and accomplishments for state and tribal enforcement. The information reported on EPA Form 5700-33H is to be provided to the Regional Offices semi-annually.
- Appendix 3b is EPA Form 5700-33H
- Appendix 4a is the Guidelines for Using WPS EPA Form 5700-33H.
- Appendix 4b is WPS EPA Form 5700-33H
- Appendix 4c provides guidance for defining what constitutes a WPS inspection for purposes of reporting accomplishments, and it includes a WPS specific reporting form in addition to instructions for completing WPS EPA Form 5700-33H.
- Appendix 4d is Risk Based Targeting Guidance for WPS Inspections.
- Appendix 4e provides a guide for reviewing WPS cases.
- Appendix 5 sets out Enforcement Priorities.
- Appendix 6 describes the Pesticide Enforcement Outcome Measures and includes the required form.
- Appendix 7 is the Worker Safety Report Form.
- Appendix 8 is the Schedule of Active Ingredients for Registration Review.
- Appendix 9 is the State & Tribal End-of-Year Reporting Form for the Pesticide Water Quality Program—*not attached herein* (This is currently under development and will be published under separate cover).
- Appendix 10 is the WQ Quality Criteria for Data Submissions
- Appendix 11 is the Base List of Pesticides of Interest
- Appendix 12 is the Endangered Species Data Collection Sheet for 2008-2010, and finally,
- Appendix 13 is the Endangered Species Inspection Report Form

We recommend that applicants also refer to the National FIFRA Enforcement Response Policy and the FIFRA Worker Protection Standard Penalty Policy, available at <http://cfpub.epa.gov/compliance/resources/policies/civil/fifra/>, while drafting their proposals.

SECTION 2: FY2008 - 2010 APPROACH TO PESTICIDE PROGRAM STATE/TRIBAL COOPERATIVE AGREEMENTS

2.1 General Method

The approach outlined in this grant guidance for FY 2008 - 2010 is intended to provide significant flexibility, maximize success for the National Pesticide Program performance measures, accomplish certain goals for the specific program areas, ensure accountability for funds, and advance broad goals for pesticide management programs. In general, OPP describes in this guidance a broad goal for pesticide management programs conducted by the applicants. We also define specific performance measures and *levels of attainment* for each specific program area (ground water and water quality, endangered species, worker protection and certification programs, and pesticide container/containment). The state/tribe will need to commit to maximize performance measure results and reach the specific *levels of attainment* for each specific program area and then may negotiate with the Regional Office to define other activities it will accomplish which will advance the *Pesticide Management Goal*. If a state/tribe can show no further progress in that National Pesticide Program Performance Measures or has already reached the level of attainment for a specific program area, they may, but do not need to advance that specific program area. Instead, they may maintain the program at that level and negotiate additional program activities that will advance the *Pesticide Management Goal*.

The Pesticide Program portion of this guidance includes both “core” and “supplemental” activities. The “core activities” are those activities that we believe are essential to baseline operation of a program area, achieving environmental results, maximizing success with our new performance measures, or providing data necessary to support the performance measures. The guidance also includes “supplemental activities” which States/tribes should strongly consider. “Supplemental activities” are optional and not considered essential to the baseline operation of programs, however, EPA feels these activities will greatly enhance program effectiveness.

OPP acknowledges that certain activities and functions of a Pesticide Management Program are not predictable. For example, throughout a given time period, a situation may arise whereby the recipient must act to address a crisis or the Program Office may be required to obtain certain information or institute certain activities in the field. To the extent possible, OPP encourages the Regions and Cooperative Agreement recipients to provide latitude within the agreements to account for such unforeseen circumstances.

2.2 Program Goals and Activities

2.2.1 The Pesticide Management Goal

State/tribal cooperative agreements are intended to not only support the National Pesticide Program Performance Measures and accomplish specific levels of attainment within four specific program areas but also, to recognize and/or establish an applicant’s pesticide management program capable of advancing an overall environmental goal. The following *Pesticide Management Goal* allows the flexibility necessary for the state/tribe to carry out

activities such as education, alternative management strategy initiatives including IPM programs, collection and disposal initiatives among others. It also permits increased activity in one or more of the four specific program areas if that is the applicant's priority.

THE PESTICIDE MANAGEMENT GOAL

It is the goal of EPA's National Pesticide Program, in partnership with the state, territory and tribal lead agency for pesticide management activities, to protect human health and the environment from unreasonable adverse effects resulting from pesticide use and ensure pesticides are available for safe use. Under its statutory authority the National Pesticide Program's responsibilities include protecting consumers, pesticide users or workers who may be exposed to pesticides, and protecting eco-systems, including non-target plants and species. Because many pesticides are potentially hazardous, the Agency serves an important role as a selective gateway to the pesticide market and an effective steward of pesticides already on the market. Achieving these protective outcomes requires the combination of programs and activities by citizens, pesticide users, states, tribes, EPA Regions and Headquarters and other partners.

2.2.2 Levels of Program Attainment

For FY 2008 - 2010 state/tribal cooperative agreements, all applicants with continuing cooperative agreements must commit to reach the following levels of attainment for each of the four specific program areas. The activities listed as core activities are either expected to maximize results for the National Pesticide Program Performance Measures, or are required to provide data for those measures. Applicants who do not reach levels of attainment or demonstrate results via the performance measures outlined in the cooperative agreements by the end of each fiscal year may only be funded in the subsequent year for the specific program areas of worker safety, water quality, endangered species, and container/containment activities, and may not be provided funding for "**Additional Program Activities**" listed in Section 2.2.3 of this guidance. *(If this were a multi-year funded cooperative agreement, then results may not necessarily be obtained after a single fiscal year).* Applicants must negotiate specific commitments in specific program areas with the regional office.

It is recognized that circumstances may occur which require a state/tribe to modify their commitments once the state/tribal cooperative agreement is in place. If this occurs, the state/tribe must work with the Regional Office to reach agreement on new commitments. If these changes result in failure to reach the level of attainment, the Regional Office must consider this when determining whether to approve "Additional Program Activity" funding for future state/tribal cooperative agreements as mentioned above.

OPP recognizes that circumstances may occur for Tribes that would require Regions to negotiate separate levels of attainment on a case by case basis. EPA Regions will consider any

applicant's consistent failure to demonstrate progress toward reaching the agreed upon levels of attainment in funding decisions for the FY 2008 - 2010 cycle.

Following is the level of attainment for each of the four specific program areas for FY 2008 - 2010 state/tribal cooperative agreements:

Pesticide Worker Safety

Reducing or preventing occupational pesticide exposures, illnesses and incidents are key strategic targets under the Agency's 2006-2011 Strategic Plan, sub-objective 4.1.3, "Protect Human Health from Pesticide Risk." The specific worker safety related strategic targets from the Agency's Strategic Plan are included under the "*Worker Safety Program Performance Measures and Indicators*" section of this worker safety program guidance. EPA's goal under this sub-objective is to protect human health by implementing our statutes and taking regulatory actions to ensure pesticides continue to be safe and available when used in accordance with the label. Therefore, one of OPP's highest priorities for 2008-2010 will be to maintain a strong pesticide worker safety program that protects pesticide workers' health and assures effective implementation of the 40 CFR Part 170 Worker Protection Standard (WPS) and Part 171 Pesticide Applicator Certification (C&T) regulations. Updating and improving these regulations will also be a high priority for OPP in FY 2008-2010 and EPA intends to propose revisions to these regulations in FY 2008.

As one of OPP's highest priorities for FY 2008-2010, state/tribal partners working with EPA under pesticide cooperative agreements should direct appropriate effort and resources toward implementation of the WPS and C&T regulations by carrying out the activities described in this section of the guidance. At a minimum, states/tribes must commit to accomplishing the "core activities" for the WPS and C&T programs described below and submitting the required worker safety reporting information which is needed for program management and accountability.

The required core activities listed below are those activities deemed necessary for assuring "baseline" implementation of the WPS and C&T programs and will maximize performance measures results. OPP also wants to emphasize the importance and value of advancing state/tribal pesticide worker safety programs beyond "baseline" programs. Therefore, in addition to carrying out the required core activities outlined below, states/tribes are strongly encouraged to undertake work on the "supplemental activities" listed for pesticide worker safety. Although supplemental activities are optional, EPA feels these activities will enhance program implementation and lead to better overall protection for pesticide workers. States/tribes with high populations of workers or specific pesticide worker safety concerns should consider a higher level of activity in this program area. ***[NOTE: Some EPA Regional Offices may require additional Region-specific grant activities, commitments and/or reporting requirements. Any such requirements will be covered in Region-specific grant guidance or during the annual work plan negotiations if applicable.]***

Core Activities for WPS

1. **Conduct Outreach and Education.** States/tribes should continue to provide WPS-related outreach and education to the regulated and protected community. Outreach efforts should focus on these two areas:
 - informing pesticide workers and handlers about the protections provided by the WPS regulation, how to report occupational pesticide exposure incidents and illnesses, and how to file complaints with the State/Tribal Lead Agency regarding potential WPS violations; and
 - providing WPS information to covered agricultural establishments whose operation or pesticide use would pose a high potential risk to workers and handlers (based on your targeting strategy), and those establishments with a history of non-compliance or enforcement problems (states/tribes should use compliance data from their field inspections to identify such areas). [*NOTE: States/Tribes should provide information to WPS covered establishments on how to obtain the revised 2005 WPS How-To-Comply manual.*]
2. **Support WPS Worker & Handler Training.** States/tribes should 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. [*NOTE: States/Tribes should provide information to WPS covered establishments and WPS training providers on how to obtain WPS training materials.*]
3. **Assure Appropriate Mechanisms and Procedures are in Place to Enable Coordination and Follow-up on Any Reports of Occupational Pesticide Exposure Incidents and/or Illnesses That May be Related to Pesticide Use/Misuse or WPS Violations.** States/tribes should assure they have appropriate mechanisms and procedures in place to enable them to coordinate and follow-up on any reports of occupational pesticide exposure incidents and/or illnesses that may be related to pesticide use/misuse or WPS violations. This should include:
 - having appropriate mechanisms and procedures in place to field, track and follow-up on tips or complaints that come to the State/Tribal Lead Agency from the regulated or protected community that involve any alleged occupational pesticide exposure incidents/illnesses possibly related to pesticide use/misuse or WPS violations; [*NOTE: For the purposes of this guidance and related reporting requirements, a definition of "occupational pesticide exposure incident" is provided under the "Worker Safety Reporting Requirements" section of this worker safety program guidance.*]
 - assuring appropriate mechanisms and procedures are in place to allow for

coordination and information exchange between the State/Tribal Lead Agency with state/tribal health and labor departments (or similar agencies) on any occupational pesticide exposure incidents/illnesses that may be related to pesticide use/misuse and that may get reported to those agencies (or that they may otherwise deal with under their jurisdictional responsibilities); and **[NOTE: At a minimum the State/Tribal Lead Agency should have a plan or strategy for developing the capacity to have such coordination and information exchange mechanisms/procedures in place with state/tribal health and labor departments (or similar agencies). The plan/strategy does not need to be a formal written document that is submitted to the Region. However, if there are no established coordination and information exchange mechanisms/procedures in place, then the state/tribe should discuss their plan/strategy for developing this capacity with the Region during grant negotiations and they should establish performance goals or objectives in the annual grant work plan for advancing their plan/strategy. Regions should work with states/tribes to assist them with this activity as needed and Regions should address state/tribal progress in this area in the annual end-of-year reviews.]**

- assuring appropriate and adequate outreach is carried out to the regulated and protected community and to health care providers, migrant clinics, rural health service organizations, farmworker service organizations and other such groups that may provide health services to pesticide workers or handlers, so affected persons and organizations know how to report information or file tips or complaints with the State/Tribal Lead Agency regarding occupational pesticide exposure incidents or illnesses possibly related to WPS or pesticide use/misuse. **[NOTE: States/tribes should also provide information to health care providers on how to obtain the revised "Recognition and Management of Pesticide Poisonings" manual (fifth edition) via EPA/OPP's website. (<http://www.epa.gov/oppfead1/safety/healthcare/handbook/handbook.htm>)]**

Core Activities for C&T

1. **Assure Basic Program Implementation.** States/tribes must assure pesticide applicator certification programs are being implemented and maintained in accordance with their official EPA approved certification plans to ensure the competency of certified applicators and provide for public safety, national security and protection of the environment. C&T 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, States/tribes should assure applicator exams are updated as needed to reflect changing competency and certification standards, and they should coordinate with training providers to assure applicator training materials and programs are also updated as needed.
2. **Meet State/Tribal Certification Plan Requirements Using the Certification Plan and Reporting Database (CPARD) System.** States/tribes must assure their State/Tribal Plans for C&T are maintained and kept current in accordance with the requirements in 40

CFR Part 171. States/tribes should continue to use the CPARD system to keep their certification plans current. States/tribes should update their plans in CPARD annually, making any necessary updates in the database to reflect any changes to their C&T programs and plans made during the year. States/tribes should assure all pertinent information regarding any plan changes is provided. Additionally, States/tribes must use the database system for submitting their required annual C&T accomplishment reporting information. States/tribes should work with their EPA Regional Office to get any technical assistance needed to assure they can access and use the CPARD system.

3. **Monitor Applicator Training for Quality Assurance.** States/tribes should 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. States/tribes should work with CES and other training providers to assure training programs are providing the information required to assure appropriate applicator knowledge and competency.
4. **Address Compliance/Enforcement Issues in C&T.** States/tribes should review their compliance monitoring and enforcement data annually to determine if there are any consistent compliance problems associated with certain use patterns or the use of specific pesticides. Any such trends or problems that are identified should be addressed through applicator training programs as appropriate and noted in the annual C&T accomplishment reporting information submitted to EPA.

Suggested Supplemental Activities for WPS

1. **Provide Comment on Proposed Part 170 (WPS) Regulation Changes.** EPA intends to propose revisions to the Part 170 WPS regulation in FY 2008. States/tribes should review the proposed regulation changes when they are issued to identify potential impacts or issues for their programs. States/tribes are encouraged to provide comments to EPA on the proposed changes.
2. **Work to Establish WPS Train-the-Trainer Programs to Improve the Quality of WPS Trainers/Training.** In association with a cooperative agreement partner, OPP carried out a national train-the-trainer (T-t-T) pilot program that has led to the development of a draft national model WPS T-t-T program for WPS worker training (includes national T-t-T instructor handbook and companion materials). When the final national T-t-T materials are made available EPA encourages states/tribes to promote and use them to establish WPS T-t-T programs that will improve the quality of WPS trainers and WPS training programs.
3. **Work With Community-Based Training Providers.** States/tribes should work with community-based training providers, such as AFOP/Americorp and other groups, to assure they are appropriately linked with the members of the agricultural community so their services can be utilized more effectively.

4. **Develop Cooperative Relationships with Farmworker Service Organizations.** States/tribes should identify and work with those groups that provide services to farmworkers in order to establish cooperative relationships and better communications and linkages with them. 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.

5. **Support the National Strategy for Outreach to Health Care Providers.** The National Strategy for Outreach to Health Care Providers is an important component of EPA's pesticide worker safety program. It is the cornerstone of EPA's effort to improve recognition and management of pesticide poisonings by health care providers, and it is an important part of efforts to facilitate better communications regarding pesticide incidents. States/tribes should consider undertaking activities listed below to support the initiative:
 - Identify and work with health care providers, migrant clinicians, and other groups that may provide health services to farmworkers in order to establish better linkages with them and build productive communication networks that will support the objectives of the program and promote better coordination on occupational pesticide incidents/illnesses.

 - Distribute EPA's revised *Recognition and Management of Pesticide Poisonings* manual to health care providers, migrant clinics and other appropriate entities to help improve diagnosis and treatment of pesticide related illnesses.

 - Participate on potential projects/efforts that may arise in association with EPA's cooperative agreement activities related to its National Strategy for Outreach to Health Care Providers.

Supplemental Activities for C&T

1. **Provide Comment on Proposed Part 171 (C&T) Regulation Changes.** EPA intends to propose revisions to the Part 171 C&T regulation in FY 2008. States/tribes should review the proposed regulation changes when they are issued to identify potential impacts or issues for their programs. States/tribes are encouraged to provide comments to EPA on the proposed changes.

2. **Support Certification and Training Assessment Group (CTAG) Projects.** EPA continues to actively work on projects and activities stemming from the CTAG process and recommendations. States/tribes should keep abreast of the ongoing CTAG projects and activities and identify potential opportunities for collaboration with EPA and the CTAG. States/tribes should also provide input and comment to CTAG on CTAG issue papers and other CTAG documents. **[NOTE: States/tribes can find out about CTAG activities and opportunities for involvement by visiting the CTAG web site**

(<http://pep.wsu.edu/ctag/>).]

3. **Undertake Efforts to Measure Program Outcomes.** States/tribes should consider conducting program assessments or developing program measures that could help document certification program outcomes. This may include such things as developing processes to document positive behavior change as a 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.
4. **Use Exam Development and Validation Principles.** Where resources permit, states/tribes should use exam development and validation principles to revise their applicator exams and help lead to improved competency of applicators.

Worker Safety Reporting Requirements

For FY 2008-2010, each state/tribe must report annually to EPA on the items outlined below. For items one through three below, states/tribes should use the "FY 2008-2010 STATE/TRIBAL REPORTING FORM FOR PESTICIDE WORKER SAFETY" included with this guidance (Appendix 5) for submitting the required reporting information to EPA. This electronic reporting form was developed to facilitate uniform reporting and easier compilation of the reported information. **The completed worker safety reporting form is due annually to EPA no later than 90 days after the end of the grant project period.**

For item number four below, States/tribes must use the Certification Plan and Reporting Database (CPARD) system for submitting their annual C&T accomplishment reporting information to EPA. **The annual C&T 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 EPA Regional Office to get any technical assistance needed to assure they can access and properly use the CPARD system. A discussion of how the required reporting information will be used by OPP is provided below with each listed reporting item. A discussion of the overall worker safety program outcome measures/indicators and their relationship to cooperative agreement activities is provided after this section.

1. States/Tribes must report the total number of pesticide incidents investigated by the State/Tribal Lead Agency during the year that involved an alleged occupational pesticide exposure incident or illness that may have been related to pesticide use/misuse or WPS violations. For the purposes of this grant guidance this would include any investigations conducted by the State/Tribal Lead Agency that originated because of a tip, complaint, referral or other "for-cause" scenario, and which involved an alleged pesticide exposure or illness that occurred in connection with a person's employment or work activities. This includes employees in both agricultural and non-agricultural settings whose

employment or work activities involve making pesticide applications or routinely working with or around pesticides and/or pesticide treated areas as part of their job (e.g., PCOs, pesticide applicators/handlers/technicians, ag/nursery/greenhouse/forest workers, crop advisors, crop/pesticide researchers, lawn and ornamental applicators and workers, maintenance applicators, janitors or cleaning staff that may apply pesticides, etc.). This does not include employees that don't routinely work with or around pesticides in their job whose pesticide exposure resulted from a pesticide application made to or near their office or worksite but was unrelated to their work (e.g., office workers or teachers who may have gotten sick because of a pest control application in their building). This reporting information is going to be used for general program management purposes. It is not going to be used directly as a program outcome measure or indicator. This information is being requested since it cannot be segregated from existing data currently reported to EPA via the 5700 report form. EPA will use the data to see how the numbers of State/Tribal Lead Agency investigations of alleged occupational pesticide exposure incidents or illnesses may compare with the numbers of these types of incidents being reported through other sources.

2. States/tribes are to annually report on any new WPS-related outreach or compliance assistance materials and any new WPS worker or handler training materials developed during the year. If applicable, states/tribes are to provide sample copies of the materials to their EPA Regional Office through their designated WPS program contact when they submit their end-of-year reporting information. The above reporting information on WPS materials is going to be used for general program management purposes. It is not going to be used directly as a program outcome measure or indicator at this time.
3. States/tribes are to annually report on any new or revised pesticide applicator certification and training materials the state/tribe or its partners developed during the year. This would include new/revised core or category manuals, new/revised exams or exam blueprints; and/or new web-based training materials or programs, etc. If applicable, states/tribes are to provide information about these materials to EPA through the national C&T resources website maintained by WSU (<http://pep.wsu.edu/psp/scripts/menu.asp>). States/tribes should contact their EPA Regional Office C&T program contact if they need any assistance in using the national C&T resources website. The above reporting information on C&T materials is going to be used for general program management purposes. It is not going to be used directly as a program outcome measure or indicator at this time.
4. As stipulated in 40 C.F.R. Part 171, Section 171.7(d), states/tribes are required to submit annual C&T accomplishment reporting information to EPA. The annual C&T accomplishment reporting information required includes the following:
 - The total number of private and commercial applicators initially certified, by category, during the reporting period;
 - The total number of private and commercial applicators recertified, by category,

- during the reporting period;
- The total number of private and commercial applicators holding certifications, by category, at the end of the reporting period;
 - The number of initial certification and recertification training programs that were monitored and/or participated in by the state/tribe during the reporting period to assure the quality and consistency of applicator training programs;
 - Any changes in private or commercial categories/subcategories during the reporting period;
 - A summary of any instances where the C&T program was used to address pesticide use problems identified through analysis of compliance data or enforcement trends, or through another mechanism enforcement activities related to use of RUPs during the reporting period;
 - A description of any significant proposed changes in standards of competency;
 - A description of any proposed changes in plans and procedures for enforcement activities related to use of RUPs for the next reporting period;
 - Any proposed changes to the State Plan for C&T that would significantly affect the state/tribal C&T program.

The above C&T accomplishment reporting information will be used for general program management purposes. It is not going to be used directly as a program outcome measure or indicator at this time. The C&T accomplishment reporting data is used in EPA's cooperative agreement funding formulas that are used for computing grant funding levels for the pesticide certification program grants and the pesticide enforcement grants. The data is also used by USDA in their funding formula for determining funding levels for the Pesticide Safety Education Program (PSEP) grants that are distributed to Cooperative Extension Service for supporting certified applicator training programs. The data is also used in various analyses performed by OPP's Biological and Economic Analysis Division to support various pesticide regulatory decisions. Additionally, the data is often requested and cited by industry, Congress, USDA and other program stakeholders throughout the year. Please note that failure to provide the required annual C&T accomplishment reporting information to EPA may affect future cooperative agreement funding levels since this reporting information is used in EPA's funding formulas as noted above.

[NOTE: In addition to the reporting requirements listed above, some EPA Regional Offices may require states/tribes to submit narrative accomplishment reports or other additional reporting information. Any such requirements will be covered in Region-specific grant guidance or during the annual work plan negotiations if applicable. Please consult with your EPA Regional Office to determine any Region-specific reporting requirements applicable in your Region.]

Worker Safety Program Performance Measures and Indicators

The specific worker safety related strategic targets from the Agency's 2006-2011 Strategic Plan, Sub-objective 4.1.3, "Protect Human Health from Pesticide Risk," are listed

below.

- Through 2011, protect those occupationally exposed to pesticides by improving upon or maintaining a rate of 3.5 incidents per 100,000 potential risk events. (Baseline: There were 1,385 occupational pesticide incidents in 2003 out of 39,850,000 potential pesticide risk events/year.)
- By 2011, improve the health of those who work in or around pesticides by reaching a 50 percent targeted reduction in moderate to severe incidents for 6 acutely toxic agricultural pesticides with the highest incident rates: chlorpyrifos, diazinon, malathion, pyrethrins, 2,4-dichlorophenoxy acetic acid (2,4-D), and carbofuran. (Baselines will be determined from the Poison Control Center (PCC) Toxics Exposure Surveillance System (TESS) database for 1999-2003.)

The worker safety program activities listed and described in this guidance are intended to contribute to accomplishment of EPA's desired program outcomes for worker safety (e.g., applicator competence, reduced worker and applicator incidents, increased awareness of WPS provisions, improved worker safety, etc.) and the specific strategic targets listed above. However, at this time EPA will not rely on cooperative agreement reporting information as the source of data for supporting our program measures for worker safety. In order to reduce reporting burdens on states/tribes and because of several limitations with the existing data sources currently available from states/tribes and the cost to address these problems, the data and information used to support EPA's strategic targets and the worker safety program measures listed below will be derived from other sources of data and information (from within and outside of EPA). The worker safety cooperative agreement reporting information required as part of this guidance will be used to support other program management and regulatory decisions. More information about the data sources that will be used to support the specific strategic targets listed above can be found in the Agency's 2006-2011 Strategic Plan on EPA's website (<http://www.epa.gov/ocfo/plan/plan.htm>).

WS1	Survey of agricultural workers' awareness of WPS provisions
WS4	Agricultural employee incident monitoring
WS6	Pesticide applicator incident monitoring

Pesticide Water Quality Protection

The goal of the Pesticide Water Quality Program is to insure that pesticides do not adversely affect the nation's water resources. Reducing the concentration of pesticides in urban and agricultural watersheds are strategic targets under the Agency's 2006-2011 Strategic Plan, sub-objective 4.1.4, "**Protect the Environment from Pesticide Risk.**" EPA's goal under this sub-objective is to protect the environment by carrying out our statutes and taking regulatory actions to ensure pesticides continue to be safe and available when used in accordance with the label. The specific strategic targets and additional performance measures are listed under the

“*Pesticide Water Quality Performance Measures and Indicators*” section of this guidance.

Core Activities for Water Quality Protection

1. In order to meet the strategic targets and other performance measures and indicators listed, State and Tribal pesticide lead agencies are expected to use water quality funds to develop and carry out management programs to protect ground and surface water resources from pesticide risks. They should invest these funds to:

- Evaluate *Pesticides of Interest** over time.
- Take actions to reduce or prevent contamination from *pesticides of concern** over time.
- *Demonstrate the progress** of the management strategy in reducing or maintaining concentrations below reference points.

* These terms are more fully explained later in this section.

2. Build or maintain a pesticide management program that enables or strengthens the achievement of the priority program goals stated above. In so doing, States and Tribes are expected to investigate and respond to water resource contamination by pesticides, especially where water quality standards or other reference points are threatened. Where appropriate, States and Tribes are encouraged to consult with or coordinate prevention and protection of water resources with other agencies with responsibilities for water resource protection. A program description must be referenced or included in the cooperative agreement work plan. As part of its program description, and in order to support national water quality measures of performance, a State or Tribe is expected to identify its pesticides of concern from an evaluation of the list of pesticides of interest using information already available. Development of new monitoring programs or data is not a ‘core’ requirement. Through end-of-year (EOY) reporting on active ingredients, EPA will be able to substantiate the reported water quality measures. Please refer to “Reporting requirements” later in this section. The program description may be addressed by:

- A Generic Pesticide Management Plan (PMP) previously concurred upon by the Region and cited in the work plan, or
- A description of some other management program included in the text of the work plan. If the management program is not fully operational, the description should include missing components and milestones for completing the strategy, or
- A separate document that describes the management program cited in the work plan and appended to the application.

The program description should explain how pesticides of interest are being evaluated, how pesticides of concern are being managed, and how managed pesticides are

demonstrating progress toward a reduction in exposure in ground and surface water by approaching or remaining below water quality reference points. In doing this, it should be clear how the pesticide program is coordinated with other water quality agencies to take advantage of any opportunities to achieve program efficiencies. Acceptance of the work plan by the Regional grant award official will constitute agreement with a State or Tribal pesticide management program as described above.

3. Currently registered pesticides that are the cause of a water quality impairment under CWA §303(d) should be considered pesticides of interest and the decision should be made as to whether they require further management as described in this section. After evaluation, if the State or Tribe finds the pesticide 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 input should be shared with the Office of Pesticide Programs 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/oppefed1/ecorisk_ders/aquatic_life_benchmark.htm
and is attached as Appendix 8.

If urban watersheds exceed the national aquatic life benchmarks for chlorpyrifos, diazinon, and malathion; and/or if agricultural watersheds exceed the benchmarks for azinphos-methyl and chlorpyrifos, these chemicals should be considered pesticides of concern and, therefore, should be evaluated to determine if they require further management as described in this section. In part, these pesticides will be managed by recent OPP registration decisions. Any data on these pesticides should be reported in the EOY form as pesticides of concern and any appropriate data sets should be sent to OPP using the criteria in ‘Reporting Requirements’ section below. These benchmarks may be viewed on the EPA website:
http://www.epa.gov/oppefed1/ecorisk_ders/aquatic_life_benchmark.htm

4. Consistent with OECA Guidance, pesticide lead agencies must continue to monitor compliance with and enforce non-compliance with water quality protection as numerated on labeling as part of their routine inspections. In targeting use inspections, pesticide lead agencies will consider the priorities, water contamination risks, and prevention/response approaches articulated in their pesticide management approach.

Water Quality – Supplemental Activities

After meeting the “core activities,” States/Tribes are encouraged to devote cooperative agreement resources to the following supplemental activities.

1. States and Tribes are encouraged to conduct water quality monitoring to assess the potential for contamination, the extent and magnitude of contamination, or the success of management actions. Monitoring activities should be coordinated with other State and Tribal agencies with responsibilities for the conservation and protection of water resources, and explained in

the program description or work plan. If cooperative agreement funds are used for water quality monitoring, a report is required to be submitted to EPA. Please refer to “Reporting Requirements” below.

2. Other activities that advance the programmatic goal of developing and carrying out programs to protect water resources from pesticide risks can be negotiated with the Regional office. This could include ‘clean sweep’ programs aimed at unused pesticide collection and proper disposal to manage specific pesticides of concern.

Water Quality – Reporting Requirements

Pesticide lead agencies must report on activities conducted under the Cooperative Agreement related to water quality.

1. Pesticide lead agencies must report on the national water quality measures that were developed as an outcome of the 2004 OMB PART analysis. These should be reported in the End-of-Year (EOY) reporting form for active ingredients located in Appendix 9, along with the submission of data sets of any monitoring data acquired during the grant year, if available and properly analyzed and formatted.¹ The measures data and any monitoring results should be substantiated by the information supplied by active ingredient. All States and Tribes must submit the measures data within 90 days of the end of the grant period, including any available new information from monitoring. In addition to the data sets themselves, States and Tribes are encouraged to cite other studies, reports, or information on WQ monitoring and results to improve or upgrade baseline data on pesticide effects on human health and the environment. From the EOY data, OPP expects to be able to:
 - Determine how pesticides of interest were evaluated.
 - Identify pesticides of concern (pesticides States and Tribes conclude approach or exceed reference points).
 - Identify pesticides of concern that are being actively managed by States and Tribes, and which 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*.
 - Identify States in which the FIFRA lead agency is using its resources to address pesticide impaired waters under CWA §303(d).

¹ In cooperation with Regions, States, and Tribes, OPP is developing an on-line EOY reporting tool that will provide this data in an accessible database that will make it easier for pesticide lead agencies to review information from across the country e.g., citations on new studies, regulatory standards in use, pesticides of concern, successful BMPs etc. When this on-line software is available, States and Tribes will be expected to use this reporting tool in place of the current Excel spreadsheet listed in Appendix 9.

2. EPA encourages States and Tribes to submit other, high quality monitoring results (or their literature citations or web addresses) to EPA regardless of the funding source. EPA access to this information will further inform and influence its risk assessment and risk management process, and may lead to better registration decisions to protect human health and the environment. It will also help the national program refine its measures of success for field program activities.

Any monitoring data sets need to be provided in electronic format i.e., a readable database format that is easy to import into a spreadsheet, and forwarded directly to EPA HQ, Government & International Services Branch. Water monitoring data should *at least* include the following fields to be useful for risk assessment purposes:

- Location (latitude & longitude, if possible, or other reliable location information)
- Water body type (stream, river or other flowing body; lake, reservoir, or other static body; ground water)
- Date sampled (month/day/year)
- Chemical analyzed, detection limit, and reported concentration.

For a complete set of desirable data characteristics, consult the criteria listed in Appendix 10.

3. Regional offices may require additional reports to address specific cooperative agreement work items.

Pesticide Water Quality Performance Measures and Indicators

The specific pesticide water quality *strategic* targets from the Agency’s 2006-2011 Strategic Plan, Sub-Objective 4.1.4 “Protect the Environment from Pesticide Risk, “ are:

- By 2011, reduce the percentage of urban watersheds that exceed the National Pesticide Program aquatic life benchmarks for three key pesticides of concern (diazinon, chlorpyrifos, malathion). The 1992 – 2001 baselines (USGS) as a percentage of urban watersheds sampled that exceeded benchmarks are diazinon: 40 percent; chlorpyrifos: 37 percent; and malathion: 30 percent.
 - (Note: USGS National Water-Quality Assessment (NAWQA) program, as reported in Gilliom, R. J., J. E. Barbash, et al. 2006. *The Quality of Our Nation’s Waters: Pesticides in the Nation’s Streams and Ground Water, 1992–2001*. Reston, Virginia: U.S. Geological Survey, Circular 1291: 172 p. Available on the internet at: <http://pubs.usgs.gov/circ/2005/1291/>.)
- By 2011, reduce the number of agricultural watersheds, that exceed EPA aquatic life benchmarks for two key pesticides (azinphos-methyl and chlorpyrifos.) Based on 1992–2001 data, 18 percent of agricultural watersheds sampled exceeded benchmarks for azinphos-methyl and chlorpyrifos.

Three-Step Water Quality Measure

In addition to the Strategic Targets previously listed, the three-tiered approach listed below will also be used to measure the performance of the National Pesticide Water Quality Program. 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) examining trend data to demonstrate improvement in water quality. The outcomes of these measures may be viewed as:

1. Evaluate pesticides to determine if they are *pesticides of concern*
 - Short-term (change in knowledge)
2. Take actions to reduce/prevent pesticide contamination
 - Intermediate-term (change in behavior)
3. Demonstrate Progress
 - Long-term (change in condition)

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

Pesticides of interest are those pesticides that have been identified by the States in the survey conducted by SFIREG in 2005 (Appendix 11), plus any others that are the cause of water quality impairments under CWA §303(d), plus any other pesticides a State or Tribe wishes to add. This list represents 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 its degradates of toxicological concern.

Using the State survey conducted by SFIREG as part of the base list should level the playing field for the measure and assure all States and Tribes are taking steps to evaluate potentially problematic pesticides. Additional pesticides may be identified based partially on products registered for use in the area, through label language, existing field water quality data from various sources (e.g., USGS, registrants, agencies, or universities), environmental fate and effects data, modeling, or other predictive tools.

In reviewing the list, if States or Tribes realize or find that 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 for the purposes of the measure below. 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 has already conducted an evaluation of a pesticide of interest, this will also be considered having conducted an evaluation for the purposes of the measure below. A re-evaluation will not be required unless new information, new use patterns, or increased risk of exposure indicate the need for a new evaluation. This re-evaluation will not count in the measure below, but should be tracked separately.

An evaluation is then performed on the remaining list of 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***. In most cases, an evaluation would be based on available monitoring data from within and 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, or monitoring results and experience from other States or Tribes with comparable conditions.

Over time, EPA will be looking for States and Tribes to evaluate 100% of the *pesticides of interest*. States and Tribes will negotiate the schedule of evaluations (e.g., 5-10 years) with the Regions to reflect differences in their capabilities, available information, program authorities, and resources that can be applied. The metric is:

$$\frac{\text{Evaluated pesticides of interest}}{\text{Number of pesticides of interest}} \times 100$$

Step 2: Pesticides of Concern Managed

The second measure is aimed at quantifying State and Tribal efforts to manage pesticides of concern (those pesticides that have been identified as posing a significant risk of contamination from the State or Tribal evaluation of its list of pesticides of interest). 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:

$$\frac{\text{Number of pesticides of concern managed}}{\text{Number of pesticides of concern identified}} \times 100$$

From the evaluation of available information in Step 1, some pesticides of interest may be found to pose a particular concern for water quality in geographically sensitive areas. The number of such "pesticides of concern" is identified for the denominator. The numerator identifies the number of these pesticides that are actually managed. At the State or Tribal level, a pesticide is actively "managed" when activities are carried out to prevent or reduce contamination of water by a particular active ingredient so that it is prevented from reaching the water quality standard or other reference point, or brought below the reference point.

The reference point is the concentration of a pesticide active ingredient in water used to judge the severity of contamination. It may be based on a Maximum Contaminant Level (MCL), drinking water health advisory, surface or ground water quality standard (which can address human or aquatic life toxicity), EPA reference dose, EPA drinking water level of concern, or another benchmark that the State or Tribe adopts by regulation or policy. In general, the State or Tribal goal is to prevent contamination from reaching the reference point.

At the State and Tribal level, a pesticide is *actively* managed when preventive activities are engaged to reduce contamination of water by a particular active ingredient. The following examples of active management were identified by the EPA/State work group 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 in EPA’s strategic plan sub-objective 4.1.1.

Step 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:

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

This measure assumes that management efforts show that concentrations in water are being held at acceptable levels or are being reduced toward acceptable levels (i.e., below a reference point), or certified widespread adoption of control measures. Progress toward reduction or maintenance of concentrations below the reference point could be demonstrated by:

- Targeted monitoring of water samples from vulnerable use areas that determines that

mitigation measures are preventing residue levels from approaching or exceeded 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).
- 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.

EPA's Pesticide Impairment Water Quality Measure

EPA's Office of Water (OW) has established an EPA strategic target to improve water quality on a watershed basis (sub-objective 2.2.1). The strategic target is:

- By 2012, remove at least 5,200 of the specific causes of water body impairment identified by States in 2002. (2002 Baseline: estimate of 64,250 specific causes of water body impairment identified by States and Tribes.) This measure counts 'impairments' restored. Two impairments restored on the same water body would count as two toward the measure.

Pesticide lead agencies can help EPA achieve success in this measure by consulting with and coordinating their field programs with State water agencies, where possible, to help validate listing decisions due to specific, currently registered pesticides and/or by managing specific pesticides to mitigate the cause of impairment. Pesticide evaluations, and any supporting data, of specific pesticide inputs to §303(d)-listed water bodies, which do not appear to rise to the level of a pesticide of concern, should be shared with the State water agency with responsibility for the CWA §303(d) list.

Endangered Species Protection Program

Through risk assessment and mitigation, OPP's goal under the Endangered Species Protection Program (ESPP, or the Program) is to limit any potential effects from pesticide use to federally listed, threatened and endangered species (listed or endangered species), while at the same time, not placing undue burden on agriculture or other pesticide users.

Since finalization of the enforceable field program in FY 2006, the focus of the Program has been to educate pesticide users about the ESPP. For the ESPP to succeed, OPP's highest field priority must continue to be outreach and education. In addition, during FY 2008-10, OECA will begin collecting inspection-related information to establish a baseline picture of compliance with FIFRA-enforceable Endangered Species Protection Bulletins (Bulletins). (See Section 3.2.1.11.) Because OECA is not requiring targeted endangered species use inspections, it does not expect the latter effort to require much modification to routine procedures for pesticide use inspections or to result in the collection of large amounts of data during the initial reporting year; nonetheless, additional emphasis must be placed on educating pesticide inspectors about the

Bulletins.

Year-end reporting schemes for this guidance link to the following internal OPP programmatic objective to increase state, tribal, territory, and public knowledge of the Program.

Core Activity

To increase state, tribal, territory, and public knowledge of the Program:

During the term of this grant guidance, states and tribes will educate current and potential pesticide users and pesticide inspectors about the ESPP. Activities are to continue, as appropriate, throughout the term of this guidance. Topics that should 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 should include:

- the generic endangered species label statement referring pesticide users to Bulletins;
- how to find a Bulletin, including the use of OPP's dedicated web site, 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 should include:

- how to read Bulletins;
- how to access historic Bulletins for purposes of 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.

OPP and OECA are developing materials and guidance to assist with these activities.

Supplemental Activities

After meeting the core activity, states and tribes are encouraged to devote any remaining cooperative agreement resources to the following supplemental activities:

- providing information such as crop data, pesticide use data and species location data to OPP for use in listed species-specific risk assessments;

- commenting on the feasibility of proposed, listed species-specific mitigation measures during OPP's standard processes of registration, reregistration and registration review;
- reviewing draft Bulletins, should any be developed in their areas; and
- any other activities negotiated with the EPA regional office that advance the programmatic goal of protecting listed species and their designated critical habitat from pesticide risks, while at the same time, not placing undue burden on agriculture or other pesticide users. This could include, for example, state- or tribe-initiated plans.

Reporting Requirements

Pesticide lead agencies must report to their EPA regional office on activities conducted under the cooperative agreement related to endangered species using the year-end electronic reporting form in Appendix 12 and as stipulated in the corresponding OECA guidance.

Regional offices may require additional reports to address specific cooperative agreement work items.

To determine the effectiveness of communications, outreach and educational activities for pesticide users, OPP will use compliance information collected by OECA's cooperative agreement reporting requirements. No further reporting or action is necessary by states or tribes in this regard; OPP would determine this by using the following formula:

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.

Pesticide Container and Containment Regulations

EPA published a final rule on Standards for Pesticide Containers and Containment Structures on August 16, 2006. There are three activities related to this rule that States should conduct during FY 2008-2010. Only the third activity applies to Tribes.

1. Adequate Programs to Ensure Compliance with the Residue Removal Requirements. Each State should review the container and containment regulations and demonstrate that the

State can carry out an adequate program to ensure compliance with the residue removal requirements in the rule. Unless EPA determines by August 16, 2008 that a state is carrying out an adequate program, FIFRA Section 19(f)(2) provides that the State may not exercise primary enforcement responsibility under Section 26 or certify an applicator under Section 11. This activity only applies to the subset of the container-containment regulations that deals with cleaning containers (i.e., residue removal) and does not include the containment requirements. More information on this activity is provided in section 3.1.2 of this guidance (Section 19(f) Compliance and Enforcement Activities).

2. States with Existing Containment Regulations. States that promulgated containment regulations prior to August 16, 2006 have the option of continuing to implement their own programs in lieu of the federal containment requirements. A State that wishes to continue implementing the State's containment regulations must request the authority to do so by August 16, 2007 by submitting a letter and supporting documentation to EPA according to a procedure set out in separate guidance to States (which will be distributed in early 2007). The supporting documentation must demonstrate that the State's program is providing environmental protection equivalent to that expected to be provided by the federal regulations. While the letter and documentation must be submitted in FY 2007, the State and EPA will be discussing the information in FY 2008 as EPA determines whether or not the State regulations provide equivalent environmental protection. This activity only applies to States that had containment regulations by August 16, 2006.²

3. Conduct Outreach and Education. States/Tribes should provide container and containment-related outreach and education to the regulated community. By August 16, 2009, pesticide registrants must comply with the nonrefillable container and label regulations. Also by this date, retailers, commercial applicators and custom blenders must comply with the containment regulations. By August 16, 2011, registrants and refillers (which could be registrants, distributors, retailers or other entities) must comply with the refillable container and repackaging requirements. EPA Headquarters will develop fact sheets, standard presentations, How to Comply Guides (including compliance checklists) and Q&As. In addition, EPA Headquarters will develop a compliance strategy, which is discussed in section 3.1.2 of this guidance (Section 19(f) Compliance and Enforcement Activities). Outreach efforts should focus on providing information to covered businesses to ensure that they are aware of the requirements and to facilitate compliance.

2.2.3 Additional Program Activities

If the state/tribe agrees to meet the level of attainment or has already reached the level of attainment for each of the four specific program areas above, the state/tribe also may propose additional activities that they will undertake. Each specific activity proposal should encompass the following elements:

² EPA (Headquarters and the Regions) will work with the States without containment regulations to determine how the federal containment regulations will be implemented by August 16, 2009.

- Description of activity
- Cost of activity
- A schedule for completion of the activity with milestones
- An explanation of how the activity advances the Pesticide Management Goal
- Measures that will be used to evaluate the success of the activity in advancing the *Pesticide Management Goal*

Further, states/tribes may work with the Regional Office to accommodate the need for unforeseen activities and requests that are an inherent part of any pesticide management program. If this situation is acknowledged through the cooperative agreement, only the label “pesticide management program maintenance” need be included rather than the specific information noted above for *Specific Activities*. Appendix 1 contains a simple example of how a state/tribe might approach applying for funds to carry out specific additional program activities. An example of additional program activities follows.

2.2.4 National Pesticide Program Strategic Plan Targets

In 2005 – 2006, OPP led an effort to completely revamp its performance measures in close cooperation with our partners. This effort was in response to unacceptable results for the field programs on the Performance Assessment and Rating Tool (PART) review under the Government Performance and Results Act (GPRA). We all recognized that in order to demonstrate the effectiveness of the National Pesticide Program, we needed to create outcome-oriented measures to augment or replace our old output-based measures.

We used our three mission areas – protect human health, protect the environment, realize benefits from pesticide registration – as the framework for our new performance measures. This framework has now been adopted in the EPA Strategic Plan for 2006 – 2011. The strategic targets included in the Strategic Plan to demonstrate protection of human health from pesticides are: a reduction in the concentrations of key pesticides in the general public; maintaining an extremely low rate of incidents from occupational exposure to pesticides; and a reduction in occupational incidents involving 6 of the most acutely toxic agricultural pesticides. The Strategic Plan targets for the “protect the environment from pesticides” area deal with reducing the number of urban and agricultural watersheds that exceed National Pesticide Program aquatic life benchmarks for several key pesticides. OPP will demonstrate the value from pesticide availability - OPP’s licensing efforts by tracking the crop loss avoided resulting from the issuance of emergency exemptions (section 18s), and the termite structural damage avoided due to the licensing of safe and effective termite treatments.

Behind each of these strategic targets are numerous outcome, output and efficiency measures that provide more in-depth information on the performance of OPP and our partners. For example, the efforts of our partners in carrying out the worker protection, and certification and training programs are invaluable in supporting the “protect human health” strategic measures. Similarly, work done by OPP’s partners in the area of water quality contributes to the reduction of pesticides in urban and aquatic watersheds. In addition, the work of OPP’s partners in the area of endangered species provides another dimension to the “protect the environment” mission area. The core activities listed in this guidance are intended to maximize our success with the performance measures listed in the tables below.

Efficiency measures have been developed for each of the three mission areas that reflect the work of OPP’s partners. In the case of protecting human health, the efficiency measure looks at a decrease in the cost per pesticide occupational incident avoided. Efficiency will be tracked in the “Protect the Environment” mission area by tracking the reductions in both the average cost and time to produce or update an Endangered Species Bulletin. The efficiencies gained in promoting reduced risk pest management practices will be demonstrated by tracking a reduction in the Pesticide Environmental Stewardship (PESP) and Strategic Ag Initiative (SAI) dollars spent per acre impacted.

Strategic Plan Level Performance Measures and Strategic Targets (OMB Approved)

Measure	Description	Comments
Protect Human Health:		
HH1	Reduce the level of certain OPs in the general population (NHANES)	In Agency Strategic Plan
WS4	Support a low rate of poisoning incidents	In Agency Strategic Plan
WS6	Cumulative reduction in moderate – severe incidents for 6 pesticides with highest incident rate	In Agency Strategic Plan
NEW	Cost per occupational incident avoided	Efficiency measure accepted by OMB
Protect the Environment:		
ES1	Percent reduction each year in average cost and average time to produce ES Bulletin	Efficiency measure accepted by OMB
NEW	Reduce the % of urban watersheds exceeding aquatic life benchmarks using NAWQA data	In Agency Strategic Plan
NEW	Reduce the % of agricultural watersheds exceeding aquatic life benchmarks using NAWQA data	In Agency Strategic Plan
Realizing Benefits:		
OB1	Avoided crop loss due to pests measured through section 18/section 3 program	In Agency Strategic Plan
OB7	Reduce expenditures resulting from insect structural damage	In Agency Strategic Plan
SA2	Number of additional acres using reduced risk pest management practices per grant and contract dollars spent on environmental stewardship	Efficiency measure accepted by OMB

SECTION 3: FY2008 - 2010 APPROACH TO PESTICIDE OECA ENFORCEMENT PROGRAM STATE/TRIBAL COOPERATIVE AGREEMENTS

Guidance for developing cooperative agreement work plans for pesticide compliance/enforcement activities for FY2008–2010 is provided in this section. Regions and states/tribes should negotiate cooperative agreements that address the national priorities as appropriate for each state/tribe, as well as specific Regional and state/territorial/tribal priorities.

For tribes that cannot sustain a full compliance and enforcement program on their own, an option is to collaborate with other tribes and utilize a circuit rider inspectional program to attain a broader compliance and enforcement program.

Updated national priorities for state and tribal pesticide compliance and enforcement cooperative agreement activities are discussed below. These should be considered when negotiating cooperative agreements. Activities to support these program areas are described within this document. Commitment by applicants to conduct the specified activities described below should be explicitly stated in their work plans.

3.1 Compliance-Enforcement Priorities

3.1.1 Compliance-Enforcement Priority: Worker Protection Compliance and Enforcement Activities

EPA's goal is that the Worker Protection requirements help to create a safe work environment in which agricultural workers, their employers and pesticide handlers can perform tasks without concern about pesticide exposure. This means:

- There are quality state and tribal worker protection compliance programs. Inspectors are well trained. Investigations are thorough, well documented, and involve workers. Inspections are strategically targeted to achieve compliance and reduce risk to workers. Complaints are promptly responded to. Enforcement actions are timely and consistent with an enforcement response policy that achieves deterrence. Establishments with violations are re-inspected;
- The compliance program is results oriented, and, therefore, there are appropriate performance measures that are used for managing the program; and
- Because a significant portion of the agricultural worker community is mobile—moving from state-to-state and crop-to-crop— their protection (and the treatment of their employers) should not depend on the state where they find themselves. Compliance

programs should be to the extent practicable, nationally consistent. Likewise, EPA expectations and oversight of WPS programs should be consistent.

Achieving this goal will, in large part, depend upon the perception that workers, handlers and employers have of state and tribal compliance programs. Workers should be able to make complaints without fear of retaliation and they should be able to rely on states and tribes to follow-up on complaints and otherwise enforce the law. Employers should have the information and tools for complying with the law.

For FY 2008-2010, the Agency will maintain its emphasis on inspections involving high risk, high exposure situations to ensure health of the workers. The WPS Agricultural Use Inspection Guidance and OECA's Worker Protection Inspection Guidance Manual define a "WPS inspection" and contain detailed guidance on the components of inspections. Tier I WPS use inspections and for cause inspections at agricultural establishments with previous violations of the WPS regulations remain national priorities for FY2008 – 2010.

Two Agency documents provide guidance on determining the appropriate subjects of WPS enforcement actions: the Summary Guidance on Issuance of WPS enforcement actions and the Enforcement of Personal Protective Equipment (PPE) provisions of the FIFRA WPS (60 Fed. Reg. 18,101). Consistent with these documents, applicants should incorporate into cooperative agreement work plans the following compliance and enforcement activities. It is critical to recognize that appropriate enforcement action on WPS use violations continues to be the national WPS priority for the pesticide enforcement cooperative agreement program for FY2008–2010. The EPA regions should monitor progress in this area by comparing state and tribal enforcement files with applicable enforcement response policies to determine if appropriate enforcement action was taken.

1. Use Inspections: The goal of Use Inspections is to assure compliance with the Worker Protection Standard and thereby help ensure health protection for the farm workers who may be exposed to pesticides. See Appendix 4c – The EPA WPS Agricultural Inspection Guidance for procedures and content for conducting complete FIFRA WPS Agricultural inspections. It is to be used for all future routine and for-cause WPS Agricultural inspections by federal, state, tribal and territorial inspectors.

The appropriate number of inspections to be conducted in any state or tribal lands 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 their EPA regional office.

- Routine Tier I WPS use inspections should be conducted so as to assure coverage of all agricultural establishments regulated under the WPS. States/tribes should focus their worker protection compliance monitoring activities on establishments and situations that have the highest likelihood of pesticide worker and handler risk, such as: (1) timing inspections during periods of pesticide application to address compliance with key worker provisions like worker training, restricted

entry interval (REIs), posting, decontamination sites, etc.; (2) visiting sites with labor intensive crops and/or those crops that traditionally require a lot of hand labor like vegetables, fruit tree and orchard crops, etc.; (3) timing inspections during the growing season to coincide with high risk labor practices and worker exposure scenarios such as those activities that result in high contact with treated foliage and exposure to residues such as harvesting, thinning, staking, pruning, detasseling, etc.; 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 (e.g. methyl bromide in strawberries or azinphos methyl in fruit orchards).

- Inspections should target facilities suspected of having compliance problems and those known to employ high numbers of persons covered by the WPS.
- Inspections should target facilities that have had previous WPS violations.
- States/tribes should issue enforcement actions for all WPS use violations, specifically focusing on high risk situations. The EPA regions should include in their mid and end-of-year reviews, a review of WPS actions, including Section 27 referrals, to ensure that the enforcement actions are consistent with state/tribal enforcement response policies.
- States/tribes should track each WPS inspection as either a Tier I or Tier II inspection. Tier I inspections are performed within 30 days of expiration of any reentry interval and that covers all applicable WPS inspection categories/elements, including conducting or attempting to conduct handler and/or worker interviews. Tier II inspections are performed beyond 30 days after expiration of the REI and covers all applicable WPS inspection categories/elements, including worker and/or handler interviews.

2. Tips and Complaints:

- WPS tips and complaints should be included in establishing a priority setting plan.
- The priority setting plan should include maintenance of a log, log-in procedures, defined criteria for ranking the tip or complaint, follow-up procedures and tracking mechanisms.
- FIFRA section 27 referral criteria should be reviewed to ensure complaints related to documented worker exposure from agricultural use pesticides are tracked as section 27 referrals.
- The investigation of all tips/complaints should encompass a complete WPS inspection, first following all applicable categories and elements of the WPS

Agricultural Inspection Guidance and then covering the rest of the Rule in terms of coverage. These inspections are to be counted as either Tier I or Tier II on the EPA WPS 5700 H Form.

3. WPS Inspection Targeting

- State/tribal work plans should include a targeting plan that clearly defines the neutral inspection scheme criteria for conducting WPS agricultural use inspections. The targeting criteria should specifically identify the establishments and situations in the state or tribal area that represent the highest risk to pesticide workers and/or handlers, and the States/tribes should commit to targeting those sites for their compliance monitoring activities (Tier I inspections). A national targeting scheme has been provided in Appendix 4d to serve as a template for the development of a targeting scheme.

4. WPS Enforcement:

- States with appropriate cooperative agreements have primary authority to investigate and enforce violations of the WPS under 40 C.F.R. Part 170 and to issue enforcement actions, as appropriate, for WPS violations.
- 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. 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. A narrative description of all WPS enforcement actions which have high level significance or a significant enforcement impact furthers the goal of ensuring the public that the WPS rules are enforced.
- States should provide information on the number of other enforcement actions resulting from WPS inspections such as stop sale/use orders, warning letters, license suspensions, etc. in each of the reporting categories.
- Particular attention should be given to follow-up inspections at agricultural establishments where prior enforcement action for WPS violations was taken.

5. Continued Outreach/Compliance Assistance:

- Enforcement of 40 C.F.R. Part 170 of the WPS will continue to be the priority in FY2008 - 2010. Enforcement programs have a role in compliance assistance, particularly targeting specific groups who may have come forward and requested and demonstrated a need for compliance assistance. However, WPS outreach should

NOT be provide in lieu of enforcement, particularly where the violators were informed and had prior knowledge about the WPS regulations.

- States/tribes should identify areas where compliance assistance information could improve compliance and develop materials or conduct compliance assistance to aid employers within the state/tribe.

6. Reporting:

- Progress relative to WPS implementation strategies and other worker protection compliance and enforcement activities should be tracked and reported annually.
- States/tribes must submit, as a part of their work plan accomplishments, the following annual worker protection reports: (1) Pesticide Worker Protection Standard Inspection and Enforcement Accomplishment Report (a revised WPS specific 5700-33H) for each state/tribe and (2) narrative reports on significant enforcement actions. Note: WPS 5700 -33H reports the number of WPS inspections (TIER I and TIER II), the number of enforcement actions resulting from WPS inspections, and information on the most commonly violated portions of the WPS rule.
- State/tribe worker protection compliance monitoring activities should be documented by the regions by: (1) mid and end-of-year evaluation reports and (2) tracking section 27 referrals related to WPS violations.
- Where EPA is managing the pesticide compliance program (Wyoming), a similar report on WPS activities should be prepared by EPA Region 8. EPA Region 8 will be working with states/tribes to ensure information exchange.
- States/tribes should include a brief narrative report on all alleged worker and handler occupational exposure cases investigated (also reported on OPP Appendix 7 #1)

7. Training:

- Applicants should use funds for worker protection enforcement, as appropriate, to send appropriate personnel to available EPA-sponsored training sessions related to the Worker Protection Rule.³ The number and type of attendees should be negotiated with the region. EPA urges state and tribal managers to support travel of applicants to attend EPA-sponsored worker protection training.

³ This does not apply to PREP or PIRT training which have separate funds set aside and provided to State and Tribal participants.

- If the state/tribe needs to supplement their training program in addition to federal training, it is recommended that the development of this training be coordinated and discussed with the region.
- Applicants should utilize their annual summary of specific WPS non-compliance from field inspections and provide this information to the Extension Service for use in future outreach/training, and the state/tribe should use these data in their own compliance assistance.

8. Oversight

- States/tribes should ensure oversight of field inspectors through “oversight inspections” and/or examinations of WPS case files. The oversight procedures should ensure that inspectors are conducting WPS inspections in a consistent manner, following the EPA WPS Agricultural Inspection Guidance, and conducting inspections in accordance with state/tribal protocols and standard operating procedures (SOPs).
- EPA regional staff may accompany state/tribal inspectors on WPS inspections, either as an oversight or joint state/tribal inspections. EPA efforts are designed to ensure thoroughness of inspections and consistency with state/tribal protocols.
- 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. EPA Regions should review no less than 10% of the case files as part of their oversight responsibilities. Regions can use the template provided in Appendix 3c or any other form the region has developed to ensure that their states are following the EPA WPS Agricultural Guidance.

3.1.2 Program Performance Reporting

Ensuring accurate and timely reporting of PART data is a significant factor in the long-term success of the pesticide enforcement cooperative agreement program. The PART looks at all factors that affect and reflect program performance including program purpose and design; performance measurement, evaluations, and strategic planning; program management; and program results. States and tribes should submit data consistent with this and other guidance. (See Section 4.1.4) Regions should use the data for program improvement.

3.1.3 Section 19(f) Compliance and Enforcement Activities

On August 16, 2006, the Agency published in the Federal Register (71 FR 47330 – 47437) the final rule, “Pesticide Management and Disposal; Standards for Pesticide Containers and Containment.” The rule established requirements for pesticide container design, and

procedures, standards and label language to facilitate the removal of pesticides from containers prior to disposal or recycling. The final rule also established requirements for containment of stationary pesticide containers and procedures for container refilling operations. OECA is currently developing a Compliance Strategy which will summarize the compliance requirements and the activities regions, states, and tribes should take in order for registrants, refillers, and end users to achieve compliance with the rule. It is a priority for states and tribes to follow the Compliance Strategy once it is issued.

The Compliance Strategy will address the procedures and standards for the removal of pesticides from containers prior to disposal under FIFRA section 19(f), the responsibilities of EPA and states and tribes to provide compliance assistance and enforce the Container Containment regulations, and outline the activities states and tribes should be undertaking in order for registrants, refillers and end users to achieve compliance with the rule. It is anticipated that States and tribes will work with the regions to develop a compliance program which is based upon the Compliance Strategy.

3.2 Work Activities to Support the Core Pesticide Compliance and Enforcement Program

Maintaining a viable core compliance and enforcement program is necessary to achieve a strong and credible enforcement presence to deter non-compliance. Recognizing the magnitude of maintaining the core program, the need to address pesticide enforcement program priorities, and the variation in workload across regions and among state programs, states and tribes may need to make adjustments and trade-offs within their core program. States/tribes should work with their EPA Region to ensure that areas with potential high impact receive priority attention during work planning. Areas such as producer establishment inspections, pesticide misuse with significant human health or environmental impacts are examples of potential high impact areas. The grant work plan negotiation process will provide the opportunity to address difficult trade-offs within the core. States and tribes should work cooperatively with their EPA Region to enhance state and tribal compliance monitoring activities. Information and knowledge that EPA regions possess, such as FIFRA Section 7 producer establishment data (that is, the non-confidential Section 7 data such as names and addresses of production establishments, names of pesticides, active ingredients, and devices produced therein, etc.) should be provided to states and tribes to incorporate into their priority setting schemes as well as their routine neutral inspection programs. Each state/tribe should indicate in their work plan their commitment to the following core activities:

3.2.1 Core Program Activities

3.2.1.1 Producer Establishment Inspections (PEIs)

Producer establishment inspections should be targeted with the intention of conducting

inspections at all producing establishments within their jurisdiction over an extended period of time. Inspections should be 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. Because pesticide production data is generally treated as confidential business information (CBI) states and tribes should not verify the veracity of reported production figures. HOWEVER, state and tribal inspectors may request that production information be sent to the regional office for verification.

This activity may include antimicrobial sampling requests from EPA as part of its overall effort to ensure that these products are registered and efficacious, as well as having the correct product composition and labeling. In addition, PEI's may be requested in response to tips/complaints regarding unregistered products, misbranded products, and devices.

3.2.1.2 Dealer/Distributor/Retailer Inspections

Dealer/distributor/retailer inspections should be conducted on a routine basis to ensure product compliance as well as compliance with bulk repackaging/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/enforcement action.

3.2.1.3 e-Commerce

State pesticide regulators and U.S. EPA are aware of an increase in advertising, offers for sale, sales, and distribution of pesticide products via the Internet. States, tribes, and EPA are concerned about several issues relating to e-commerce including the sale of unregistered, misbranded, or restricted use pesticides, and the distribution of labels through Internet sites.

Many states are concerned about the ease with which so-called e-vendors can establish a virtual store on the Internet. In order to assure compliance with FIFRA, these entities (both large and small) must be aware of the basic regulatory requirements of FIFRA, as well as the regulatory requirements of the states and tribes. In addition, the legality of sales of a number of types of products such as canceled, restricted use, limited use, emergency exemption products, and inactive products vary depending on many different and changing conditions.

The Association of American Pesticide Control Officials (AAPCO) in cooperation with EPA has developed an outreach/compliance assistance piece 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.

An additional area of concern is commercial auction sites because they act more as brokers, coordinating sales between private parties, rather than conduct direct sales themselves.

Moreover, agricultural use products sold via the Internet potentially could make their way into the urban sector more easily.

The EPA has developed a compliance/enforcement strategy for ensuring that pesticides and pesticide services are marketed in accordance with state and federal laws and regulations. This would help to ensure that pesticides that are distributed and sold in e-commerce are treated the same as pesticides marketed in the more traditional manner. States and tribes should include inspections of web sites selling pesticides and pesticidal products as part of their core marketplace inspections.

3.2.1.4 Misuse

States [but not tribes] have primary responsibility under FIFRA for pesticide use violations. Notwithstanding, tribes with pesticide enforcement cooperative agreements with EPA will be accorded the same responsibility to investigate and take enforcement action in instances of pesticide misuse as states do under FIFRA's primacy provisions, if they have tribal laws and regulations governing misuse on tribal lands. Investigations conducted by tribal inspectors using EPA credentials must be turned over to the Regional Office for enforcement action. States should continue to address pesticide misuse, particularly as it relates to WPS, food safety, structural pest control, and drift. Regarding allegations of misuse, states and regions should review their current criteria for section 27 referrals and ensure that they address any allegations of human harm, 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. Note: not all referrals made to the states will be tracked as section 27 referrals and the only tracking necessary for referrals that fall outside of the section 27 criteria is that the referral has been made.

3.2.1.5 Pesticide Infrastructure

Cooperative agreement resources will be used to undertake the following activities to support infrastructure needs for the applicant's compliance enforcement program.⁴

- a. Pesticides Inspector Residential Training (PIRT): The Office of Compliance's Agriculture Division, in cooperation with state pesticide agencies, generally offers two PIRT courses per year. The objective of the program is to train a core group of inspectors that can, in turn, train other inspectors in their state. OC provides funding to a volunteer state to host the PIRT course to which other state/tribal/territorial inspectors are invited. This course provides training to inspectors on how to conduct the different types of pesticide inspections as well

⁴ *Funds to attend PREP and PIRT training do not need to be factored into state or tribal training needs because these funds are set aside and provided separately to participants in those training opportunities.*

as provide tips and necessary tools to instruct other inspectors to conduct inspections. OC currently offers three pesticide courses: (1) Pesticide Use Inspection Training Course; (2) Pesticide Product Enforcement Training Course and (3) Worker Protection Inspector Training Course. In 2008 OC is considering the development of a PIRT course specifically for tribes. States, tribes and regions should incorporate participation in these courses into their work plans.⁵ States and tribes interested in hosting PIRT courses should notify OC/AgD through their Regional Office..

- b. Pesticide Regulatory Education Program: The Pesticide Regulatory Education Program (PREP), jointly sponsored by OECA and OPP, is an educational program for senior management, senior scientists, managers and supervisors of field enforcement and compliance assurance programs, and those slated for management positions of state or tribal pesticide regulatory and environmental management programs throughout the U.S. PREP courses are designed to provide practical, up-to-date information on technical, policy, and management related issues. PREP curriculum relies upon the expertise of both private and public sector individuals to offer course participants current perspectives on issues relevant to the regulation of pesticides. As with other training, states and tribes should specifically identify personnel who would most benefit from this training.
- c. Other training opportunities: Each Regional Office should work cooperatively with their states and tribes to sponsor yearly training opportunities, particularly for pesticide inspectors. States and tribes should set aside cooperative agreement funds to cover costs associated with this training.
- d. Case Development Training: Regions should encourage state and tribal attendance at case development training courses.
- e. Enhanced Database Development: Regions are asked to strengthen pesticides compliance program infrastructure through enhancement of database systems. Regions should work with states and tribes wherever possible on this objective. Enforcement funds may be used to develop or enhance systems for the collection and management of targeting, compliance, or enforcement data, particularly in support of the pesticides field data program.

3.2.1.6 Compliance Assistance

⁵ Additional information on available training opportunities for state and tribal staff can be found on the OECA home page for the National Enforcement Training Institute. Visit the site at “<http://www.epa.gov/compliance/training/neti/index.html>”, and click on Course Catalog.

- a. Compliance assistance activities: The state/tribe and region should agree on the compliance assistance activities to be conducted where appropriate. These activities may include: (1) providing outreach materials to improve compliance, for example, in areas where regulatory requirements are new or violations are occurring due to a lack of understanding; (2) conducting seminars or public meetings with the regulated industry to explain requirements or answer questions; (3) conducting compliance assistance visits/workshops; to providing remedial training for violators; and (4) developing programs which reflect EPA's policies on self audits. When new EPA policies are issued, applicants are encouraged to reflect such policies within their programs as warranted.
- b. EPA Agriculture Compliance Assistance Center: The Office of Compliance, OECA, has established the National Agriculture Compliance Assistance Center (Ag Center). The Ag Center helps producers of agricultural commodities and their supporting businesses 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 primary purpose of the multi-media, sector-oriented Ag Center is to provide a base for "first stop shopping" for the agriculture sector - a place to provide information on EPA's environmental requirements affecting the agriculture sector, information that is environmentally protective and agriculturally sound. 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 utilizes existing distribution mechanisms, such as USDA-Extension, state pesticide regulatory agencies, crop consultants, etc. The Ag Center is enlisting the active participation of representatives of the agricultural community including USDA, state lead agencies, trade associations and others providing information to the agricultural community. Active participation by representatives from all members of the agricultural community helps the Ag Center produce the types and kinds of information needed.

States and tribes 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. States and tribes are encouraged to use the Ag Center's services and to provide feedback to the Ag Center on its services to ensure their needs are being met.⁶

⁶ *The Ag Center's toll free telephone number and fax-on-demand number is 1-888-663-2155, and its web site is at <http://www.epa.gov/agriculture..>*

3.2.1.7 Cancellations, Suspensions, Other Major Regulatory Actions, Recalls, and National High Risk Initiatives

Implementation of cancellation or suspension orders, National Compliance Strategies for canceled or suspended pesticide products and other major regulatory actions must be a part of every state enforcement program. States and tribes 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 for this priority area 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 also require registrants and distributors to recall pesticide products which have been both suspended and canceled. Once these recall requirements are effective, applicants 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 applicants and regional offices should discuss the relative priority of the different activities being conducted under their enforcement cooperative agreement and renegotiate work activities as appropriate. Recommended procedures for recalls and disposal are found in 40 C.F.R. part 165. Violations of EPA recalls should be referred to the appropriate EPA Region.

States and tribes may also be requested to participate in National initiatives to address specific risks. OECA will work with regions and states and tribes to develop and implement such initiatives. Because the workload in this area cannot be anticipated in advance, it is understood that states and tribes may renegotiate the outputs in the cooperative agreement upon receipt of requests to conduct activities in the above areas.

3.2.1.8 Imports and Exports

States and tribes should conduct inspections for imported pesticides on 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.

States and tribes should also continue to conduct pesticide export inspections; the specifics of these inspections should be arrived at after consultation and negotiation with the regional office. These inspections are generally to be included in the routine producer establishment inspection program. Additional guidance will be provided as needed to inform regions, states and tribes of the impacts, if any, of international agreements with foreign governments regarding exports that fall within the Prior Informed Consent or Persistent Organic Pollutants areas. These agreements are expected in the near future.

3.2.1.9 Section 18, Section 24(c) and Experimental Use Permits Monitoring

Under Section 18, both federal and state agencies may be exempted from any provision under FIFRA by the Administrator if an emergency condition exists. Each cooperative agreement application work plan should reflect how the state/tribe plans to address monitoring and follow-up on Section 18 exemptions to ensure compliance with the terms and conditions of section 18's within the state, especially suspected misuse violations. The number of Section 18 inspections should be negotiated between the region and the state/tribe.

Section 24(c) permits the state to provide registration for additional uses of currently registered pesticides in their state. If the 24(c) uses proposed by the state are not disapproved by the Agency, the state shall monitor the sale, distribution and use of the particular pesticide in accordance with the 24(c) requirements. Each cooperative agreement application work plan should reflect how the state plans to address monitoring and follow-up on Section 24(c) permits 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 state.

Experimental Use Permits (EUP) monitoring shall consist of monitoring, inspection and oversight of the EUP and the use/misuse of the pesticide. The pesticide is subject to the terms and conditions of the EUP and the state/tribe shall ensure compliance with these terms through inspections. Each cooperative agreement application work plan should reflect how the state/tribe plans to address monitoring 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 state/tribe.

3.2.1.10 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, EPA is particularly concerned about the effectiveness of antimicrobial pesticides because their effectiveness is usually not obvious and studies by GAO suggest that at least 20% of pesticides are ineffective.

Over the past several years, EPA implemented a comprehensive strategy to ensure the efficacy of antimicrobial pesticides, placing highest priority on those that have significant public health uses. A large part of EPA's efforts involved testing hospital disinfectants and tuberculocides. Product samples collected by states and regions were evaluated for selected product performance claims to ensure that they perform as intended. Current results suggest that a significant number of products fail efficacy testing. The initial phase of testing has been completed. OPP is currently developing a new screening process that will rely less heavily on inspections. Nevertheless when requested to sample antimicrobials for testing, states, tribes and regions are asked to place a priority on that work.

States, tribes, and regions may choose to expand cooperative agreement work related to

antimicrobials beyond the antimicrobial testing program. In addition to the efficacy of antimicrobial products, these products must also be used correctly to prevent efficacy failure and to prevent exposure hazards. States, tribes, and regions should consider inspections and education targeted to the proper use of antimicrobials used to protect human health.

An example of work that may be a priority for some states and tribes is indoor mold control. Concern about indoor exposure to mold has been increasing as the public becomes aware that exposure to mold can cause a variety of health effects and symptoms. Opportunities include education on mold prevention (e.g. moisture control – see <http://www.epa.gov/iaq/molds/>), compliance monitoring (e.g., use of antimicrobials in heating and ventilation ducts – see http://www.epa.gov/oppmsd1/PR_Notices/prdraft_hvacr_2006.htm; Draft Pesticide Registration Notice “Use of Antimicrobial Pesticide Products in Heating, Ventilation, Air Conditioning and Refrigeration Systems (HVAC&R)”). The air quality program in the regional office may be of help in defining a work effort on mold control.

3.2.1.11 Endangered Species

The EPA Endangered Species Protection Program notice was published at 70 Fed. Reg. 66,392 and implementation is moving forward. The Office of Pesticide Programs will develop outreach, training and other materials to familiarize the regions, state/tribes, consumer groups, growers and other parties with the new requirements. The Office of Compliance is committed to preparing Inspection Guidance to be incorporated into the FIFRA Inspection Manual as an appendix. While it is anticipated that this appendix will be available and distributed by the end of 2007, compliance and enforceability are directly dependent on future implementation by OPP in the form of amended labeling and publication of FIFRA-enforceable Endangered Species Protection Bulletins.

Inspection activities for the Endangered Species guidance will involve pesticide use and for cause, and may involve producer establishment, market place and dealer inspection activities. States and tribes should work with their region to assure that the necessary authority and procedures to inspect and enforce the Endangered Species requirements are in place. States and tribes should plan to begin conducting inspections incorporating Endangered Species inspections during the 2008-2010 grant cycle once OPP publishes Endangered Species Protection Bulletins and pesticide products with endangered species labeling enter the marketplace.

State and tribal inspectors must collect and report to EPA the following information to help the Pesticide Program determine the effectiveness of communication, outreach and educational activities for pesticide users:

- 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

- the number of use and for cause pesticide inspections where the pesticide applicator was alleged to be in violation of the Endangered Species labeling requirements, including any applicable Endangered Species Protection Bulletins

Refer to Section 4.1.3 for reporting requirements.

3.2.2 Optional Program Activities

State and tribal laboratories conducting pesticide sample analyses are encouraged to participate in the new EPA Residue Check Sample Pilot Program. The pilot program is a proficiency testing program for states and tribes to help support the credibility of their pesticide program's enforcement cases. Additionally, the check sample program will help state and tribal laboratories identify operational areas in need of improvement as well as support their Quality Management Plan (QMP). The pilot program is designed to be an educational experience for the laboratories not a pass/fail exercise.

If your state or tribal laboratory is interested in participating in this pilot program or if you would like more information, please visit the check sample website at http://www.epa.gov/region8/toxics_pesticides/pests/index.html or contact:

Linda Himmelbauer or Barbara Barron
U.S. Environmental Protection Agency, Region 8 Pesticides Program
1595 Wynkoop Street
Denver, Co 80202-1129
Phone: 303.312.6090 /303-312-6617 or toll free in R8 1.800.227.8917
Fax: 303.312.6044
eMail: himmelbauer.linda@epa.gov or barron.barbara@epa.gov

SECTION 4: REPORTING, ENFORCEMENT MEASURES AND EVALUATION REQUIREMENTS

4.1 Reporting, Enforcement Measures and Evaluations

Section 4.1.4 contains a chart on when the various reports are due.

4.1.1 Core Pesticide Enforcement Reporting and Evaluations

States and tribes must submit reports as required by EPA grant regulations or as negotiated by the regions.

The state/tribal cooperative agreement must include an evaluation plan mutually acceptable to EPA and the applicant. At a minimum, the plan should include a schedule for conducting timely end-of-year evaluations, preferably on-site [if the regional office's budget allows]. Applicants must report their pesticide program activities and accomplishments conducted under the cooperative agreement in a time frame agreed to by the applicant and the regional office. In addition to the evaluation reports that OECA requires [and are a requirement of EPA's grant regulations], regions may negotiate reporting requirements in addition to those of EPA headquarters.

OECA is to be provided with timely copies of the end-of-year cooperative agreement evaluation reports. End-of-Year reports should use the End-of-Year draft report format at <http://intranet.epa.gov/oeca/oc/ag/grants.html>. If the pesticide enforcement cooperative agreement funding for a state, territory, or tribe has been included in a Performance Partnership Grant (PPG), these same requests for copies of grant documents continue to apply.

The EPA Regional Office will submit evaluation reports within 90 days of the close of the state's/tribe's cooperative agreement fiscal mid-year and end-of-year. Evaluation reports are to be submitted to:

*Chief, Agriculture Branch (2225A)
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460*

4.1.2 WPS Reporting

States/tribes should annually summarize specific areas of compliance and non-compliance from all WPS inspections and report these at least annually at the End-of-Year evaluations. For FY2008-2010, continue to use revised WPS Specific 5700-33H form to capture additional information on the most commonly violated portions of the WPS rule.

For more information, see section 3.1.1.

4.1.3 Endangered Species Inspection Reporting

States/tribes should annually summarize collect and report to EPA compliance and non-compliance areas for all inspections where Endangered Species Bulletins are applicable at the End-of-Year evaluations. For FY2008-2010, use the Endangered Species Inspection report Form found in Appendix 13.

For more information, see section 3.2.1.11.

4.1.4 PART and Performance Measure Template Reporting

The Office of Management and Budget (OMB) created an instrument entitled 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 can achieve better results. A PART review helps identify a program's strengths and weaknesses to inform funding and management decisions aimed at making the program more effective. The PART therefore looks at all factors that affect and reflect program performance including program purpose and design; performance measurement, evaluations, and strategic planning; program management; and program results.

In 2004, the pesticide enforcement cooperative agreements program underwent a PART review, resulting in a rating of "Ineffective." More specifically, OMB found three deficiencies with the pesticide enforcement cooperative agreements program:

1. States do not collect sufficient outcome measures to assess the program's effectiveness.
2. EPA's oversight of grant performance focuses only on reviewing output measures collected by States (numbers of inspections and investigations) and the State's financial management of its grant funds. The oversight does not evaluate whether the State is using its funds in the most effective way.
3. The higher the percentage of EPA funding for a State's total program, the higher the average cost of conducting enforcement actions, which suggests an ineffective use of federal funds.

To address these deficiencies, OECA, EPA's regional offices, states and tribes worked together to develop new program outcome measures. Three measures were agreed upon, and included as a requirement in all future grant work plans, beginning with the FY2006 pesticide enforcement grants. Regions should continue to work with their states to obtain the data for the PART measures and insure its quality. The data is a management tool to be used to improve performance. The measures should be reported as part of the State Grant Performance Measure Template (<http://www.epa.gov/ocfo/npmguidance/template.htm>) and entered in the Annual Commitment System (ACS) by the regions. The three PART measures are:

Repeat Violator Measure: Percent of recipients of enforcement actions receiving subsequent enforcement actions, as calculated by the number of regulated entities receiving subsequent enforcement actions divided by the universe of entities receiving enforcement actions.

Complying Action Measure: Percent of complying actions taken as a result of grantee

compliance monitoring and enforcement actions, as calculated by the number of enforcement actions resulting in verified compliance divided by the total number of enforcement actions.

Efficiency Measure: Cost of conducting inspections that identify violations, as calculated by the total amount of grantee and EPA enforcement funds divided by the total number of enforcement actions.

See Appendix 6 for more specifics on these three PART measures and additional guidance concerning the measures. The form included in Appendix 6 can be used to calculate the numbers for entry into ACS.

4.1.5 Due Dates for Enforcement Reports

Report	Due Date	Rationale
Performance Measures Template (formerly PART measures)	Regions: submit into ACS October 15 ⁷	Information in the template will be collected together annually for reporting to OCFO and OMB.
End-of-year Cooperative Agreement Evaluation Reports	States: submit to Regions within 90 days of the end of the grant Regions: submit to OECA: February 28	The end-of-year cooperative agreement evaluation reports deadline is controlled by EPA grant regulations.
EPA Form 5700-33H	Regions: enter data into ICIS or FTTS, as appropriate, by October 30	Note: Data for EPA’s annual results press release (generally November 10) begins to be collected around October 15 each year.
EPA FORM 5700-33H WPS	Regions submit to OC/AgD by December 31	
Endangered Species Inspection Report Form	Regions submit to OC/AgD by December 31	

4.2 Program Reporting and Evaluations

States and tribes must submit reports as required by EPA grant regulations or as negotiated by the regions.

⁷ This date is approximate. Regions will be informed of the exact date each year by OECA or OCFO.

The state/tribal cooperative agreement must include an evaluation plan mutually acceptable to EPA and the applicant. At a minimum, the plan should include a schedule for conducting timely end-of-year evaluations, preferably on-site [if the regional office's budget allows]. Applicants must report their pesticide program activities and accomplishments conducted under the cooperative agreement in a time frame agreed to by the applicant and the regional office. In addition to the evaluation reports that OPP requires [and are a requirement of EPA's grant regulations], regions may negotiate reporting requirements in addition to those of EPA headquarters.

OPP no longer requires that mid-year evaluation reports of cooperative agreement activities be submitted. However, the Region may have its own requirements to perform mid-year evaluations. Regardless of OPP's determination that it does not need to obtain a mid-year evaluation report, it views such an evaluation as an opportunity for the Region and the recipient to assess progress and make any mid-year adjustments that may be needed. OPP emphasizes its need to receive end-of-year evaluations in a timely manner as indicated below. End-of-Year reports should use the End-of-Year draft report format at <http://intranet.epa.gov/oeca/oc/resources/agd/grants/programeoyformat.doc>. If the pesticide program cooperative agreement funding for a state, territory, or tribe has been included in a Performance Partnership Grant (PPG), these same requests for copies of grant documents continue to apply.

The EPA Regional Office will submit to OPP an end-of-year evaluation report including completed reporting forms in electronic format no later than Feb 28th of each year (i.e., for FY 2008 by Feb 28th, 2009, etc.) to:

***Chief, Government and International Services Branch
Field and External Affairs Division (7506P)
EPA Office of Pesticide Programs (OPP)
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460.***

4.2.1 Worker Protection Specific Information

Regions are required to obtain from applicants the information outlined in section 2.2.2 of this guidance and Appendix 7.

4.2.2 Certification Program Specific Information

Regions are required to obtain from applicants the information outlined in section 2.2.2 of this guidance under the heading "Worker Safety Programs - Reporting." [NOTE: Applicants must ensure they provide the requested C&T information so that they comply with the reporting requirements located in 40 C.F.R. sec. 171.7(d). Please note these numbers only need only be

submitted at the end of the year and for the entire year rather than quarterly for each quarter.]

4.2.3 Water Quality Protection Specific Information

States and tribes should report on activities conducted under the cooperative agreement related to water quality. Any work performed under agreement should be reported on in terms of the commitments made, the progress toward completion of the commitment, issues that prevented completion of the commitment, and any environmental or programmatic results from undertaking the commitment. Additionally, if any of the agreement involved monitoring surface or ground water, the monitoring results must be submitted with the end of year report. Any monitoring results submitted should be provided in a readable database format that can be incorporated into a spreadsheet. This data should be forwarded to EPA HQ, Government & International Services Branch, with the end of year evaluations conducted by the Regional Office.

4.2.4 Significant Incident Reporting

Applicants are encouraged to report certain serious types of adverse effect incidents which involve pesticides, based on criteria for severity supplied by the Agency. Incidents will include those which involve workers, handlers, the public, and non-target species.

SECTION 5: STATE/TRIBAL COOPERATIVE AGREEMENT AUTHORIZATION AND ADMINISTRATIVE REQUIREMENTS

To ensure an orderly administrative review, programmatic evaluation and funding of cooperative agreement applications, the applications should be received by the Regional Grants Management Offices at least 60 days prior to the beginning of the proposed budget period. This is a federal requirement which must be adhered to in accordance with 40 C.F.R. sec. 35.105. Awards and funds will be made and distributed as promptly as possible once Federal Budget figures are finalized.

Each application for FY 2008 - 2010 State/Tribal cooperative agreement funds must include a proposed work plan as discussed earlier in this guidance document and as required by the EPA Regional Office. The applicant and the Regional Offices should work closely together to develop a complementary EPA/Applicant program.

In accordance with 40 C.F.R. sec. 35.113, 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 prior 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. Most pesticide cooperative agreements are continuing awards, however, any need to request 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, Regional Offices and the applicant should consult the appropriate regulations in 40 C.F.R. Parts 31 and 35, the Administrator's Policy on Performance-Based Assistance, and the Assistance Administration Manual, previously distributed, when preparing, negotiating and evaluating cooperative agreement 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.

5.1 Authorization for State/Tribal Cooperative Agreements

Section 23(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, authorizes EPA to enter into cooperative agreements with states, territories, and Indian tribes ("applicants") 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 fiscal year 1999, pesticide program implementation grants under section 23(a)(1) of FIFRA are available for "pesticide program development and implementation, including enforcement and compliance activities." Under FIFRA section 2(aa), the term "state" means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territories of the Pacific Islands and American Samoa." The term "Indian Tribe/reservations" refers to Federally Recognized Tribes and reservations.

5.2 Performance Partnership Grants (PPGs)

The Agency expects authorization for performance partnership grants (PPGs) to continue in FY 2008 and beyond. Applicants may negotiate a PPG in lieu of both a pesticide program and an enforcement cooperative agreement. Separate guidance exists regarding the application and other requirements for PPGs. Under the PPG system, Regions and applicants should continue to use this Pesticide Program State/Tribal Cooperative Agreement Guidance to ensure that program and enforcement priorities are considered. If a Region and applicant wish to negotiate a PPG that appreciably modifies the levels of attainment in this FIFRA specific guidance, such as a level of attainment for worker protection, then the senior management of that Region should first discuss this shift in priorities with the appropriate National Program Manager.

5.3 Standard Application Forms

The regulations (40 C.F.R. sec. 31.10) require applicants for assistance to use Standard Form 424 (revised 4/88). Application kits including all the necessary application forms may be obtained from the EPA Regional Grants Management Office.

5.4 Budget Requirements

5.4.1 OPP Cost Sharing

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 C.F.R. sections 35.530 - 35.538.)]

Other Field Programs: A 15% match by applicants is recommended. This may include in-kind services.

Additional Program Activities: A 15% match by applicants is recommended. This may include in-kind services.

Pesticide Management Program Maintenance: A 15% match by applicants is recommended. This may include in-kind services.

5.4.2 OECA Cost Sharing

Enforcement Programs: A 15% match by applicants is recommended. This may include in-kind services.

Additional Program Activities: A 15% match by applicants is recommended. This may include in-kind services.

5.5 Itemized Budget Detail

The applicant should include supportive itemized statements or fact sheets to expand upon the expenditures proposed for at least (1) certification; (2) the other specific program areas (worker protection, water quality and endangered species); (3) each additional program activity for which the applicant is requesting funding; (4) enforcement activities; and (5) Pesticide Management Program Maintenance for the cost categories:

- personnel
- travel
- equipment and supplies

Budget details must conform to cooperative agreement/grant requirements. Specific information regarding the level of detail can be obtained from the Regional Grants Management personnel.

States and tribes have the option of applying for a Pesticide Performance Partnership

Grant (PPG) which affords the option of combining the enforcement, certification and program budgets into one. States and tribes interested in a PPG should direct their inquiries to their Regional contacts. If a State or tribe has a PPG then the itemized budget would not be required and the PPG guidance would apply.

5.6 *Work Plan Narrative*

Each cooperative agreement application must be accompanied by a Work Plan consistent with the requirements in 40 C. F. R. 35.107.

EPA expects that work plan activities may change from year to year as national and local conditions and priorities are updated. Therefore, a new narrative statement for each component must be submitted with the application for review and approval annually.

The work plan is negotiated between the applicant and the Regional Office. If an applicant proposes a work plan that differs significantly from the goals and objectives, priorities, or core performance measures in the national program guidance associated with the proposed activities, the Regional Office must consult with the appropriate National Program Manager [OPP and/or OECA] before agreeing to the work plan. The work plan must specify:

- work plan components to be funded under the grant;
- estimated work years and the estimated funding amounts for each work plan component;
- work plan commitments for each work plan component and a time frame for their accomplishment;
- a performance evaluation process and reporting schedule in accordance with § 35.115 of this subpart; and
- roles and responsibilities of the recipient and EPA in carrying out the work plan commitments.

The work plan must be consistent with applicable federal statutes; regulations; circulars; executive orders; and EPA delegations, approvals, or authorizations.

5.7 *Accountability Under the State/Tribal Cooperative Agreement*

According to 40 C.F.R. sec. 31.20, recipients must expend and account for funds awarded in accordance with state/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 pesticide program areas (worker protection, water quality and endangered species), and for each additional program 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 the narrative portion of their application that they will ensure that the

activities detailed in 40 C.F.R. sec. 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 recipient's 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 under 40 C.F.R. sec. 31.30, recipients and sub-recipients can re-budget within the approved direct cost budget. Certain types of changes require prior approval [see 40 C.F.R. sec. 31.30(c) through 31.30 (f)].

States and tribes have the option of applying for a Pesticide Performance Partnership Grant (PPG) which affords the option of combining the enforcement, certification and program budgets into one. States and tribes interested in a PPG should direct their inquiries to their Regional contacts. PPG applicants do not have to account for actual expenditures for specific program activities at the end of the budget and project period as detailed in Section 4.5 and the PPG guidance would apply.

5.8 *Quality Management Plans (QMPs) and Quality Assurance Project Plans (QAPPs)*

For projects involving environmental programs, EPA assistance agreement recipients must implement or have implemented a quality system conforming to the American National Standard 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 for EPA assistance (grants) shall 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 applicant.

2. The QMP shall 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 EPA decides to fund the project, EPA will include a term and condition in the assistance agreement. This term and condition requires the recipient to submit the QMP within a specified time after award of the agreement and notifies the recipient that they may not begin work involving environmental programs until the EPA Project Officer informs them that the QMP has been approved.
3. The Assistance Agreement requires the recipient to submit Quality Assurance Project Plans (QAPPs) to 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 shall 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 recipient's QMP by the EPA Project Officer and the EPA Quality Assurance Manager, may allow delegation of the authority to review and approve Quality Assurance Project Plans (QAPPs) to the recipient based on procedures documented in the QMP

AGENCY DOCUMENTATION:

The Quality Management Plan (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 Betsy Grim, (703-305-7645 or grim.betsy@epa.gov).

5.9 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 form should be in the application kit supplied by EPA. If the documents are not in the kit, the applicant should contact the Regional Grants Management Office of EPA.

5.10 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 currently is not ineligible for assistance due to disbarment, suspension, or other infraction.

SECTION 6: APPLICATION REVIEW PROCEDURES

Applications are submitted to the appropriate EPA Regional Office. Regions should review the application to ensure all of the required elements have been addressed. Application review procedures, including OPP and OECA contacts when there are questions, can be found in Appendix 2.

SECTION 7: ALLOTMENT OF STATE/TRIBAL COOPERATIVE AGREEMENT FUNDS

The pesticide enforcement allotment (Federal Insecticide, Fungicide, and Rodenticide Act, section 23(a): is based upon 1) a formula which includes the following factors: the state's population, the number of pesticide-producing establishments and certified private and commercial applicators, and the number of farms and farm acreage and 2) a base amount for each state.

The pesticide applicator certification and training allotment (Federal Insecticide, Fungicide, and Rodenticide Act, section 23(a): is based upon 1) a formula which includes the following factors: the number of farms and the number of private and commercial applicators requiring certification or recertification and 2) a base amount for each state.

Allotments are made annually and distributed to the Regional Offices. Regional Offices make final awards.