

FIFRA PROJECT OFFICER'S MANUAL
STATE/EPA COOPERATIVE PROGRAM MANAGEMENT

U. S. Environmental Protection Agency

Office of Compliance Monitoring

and

Office of Pesticide Programs

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FOREWORD

This manual has been designed as a companion to EPA's Pesticides Inspection Manual and follows the same loose leaf format that allows easy changes and provides for the addition of Region specific guidance. This manual is intended to provide a basis for new and experienced project officers. Available resources within the Region may dictate that more or less is done within that Region. Some portions, such as grant guidance, will have to be replaced annually. It is meant to be used! Your comments and suggestions will be appreciated and should be sent to the Chief of the Grants and Evaluation Branch, OCM, or Certification and Training Branch, OCM.

Work group members from EPA Headquarters and Regional Offices developed the manual. They included the following:

David A. Ramsey, Chairman, Region VII
Mary Ellen Podniesinski, Project Coordinator, OCM
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the annual Consolidated Pesticides Cooperative Agreement Guidance.

The Project Officer communicates regularly with OPP and OCM for advice and recommendations in the management of state cooperative agreements and to provide feedback on the implementation of the National Program. Exhibit 1-1 is a functional directory describing the organization and responsibilities of OPP and OCM. This directory lists Headquarters staff by organizational office and by function.

OPMO handles the administrative tasks of the Office of the Assistant Administrator of OPTS. OTS develops national policies, rules and regulations to implement the Toxics Substances Control Act.

II. Project Officer Roles and Responsibilities

The roles and responsibilities listed below fulfill the oversight responsibility of the Regions. They are all referred to as Project Officer roles and responsibilities in this manual. Project Officers have a management team and often many technical specialists supporting them; therefore, the exact division of responsibilities may vary among the Regions. Project Officers are responsible for being knowledgeable about the pesticides programs in their assigned states. They try to balance the many and sometimes differing priorities of Headquarters, Regions, and the states throughout the year through continuing negotiations. The Project Officer tries to ensure the needs of the state and the standards of the national program are being met.

In many instances the Project Officer may not be the actual EPA employee providing the advice, assistance, training, or evaluations described below. In some Regions these duties are divided among a number of different individuals, e.g., specific individuals may be responsible for groundwater or worker protection. In those cases the designated Project Officer must coordinate the input of the specialists. The functions of the Project Officer are to:

1. Provide advice and assistance to states in the development and management of the state's pesticide program;
2. Maintain a working knowledge of the state's entire pesticide program, and promote an effective state program, including activities outside the immediate scope of the cooperative agreement;
3. Negotiate cooperative agreements with states and provide liaison assistance between the state and the Region's Grants Administration Program;
4. Review proposed expenditures in the state's budget to

CHAPTER ONE

INTRODUCTION

The U. S. Environmental Protection Agency (EPA) is authorized by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), to enter into cooperative agreements with states and Indian tribes. The purpose of this manual is to delineate the overall regional oversight responsibilities in managing those pesticide agreements. In most Regions the oversight responsibilities described in this manual are performed by the Project Officer, and these duties are referred to consistently in the manual as Project Officer responsibilities, duties, function, activities, etc. However, in some Regions these responsibilities may be assigned to a number of different program specialists, inspectors, etc. In those Regions, the Project Officer must coordinate the input of those other people.

This manual emphasizes Pesticide Program oversight responsibilities in the Region. It briefly addresses the Grants Administration function because the Project Officer generally serves as a liaison between Grants Administration and grantees. Adherence to this manual should result in an acceptable oversight program. The manual is meant to address minimum requirements and allow for differences among Regions.

FIFRA regulates the manufacture, distribution, and use of pesticides. Pesticide devices are also regulated under FIFRA. The Act provides for national standards concerning pesticides and promotes state programs for enforcement activities and certification of pesticide applicators. Funds from EPA can assist those state programs and their unique needs while promoting Federal initiatives and protecting health and the environment.

I. EPA Headquarters/Regional Relationship

The Office of Pesticides and Toxic Substances (OPTS) is responsible, in part, for implementing FIFRA. OPTS is divided into the following four Offices:

1. Office of Pesticide Programs (OPP);
2. Office of Compliance Monitoring (OCM); and,
3. Office of Program Management Operations (OPMO);
4. Office of Toxic Substances (OTS).

OPP develops national policies, rules and regulations which control the registration, use, manufacture, distribution, etc., of pesticides. Program initiatives such as pesticides in groundwater, worker protection, and endangered species protection are also developed by OPP. OCM is the enforcement arm of OPTS. OCM develops national compliance monitoring and enforcement policies, priorities, and strategies for FIFRA. OPP and OCM work together to develop

- verify expenses are reasonable, based on the Project Officer's knowledge of the state program's size and complexity. Grants Administration specialists may be contacted for advice on financial issues, such as procurement of vehicles, photocopiers, computers, etc. They will determine if proposed purchases are allowable under the terms of the agreement and federal regulations. They may also provide a detailed review of the financial aspects of a state's application;
5. Review the agreement guidance for the upcoming year with the state to determine whether the projected accomplishments proposed by the states are sufficient;
 6. Track the state's activities throughout the year to verify that cooperative agreement commitments are being met;
 7. Provide for training to the state in all programs (enforcement, certification, pesticide programs, etc.);
 8. Conduct complete formal evaluations at the midyear and end-of-year review. Informal evaluations continue throughout the year. The evaluation role of the Project Officer requires tact and diplomacy. At the time of the formal review there should be no surprises to the Project Officer or to the state if the Project Officer has been successful in his/her efforts;
 9. Represent the states' views to the Region and Headquarters to ensure an understanding of the needs and position of the states. Once final decisions on policy or resources are determined the Project Officer must represent the EPA position;
 10. Call upon other resources within or outside of EPA to support any of the above functions;
 11. Keep their management teams and technical specialists informed of the status of each state's pesticide program, grant, and cooperative agreement; and
 12. Maintain complete and accurate files of all phases of the project.

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FUNCTIONS OF A PROJECT OFFICER

- Provide advice, assistance and training
- Maintain working knowledge of and help promote effective state pesticide program
- Negotiate cooperative agreements
- Review proposed expenditures in State's budget
- Review agreement guidance for sufficiency
- Track state's activities throughout year
- Provide training to state in all programs
- Support any of these functions with resources
- Complete periodic formal evaluations
- Represent States views and needs to Region and Headquarters

CHAPTER TWO

AUTHORITY

I. Program

A. FIFRA

FIFRA and 40 Code of Federal Regulations (C.F.R.) Parts 150 to 189 provide the basic authority for our pesticide programs. The following sections of FIFRA and the rules promulgated under its authority are discussed because they are of special importance to Project Officers.

1. Section 11. This section explains state plans for certification of pesticide applicators and requires separate standards for commercial and private applicators.
2. Section 23. This section specifically authorizes EPA to enter into cooperative agreements with states and Indian tribes for pesticide enforcement and to assist in training and certifying applicators. The Federal share of funding is limited to 50 percent for certification and training programs. No limitation is specified for enforcement or pesticide programs. EPA usually sets the Federal share for the latter programs at a maximum of 85 percent). Contracts with federal, state, or Indian tribal agencies for encouraging applicator training are also authorized. The state Cooperative Extension Services are identified as the primary educators for pesticide use information.
3. Section 26. This section stipulates under what conditions states shall have primary enforcement responsibility for pesticide use violations (primacy).
4. Section 27. This section requires EPA to refer complaints and other information concerning pesticide misuse to states. It also provides the authority for the EPA Administrator to rescind primacy in certain situations.

B. 40 C.F.R. PARTS 150 TO 189

The Project Officer should keep a current copy of these regulations on hand for reference and have a general knowledge of their contents. Project Officers managing certification grants must be very familiar with Part 171 - Certification of Pesticide Applicators.

Part 173, Procedures Governing The Rescission of State Primary Enforcement Responsibility for Pesticide Use Violations (Exhibit 2-1), was published subsequent to FIFRA Sections 26 and 27. It was followed by an interpretive rule (Exhibit 2-2) which defined "State Primary Enforcement Responsibilities." Specifically, the rule addresses the

following issues:

1. Procedures EPA will follow when referring allegations of pesticide use violations to the states and tracking state responses to those referrals;
2. The meaning of "appropriate enforcement action;"
3. Clarification of when a state will be deemed to have adopted adequate pesticide use laws and regulations and implemented adequate procedures for the enforcement of such laws and regulations;
4. The criteria the Administrator will use to determine whether a state is adequately carrying out its primary enforcement responsibility of pesticide use violations; and
5. The factors which constitute an emergency situation and the circumstances which require EPA to defer to a state for a response to the crisis.

Many of the requirements in the Annual Consolidated Pesticide Cooperative Agreement Guidance and the midyear and end-of-year Evaluation Protocol stem from the Interpretive Rule, e.g., priority setting, legislative update, enforcement response policies, case tracking, etc.

A Project Officer should be familiar with FIFRA, the regulations and the Interpretive Rule. The rule does not detail the specifics of various program requirements, but it does provide a good source of background material and a sense of what should be included in a program. For example, it states an adequate referral system should contain:

1. A method for funneling complaints to a central organizational unit for review;
2. A logging system to record the receipt of the complaint and to track the stages of the follow-up investigation;
3. A mechanism for referring the complaint to the appropriate investigative personnel;
4. A system for allowing a rapid determination of the status of the case; and
5. A procedure for notifying citizens of the ultimate disposition of the complaints.

The rule requires methods, systems, mechanisms and procedures for adequate referral systems. The Project Officer should be prepared to assist the state in establishing these requirements.

II. Grants Administration

- A. 40 C.F.R. PARTS 7, 30, 31, 32, 33, & 35 and OMB CIRCULARS A-87, A-102, & A-110 and EPA Order 1000.25

Grants Administration personnel in Regional Offices of Policy and Management keep abreast of various federal regulations, Office of

Management and Budget (OMB) circulars, executive orders, and other directives affecting EPA awards. Chapter Five of this manual refers to an application kit which includes some of those documents. Project Officers are usually the first point of contact for States and therefore should be familiar with grant procedures and requirements. The following highlights should be helpful to the Project Officer. Copies of OMB documents and EPA orders can usually be obtained from the Regional Grants Administration offices.

1. 40 CFR Part 7. Nondiscrimination in Programs Receiving Federal Assistance from the Environmental Protection Agency implements statutes which prohibit discrimination on the grounds of race, color, national origin, sex, and handicap.
2. Part 30. General Regulation for Assistance Programs includes assistance requirements mandated by statute or OMB Circulars which are necessary for effective program management. It tells how to request and manage an EPA project, describes EPA involvement in the process, and identifies the recipients' responsibilities.
3. Part 31. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments ("The Common Rule") establishes consistency and uniformity among Federal agencies in the administration of grants and cooperative agreements to state, local, and Indian tribal governments.
4. Part 32. Debarment and Suspension Under EPA Assistance, Loan, and Benefit Programs implements Section three of Executive Order 12549, which requires rules for debarment and suspension, and adopts additions to "The Common Rule".
5. Part 33. Procurement Under Assistance Agreements establishes procurement guidance.
6. Part 35. State and Local Assistance establishes uniform administrative requirements for EPA programs providing financial assistance to State and local agencies for continuing environmental activities. It also contains assistance provisions unique to the pesticide programs.
7. OMB Circular A-87. Cost Principles for State and Local Governments provides principles for determining the allowable costs of programs administered under agreements with the Federal government. Discussions about cognizant agencies and indirect costs are of special interest. Revisions to this Circular were

proposed on October 14, 1988, but have not been finalized.

8. OMB Circular A-102, revised. Grants and Cooperative Agreements with state and Local Governments provides guidance to Federal agencies on businesslike management of grant programs and other matters not covered in "the Common Rule". It mandates the use of Financial Status Reports and provides some distinction among grants, cooperative agreements and contracts.
9. OMB Circular A-110. Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations promulgates standards for obtaining consistency and uniformity among Federal agencies in the administration of grants and agreements with the groups named. Most of the document deals with procurement.
10. EPA Order 1000.25 requires award recipients to use recycled paper for all reports which are prepared as a part of the assistance agreement and delivered to the Agency.

CHAPTER THREE

GUIDANCE DOCUMENTS

I. Consolidated Pesticide Cooperative Agreement Guidance

This guidance document (Exhibit 3-1) is issued annually by the Office of Compliance Monitoring (OCM) and the Office of Pesticide Programs (OPP). It is directed to EPA regional offices and states and provides national guidance which supplements financial assistance regulations. It covers all pesticide activities for which financial aid will be available, including but not limited to: 1) enforcement; 2)

certification of pesticide applicators; 3) groundwater program; 4) endangered species; and 5) worker protection.

THE PROJECT OFFICER IS ADVISED TO REPLACE EXHIBIT 3-1 WITH THE CURRENT FINAL DOCUMENT EACH YEAR.

II. Other Guidance

Policies, strategies, and guidance for programs on Indian reservations are sometimes developed separate from other guidance documents to states (Exhibits 3-2, 3-3, and 3-4). Project Officers should work closely with the Indian Coordinator in their Region.

Various directives which influence the grant process may be received from Headquarters and regional supervisors at any time (e.g., see Barnes memo and attachment, Exhibit 3-5). They should be added to this chapter.

Regions may develop and provide states with region-specific or state-specific guidance. These documents are intended to supplement or enhance National Guidance, not replace it.

CHAPTER FOUR

PROJECT OFFICER TRAINING

FIFRA Project Officer training should include the following:

1. Thorough study and review of this manual, the Act, 40 CFR, new program guidance and the cooperative agreement guidance for the specific fiscal year;
2. Attendance and participation in any formal EPA Project Officers training program;
3. Attendance and participation in annual FIFRA Project Officers meetings;
4. On-the-job training with other more experienced Project Officers and Compliance Officers;
5. Personal protection and safety;
6. Training that addresses national priorities and initiatives; and
7. Attendance and participation in any state inspector workshops, or other training opportunities provided by regions and states.

It is also recommended that Project Officers meet the inspector training curriculum requirements of Agency Order 3500.1 (Exhibit 4-1). This order establishes the basic framework for training and development of Agency personnel who conduct compliance inspections and field investigations. Any Project Officer assuming the lead in

an investigation or participating in a joint inspection with the state would be required to have met requirements of the Order. A Project Officer may take the lead when training a new state inspector or when the state requests that EPA take the lead. Project Officers who only accompany state inspectors on investigations and inspections are not subject to the Order but are still encouraged to fulfill the requirements of the Order.

The Project Officer must become knowledgeable about pesticide manufacturing, distribution and use in his/her states and all aspects of federal and state pesticide programs. This includes knowledge of crops, pests, important pesticides, agricultural practices, institutional infrastructure, worker protection program requirements, groundwater requirements, endangered species requirements, state and federal registration programs, and enforcement activities. Experience may be the best source of this knowledge. Project Officers should make every effort to observe and become familiar with the above activities in field situations.

Another valuable source of training on these subjects is the state's certification training programs. Project Officers are encouraged to obtain copies of a state's certification training materials, study them, and take all of the category examinations. Project Officers should attend the Certified Applicator training programs provided in their state. This training will also familiarize Project Officers with the state's training process and

prepare the Project Officers for evaluating the state's Certified Applicator program.

It is suggested that each Project Officer also complete training in basic first aid, CPR, and defensive driving.

A general understanding of other EPA Regional programs, for example, Resource Conservation and Recovery Act, Clean Water Act, Clean Air Act, and the Toxic Substances Control Act, is also desirable.

Regions may consider other kinds of training to further Project Officer development such as the OCM Case Development Training, classes at colleges and universities related to law enforcement, agricultural practices, integrated pest management, etc.

CHAPTER FIVE

GRANTS ADMINISTRATION

Each EPA Regional Office has Grants Administration personnel, or Grant Specialists, in its Office of Policy and Management. They serve as counterparts to the award recipients' business office and are responsible for all business aspects associated with the review, negotiation, award and administration of grants through audit resolution and final close out (Exhibit 5-1).

The Project Officer is a liaison between Grants Administration and the state agencies. He/she may not be an expert in the administration and financial requirements of the assistance process, but he/she must be able to identify situations which require in-house coordination and support from Grants Administration. As trust and rapport build between the Project Officer and his/her state Lead Agency counterparts and as the Project Officer's knowledge of grants administration increases, he/she may become the primary regional voice in administering the pesticide cooperative agreements.

The Grants Administration regulations are complex and detailed. Project Officers should refer questions about those rules to Grant Specialists. The consequences of not adhering to those regulations can be serious for the state. Audits have resulted in state

pesticide programs returning money to EPA because the regulations were not followed.

Project Officers should develop a close working relationship with their Grant Specialists. They must rely on the Grant Specialists to interpret regulations. The Grant Specialists depend upon the Project Officers' judgement concerning funding requests and other program needs.

Grant Specialists prepare "kits" of information for distribution to persons interested in obtaining aid from EPA. The kits should contain all forms and instructions necessary for submitting an application. Listed below are the forms and instructions normally included in grants application kits and usually available at the Regional grants administration offices.

- I. Application Kit For state and Local Governments
 1. General instructions
 2. Application for Federal assistance (Standard form 424)
 3. Key people list
 4. Quality assurance plan
 5. Applicant assurance of compliance with 40 C.F.R. Part 7
 6. Recipient certification of drug-free work place
 7. MBE/WBE fair share objective
 8. Information regarding the anti-lobbying act
 9. Recipient certification anti-lobbying act

10. Disclosure of lobbying activities (Standard form 111)
11. Certification regarding debarment, suspension, and other responsibility matters (EPA form 5700-49)
12. 40 C.F.R. Part 7
13. 40 C.F.R. Part 31
14. 40 C.F.R. Part 32
15. 40 C.F.R. Part 35
16. OMB Circular A-87
17. OMB government-wide implementation of drug-free work place act of 1988

II. Application Kit For Institutes of Higher Education and Nonprofit Organizations. Contents are essentially the same as above, except the procurement regulations differ. The following additional documents are usually included in this kit.

1. General instructions
2. 40 C.F.R. Part 30
3. 40 C.F.R. Part 33
4. OMB Circular A-110
5. EPA form 5700-48

CHAPTER SIX

PREPARING A GRANT OR COOPERATIVE AGREEMENT

Negotiated grants or cooperative agreements between EPA and a state usually result from the need to expand a program or implement a new one. Either agency may initiate negotiations. The project's proposal must address environmental benefits. A draft workplan and budget for the project must be developed and both parties engage in informal discussions held prior to formal submission of the proposal. Both parties' statutory authorities and limitations that might affect completion of the proposed workplan must be addressed.

The following topics must be addressed:

I. Authority to Receive Award

The state must have written authority to enter into cooperative agreements with the Federal government. If the grant is for the certification of pesticide applicators, the Governor must designate a State Lead Agency responsible for developing and implementing a state plan.

II. State vs. Federal Fiscal Years

The state fiscal year is a twelve month budget period set by the state. Common state fiscal years are January - December, July - June, and October - September. The Federal fiscal year has been designated by Congress to be from October - September.

EPA prefers that grants and agreements conform to the Federal fiscal year. That timetable simplifies funding and reporting. However, awards may be made to correlate to a differing state fiscal year.

III. Funding

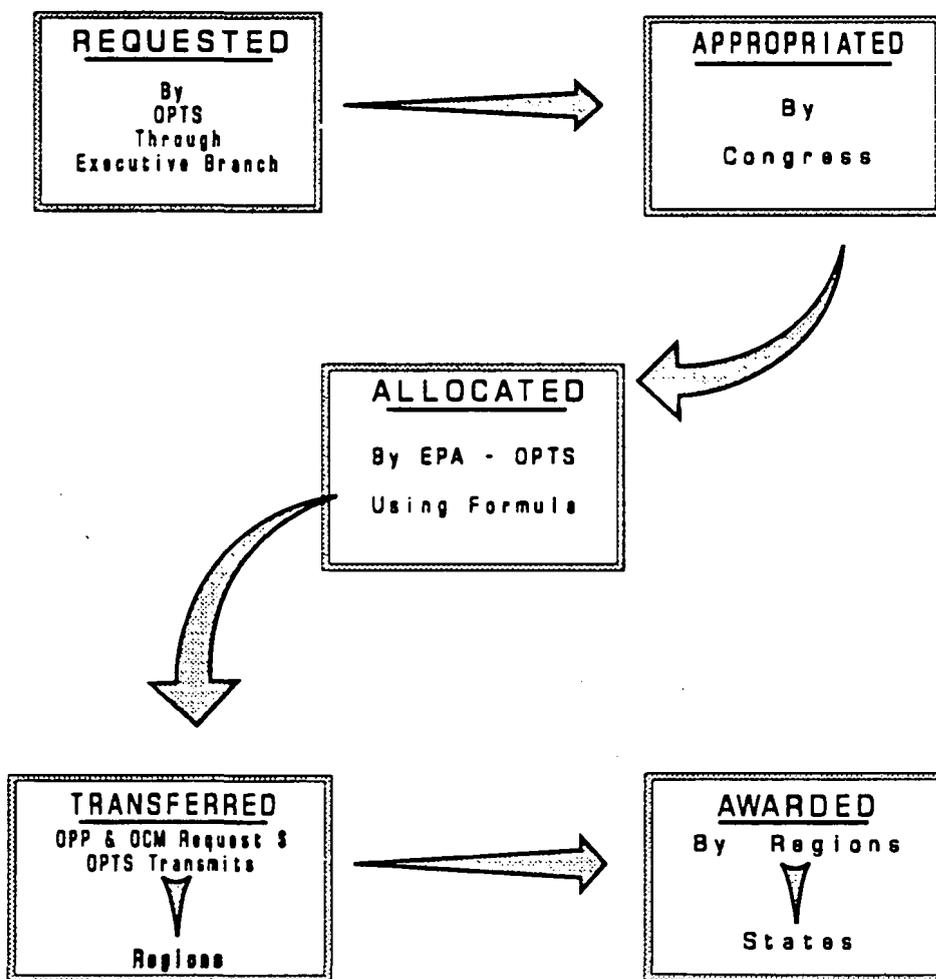
The following is a schematic of the funding process:

EPA is limited to 50 percent funding of programs for the certification and training of pesticide applicators. States must provide the other 50 percent of the total program costs. For example, if EPA provides \$50,000, the state must provide \$50,000 for a total project cost of \$100,000.

EPA funding of enforcement programs is not limited by statute but has been set at 85 percent of program costs. Consolidated agreements which include funding for program initiatives such as groundwater, worker protection, and endangered species also utilize the 85/15 ratio. For example, if EPA provides \$100,000, the state must provide \$17,647 for a total project cost of \$117,647.

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FUNDING PROCESS



The state share, or match, is often provided as "in kind contribution" rather than being expressed as cash. This essentially means that the state is using the work of their existing staff as match.

IV. Method of Payment

Each assistance agreement specifies a method of payment. Recipients are paid by advance, letter of credit, or reimbursement. Appropriate forms and instructions are sent with the assistance agreement (Exhibits 6-1 and 6-2).

V. Record Keeping

Recipients must comply with 40 C.F.R. Part 31 concerning accounting records. In general, they must expend and account for funds from EPA in accordance with state laws and procedures that control their own funds. Program officials are encouraged to develop personnel time cards and daily activity records which are easy to use and distinguish between various pesticide program activities (e.g., certification, enforcement, and program initiatives).

When two grants are used to share the cost of a piece of equipment, it is mandatory to keep accurate records on the use of the equipment under both programs. It is not recommended that equipment be purchased under two grants if

the matching funds differ (e.g., 15 percent vs. 50 percent) because of the complexity of the record keeping.

The grantee must file an end-of-year Financial Status Report (Exhibit 6-3) to report the status of program funds. If actual expenditures of grant monies differed from projections in the grant application, the Financial Status Report should be accompanied by an amended budget page and appropriate justification. Object cost categories, for example, personnel, fringe benefits, travel, equipment, supplies, contractual, construction, other, may vary up to 10 percent without requiring EPA approval and grant amendments. States are encouraged to submit their Financial Status Reports as soon as possible to the Regions but no later than 90 days after the end of the project period.

VI. Audits

Grant recipients must arrange for their own "single audits" to be completed annually. Those audits will address financial statements, internal controls, and whether money was spent in accordance with the award agreements. A copy of the audit report with any misappropriation or irregularities will be submitted to EPA. Costs for performing the audit may be charged to the grant.

VII. Application

The appropriate application kit (see Chapter 5) should be provided to the prospective grantee. The Project Officer should offer to assist in completion of the necessary forms and provide a copy of the current Consolidated Pesticide Cooperative Agreement Guidance (see Chapter 3).

The agency preparing the application should submit a draft workplan and budget to the Project Officer 90 days before the target date for the grant to start. That allows 30 days for negotiated review, comment, and preparation of a final package for submittal to the Regional Office. The workplan should address the requirements of the current Consolidated Pesticide Cooperative Agreement Guidance. The Cooperative Agreement Guidance includes a checklist which the Project Officer can use to verify that all the information required is present. The Project Officer needs to assure that the technical quality of the proposed program meets national and regional requirements.

The completed application package must be submitted to the Regional Administrator 60 days before the award date. Copies should be distributed for comment to:

The Project Officer,
Grants Administration,
Regional Counsel,

Office of Pesticides Programs (Field Operations Division),

Office of Compliance Monitoring,

or in accordance with established Regional procedures. The Section Chief should set time limits for receipt of comments.

The Project Officer will consolidate comments and request any necessary changes. It is preferred that changes be made via amended pages to the application package rather than by conditions to the award. Conditions to the award are placed by Grants Administration, while amendments to the award are under the control of pesticide program personnel. The Project Officer can go to Grants Administration and ask for specific conditions to be placed on awards; however, this is usually done only when negotiations with the state have failed.

When pesticide program personnel are satisfied with the completed application, they issue a funding request to Grants Administration. The request may include necessary conditions to be placed on the award. As a rule specific terms of any conditions are explained in a cover memo attached to the funding request. Grants Administration prepares an EPA Assistance Agreement/Amendment form for signature by the Regional Administrator. The

Agreement/Amendment is then forwarded to the state for signature. Once the award has been signed by the Regional Administrator, the state cannot make any further changes to that particular package. From that point, changes have to be made through grant amendments.

Copies of the signed award form, EPA Form 5700-20A (Exhibit 6-4), should be distributed to the State Agency Director, State Division Director, State Program Chief, EPA Section Chief and Project Officer.

CHAPTER SEVEN

DAY-TO-DAY ACTIVITIES

I. Certification Grants - For established certification programs the Project Officer should participate as follows:

A. Meeting Participation

Project Officers should participate in joint State Lead Agency and Cooperative Extension Service planning meetings for certification and recertification training. They also may assist as speakers in applicator training programs.

B. Monitoring Training Programs

Project Officers must annually monitor pesticide applicator training programs for certification and recertification. Both private and commercial applicator programs should be evaluated, including Cooperative Extension Service and industry sponsored programs. Evaluation forms similar to Exhibits 7-1 and 7-2 should be used to document reviews. Follow-up letters to the State Lead Agency, with copies to the Cooperative Extension Service, should point out strengths and weaknesses of the programs monitored.

C. Reviewing and Approving Exams

Each year, the Project Officer should evaluate about one third of the core and category examinations used by the State Lead Agency for certifying applicators. A written evaluation method is suggested (Exhibit 7-3) and should assure that all competency standards of 40 CFR Part 171 and the state's Cooperative Agreement are addressed. When examinations do not meet these standards, the Project Officer should point out discrepancies to the State Lead Agency and negotiate acceptable revisions. Each examination which has been reviewed and approved by the Project Officer should be identified to verify that it has been approved and that only approved versions are in use.

The Project Officer is not expected to be an expert in the technical aspects of all categories of pesticide application. In many cases, the role of the Project Officer will be to consult with his/her colleagues and coordinate the expertise available in the Region, Headquarters, or through other agencies.

II. Enforcement Cooperative Agreements

Project Officers take an active role in management of these agreements. The Project Officer may not necessarily be expert in every aspect of enforcement programs. The

following subjects involve Project Officers and/or other specialists to assure adequate oversight:

A. Quality Assurance Plans.

EPA Order 5360.1 (Exhibit 7-4) establishes policy and program requirements for quality assurance of environmentally related measurements performed by or for EPA. That Order is supported by a Quality Assurance (QA) rule at 40 C.F.R. Part 31.45. Guidance for development of QA program and project plans is available from regional Quality Assurance/Quality Control (QA/QC) personnel. Quality assurance ensures data or results of sufficient precision and accuracy to meet the objectives of the program. See "Definitions" for distinguishing between the two plans.

1. Quality Assurance Program Plan (QAPP). This is a formal documentation of the recipient's commitment to QA and should be formally approved for implementation by the granting authority; usually, the Regional Administrator. Once approved, this document is only updated when major changes in management policies, objectives, principles, and procedures occur. A general guidance for evaluating a Quality Assurance Program Plan is shown as Exhibit 7-5.

2. Quality Assurance Project Plan (QAPjP). This plan is less formal than the Program plan described above. It is approved by regional QA/QC personnel. The Project Plan is an organization's written procedures which delineate how it produces quality data for a specific project or measurement method, for example sampling methods for pesticide residues in soil. An organization has only one program plan but could have multiple project plans. Project plans should be reviewed annually by the state and Project Officer and updated as necessary. Project plans emphasize quality control and standard operating procedures which allow line workers to achieve and maintain a desired level of quality established by management. A general guidance for evaluating a Quality Assurance Project Plan is shown as Exhibit 7-6.

B. Enforcement Response Policy

This written document, also called a Level of Action Policy, is required for each applicant conducting enforcement activities under a FIFRA agreement. Minimum recommendations are stated in the Consolidated Pesticide Cooperative Agreement Guidance. Project Officers should work with the State Lead Agency and provide all necessary assistance in development of the policy.

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ENFORCEMENT RESPONSE POLICY

MINIMUM REQUIREMENTS

- ◻ List of violations to be encountered
- ◻ Mechanism for determining level of gravity for each type of violation
- ◻ List of enforcement remedies available for each type and level of violation (include both state/tribal and federal action)
- ◻ Escalation of penalties for second and subsequent violations
- ◻ Consideration of potential pollution prevention enforcement penalties and/or in settlement of enforcement cases
- ◻ Timetable which the state/tribe will follow to insure the timely investigation of complaints and the timely issuance of enforcement actions when violations are detected

The purposes of the Enforcement Response Policy are to provide a mechanism for evaluating the gravity of each violation encountered and responding in a predictable, uniform, and timely manner with an appropriate enforcement action.

C. Oversight Inspections

Project Officers should be trained in the proper techniques for conducting all of the types of inspections listed on EPA form 5700-33H (see Chapter 8). Only inspectors with that training can properly oversee state inspections. The Project Officer should supply his/her own safety equipment and supplies when accompanying state inspectors. Trip reports should be completed to document all oversight inspections.

Reasons for oversight inspections:

1. Training State Inspectors. The Project Officer will often take the lead when training a new state inspector or when training an experienced state inspector to do a new type inspection (e.g., export). In this case the Project Officer is the teacher and must set a good example and adhere to directives in the Pesticides Inspection Manual.
2. Accompany State Inspectors. The Project Officer should periodically accompany each state inspector on each type

of routine inspection. The purposes are to evaluate the inspector's performance and to offer constructive criticism. Even veteran state inspectors can benefit from this association with the Project Officer.

In addition to evaluations, joint inspections provide other benefits. Complicated or extensive investigations are sometimes best accomplished through joint inspections in which Project Officers take a more active role. This also helps the Project Officer to maintain proficiency as well as develop and maintain rapport and credibility with state personnel.

D. FIFRA Section 26 and 27 Referrals.

The Consolidated Pesticide Cooperative Agreement Guidance provides a good discussion concerning referral and tracking of significant allegations of pesticide use violations. However, it does not describe a mechanism for documenting, evaluating, referring, and tracking complaints. It is up to regional discretion how that should be done. An example of an effective system follows:

1. Tips and complaints called into the EPA Regional Office are documented and evaluated on printed forms (Exhibit 7-7);

2. Those scoring less than 100 points are telephoned to the state solely for informational purposes. Copies of the completed forms are sent to the state and kept by the appropriate Project Officer.
3. Those scoring 100 points or more (considered "significant" by both the state and EPA) are given a referral number, e.g., 91-MO10, and telephoned to the state. The completed forms and a letter from the Branch Chief (Exhibit 7-8) are sent by certified mail to the state. Copies of those documents are kept by the Project Officer.
4. The Project Officer completes a FIFRA and TSCA Tracking System tracking form (Exhibit 7-9) so the referral is logged into the Regional computer system. A copy is retained by the Project Officer and used to keep FIFRA and TSCA Tracking System updated until the case is closed.
5. The state contacts the Project Officer when an enforcement action is proposed and obtains concurrence relative to the remedies available to the state under its enforcement response policy and pesticide control legislation.

Please refer to Chapter 2, page 2-2, for information about referrals and the Interpretive Rule.

E. Tracking System.

The state lead agency needs to utilize a management system for tracking inspections, violations found, and enforcement actions. The Interpretive Rule, which covers processing complaints, requires "a system for allowing a rapid determination of [a] case". The Cooperative Agreement Guidance has adopted this requirement to encompass all projected inspections included in the workplan. Project Officers should review the state's system to assure it meets the requirements and is workable.

F. Other Ongoing Activities

The Project Officer serves as a support person to the states in many of their activities and is often their initial contact with EPA. The following are some of the varied activities in which Project Officers may be involved:

1. Obtaining Federal Credentials. Some state inspectors need Federal credentials (Exhibit 7-10) to conduct certain inspections, such as, Federal facilities. Project Officers can assist in providing those by getting forms from OCM, obtaining Regional Administrator signatures, and assuring the filing of credential acknowledgement statements (Exhibit 7-11). It is also their responsibility to collect those credentials when the state no longer needs them.

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MINIMUM TRACKING REQUIREMENTS

- ◻ Date of inspection
- ◻ Reason for inspection
(routine, complaint)
- ◻ Name of person or firm
inspected
- ◻ Violation found
- ◻ Summary of past compliance
history (or reference to an
appropriate case file number)
- ◻ Enforcement action taken
- ◻ Date of enforcement actions
- ◻ Disposition of action

2. Priority Setting and Targeting Inspections. The cooperative Agreement Guidance requires states to develop priority setting mechanisms. Inspections are usually targeted according to these mechanisms. In some cases, Project Officers may request states to perform inspections that do not fall within the priority setting mechanisms, such as requests for investigations from other regions or headquarters. Project Officers may also provide other inspection targets to states including producer establishment inspections from regional neutral based schemes, exports, and imports.

3. Meeting Participation. Project Officers are encouraged to participate in state inspector staff meetings. Attendance may also be warranted at meetings with industry, growers, environmental groups, state and federal government groups, legislative committees and others. The level of participation may vary from strictly observing the meeting to being an active participant.

4. Laboratory Oversight. Laboratories conducting analyses of state pesticide samples should be visited by Project Officers at least during midyear or end-of-year evaluations to assure that they are following their QA

plans. At other times, Project Officers may provide guidance concerning training, analysis problems, etc. The Project Officer can refer to the regional QA officer, NEIC, grants administration, or the State Lead Agency for technical assistance.

5. Case Review. In addition to the cases reviewed at the State Lead Agency, Project Officers should review cases referred to the Regional office for action to assure they are complete, properly assembled and of sufficient quality to document violations, as specified in the negotiated workplan. Forms such as those suggested in Chapter 8, Exhibit 8-2, or the equivalent, may be used by the Project Officer to document the completeness and quality of the case file. The forms can be compiled for use in the evaluation process. Cases may consist of producer establishment inspections, exports, imports, EPA requests, and some state initiated inspections. Project Officers may also be asked to assist the State Lead Agency in reviewing complicated or sensitive cases.

6. Negotiating changes. Unexpected changes in projected outputs or program directions may require negotiated amendments to the cooperative agreement. The Project Officer is expected to coordinate those changes with the State Lead Agency and Grants Administration. Some

shortfalls may be explained rather than changing commitments. For example, if the State Lead Agency didn't meet their projected outputs for follow-up investigations but conducted extra PEIs in response to OCM strategies or Regional requests, the shortfall would be acceptable. If the state lost employees early in the year and could not rehire, renegotiation would be reasonable, but if employees left late in the year, an explanation might suffice.

7. Liaison. Project Officers may play an important communication role in establishing and maintaining mutual understanding between the State Lead Agency, other state agencies, and Federal agencies or divisions thereof.
8. Regulatory and Policy Interpretations. State employees frequently ask Project Officers to interpret EPA regulations and policies. When those interpretations are not readily available, Project Officers should refer the question to their supervisor for interpretation, attaching any available background information.
9. Obtaining Labels. The Project Officer may assist the state in obtaining pesticide product labels from EPA Headquarters.

10. Section 18 and 24(c) Applications. Project Officers should be aware of emergency exemptions and special local need registrations in the states they oversee. They may also participate in the state's and EPA's decisions as to the validity of requests for those exemptions and registrations.

11. Compliance Strategies. Periodically, throughout the year OCM distributes compliance strategies to the regions. The Project Officer should work with the state to accommodate these strategies into the overall work load. This may require renegotiation of commitments and an amendment to an agreement as described in 6 above.

12. State Training. Project Officers should assess the states training needs, including that training requested by the state, e.g., annual inspector training, interviewing, photography, and report writing.

III. Pesticide Programs Cooperative Agreements

The Consolidated Pesticide Cooperative Agreement Guidance makes a clear distinction among pesticide activities for which financial aid is available. Besides certification of applicators and all enforcement activities, there are program activities. They are also managed by Project Officers who may be different or the same person(s)

overseeing the other pesticide activities. Concurrent agreements may be granted to other state agencies to conduct activities that will support the State Lead Agency's program. The State Lead Agency must be included when negotiating those other agreements and memoranda of understanding between the agencies are recommended. Current programs are as follows:

A. Groundwater

The groundwater issue involves many environmental agencies and persons. Pesticides in groundwater is only a portion of the issue. Since State Lead Agencies for pesticides may differ from state agencies designated as "Leads" on overall water quality, the first hurdle to be accomplished may be the development of a coordinated program plan. That will set the stage for constructing an implementation plan followed by generic and chemical-specific State Management plans in accordance with EPA Strategies and guidance documents. Outreach activities must be encouraged.

B. Endangered Species

Project Officers should encourage SLAs to enroll in pilot programs or develop state initiated plans for protecting threatened and endangered species. Activities should also include coordination among various state and Federal agencies and outreach to pesticide users and the public.

Each State Lead Agency should take an active role in reviewing habitat maps.

C. Worker Protection

To better distinguish between worker protection program and enforcement activities, the Project Officer may assist the state by outlining those activities (Exhibit 7-12). All of the major activities are listed. The State Lead Agency should be encouraged to acquaint themselves with state OSHA or Labor Department personnel and advocacy groups.

IV. Other

Project Officers may also be involved in the management of special projects and contracts, for example, endangered species pilot programs, development of state disinfectant analytical capabilities, inspector sampling manuals, and state container disposal efforts. Contract Officer training for contracts administration is necessary but is beyond the scope of this manual.

CHAPTER EIGHT

MIDYEAR AND END-OF-YEAR EVALUATIONS

Midyear and end-of-year evaluations are required by the Consolidated Pesticide Cooperative Agreement Guidance and should be acknowledged in the cooperative agreement or grant. Headquarter's and regional protocols, if available, provide guidance for the evaluation of the state and for the state to evaluate EPA's performance. It is important to note that midyear evaluations allow time for correcting problems and redirecting activities.

Evaluations are necessary for the following reasons:

1. Assure that state pesticide programs are following the intent of FIFRA.
2. Assure that agreement projections and conditions are being met.
3. Identify and correct problems in the programs.
4. Collect data for the Qualitative Assessment Report.

I. Planning the Evaluations.

The target dates for the evaluations are within 45 days after the end of the second and fourth quarters of the award period. Therefore, the Project Officer should contact the grantee about one or two weeks before the end of each of those quarters and negotiate the actual dates. All EPA personnel to be involved in the on-site review should be identified. The Cooperative Extension Service and the state

or contract laboratory may also be notified depending upon regional guidance and practices. The Project Officer should review previous evaluation reports to identify prior strengths and weaknesses.

II. Conducting the Review.

Ideally, the grantee will reserve a meeting room or other area in which the review team can work. Participants from both agencies should introduce themselves and all should be made aware of the applicable protocols (national protocols for conducting midyear and end-of-year reviews are attached to the annual Consolidated Pesticide Cooperative Agreement Guidance). This initial meeting is a good time to identify which state person will supply information on topics in the protocol. It is also a good time to discuss previously identified weaknesses and recommendations and steps taken to correct problems. Program management, legislative activities and program needs should also be discussed while the maximum number of participants are present.

Participants should then separate according to the activities to be reviewed.

A. Certification

1. Quantitative. Project Officers must review the certification and accomplishments reported on EPA

form 5700-33H (Exhibit 8-1). (NOTE: Certification grants which are not set up on the FFY also require completion of the last two lines of the form as of September 30, even if it is not an end-of-year report.)

Project Officers should also note the examinations revised and reviewed; discuss the meetings between the State Lead Agency and Cooperative Extension Services; record when and where examinations were offered; and report on the number of persons attending certification and recertification programs.

2. Qualitative. The State Lead Agency's methods for informing the public about their program is important and should be discussed. Training programs must be discussed, training materials which are new and unique should be recorded, and any training material needs addressed. Monitoring of training programs should be discussed and evaluation reports reviewed (see Chapter 7, Exhibits 7-1, 7-2 and 7-3). If the state has written requirements for training programs, they should be reviewed (if not, they should be developed). The quality and contents of

examinations should be discussed if that hasn't been ongoing or if problems were noted. Any amendments necessary to the State Plan should be planned for and discussed.

B. Enforcement

1. Quantitative. Previous quarterly reports should be combined to determine the current status of accomplishments compared to projections. Shortfalls must be addressed and, if identified at midyear, plans must be made to rectify them or amend the agreement.

2. Qualitative. This is the hardest and most time consuming part of the evaluations because inspection reports and case jackets must be reviewed. Reviews conducted through the year will reduce the time required for evaluations as discussed in Chapter 7. Reports should be selected and reviewed in accordance with directive protocols and must include files from each category of inspectional activity. Forms for recording and summarizing comments on each case reviewed are recommended (Exhibit 8-2). The Project Officer should ensure that the state's enforcement actions are consistent with its Enforcement Response

Policy. states must be encouraged to produce high quality inspection reports with complete documentation that will support appropriate enforcement actions. The Project Officer should determine whether the state performed functions in relation to their own state priorities. The quality of other parts of the enforcement program identified in evaluation protocols should also be reviewed and reported.

C. Program Activities.

In reviewing program activities such as pesticides in groundwater, endangered species protection, and worker protection, Project Officers should follow national and regional protocols. They should also verify that milestones established during the negotiation of the cooperative agreement or grant are being met, or document the reasons why the state has not been able to meet the previous commitments. The program review area is one in which individuals with more program specific expertise from the regional office may need to become involved.

D. Closing Discussions.

A closing discussion among review participants should be held upon completion of the evaluation. Findings and

recommendations will be discussed, including any unresolved problems identified in prior evaluations. Reports and cases with special concerns should be brought forward. Performance by both EPA and the state should be candidly addressed. An adequate closing discussion will prevent surprise disclosures in the evaluation report.

III. Reporting the Evaluation

A written evaluation report must be submitted to the state consistent with the Consolidated Pesticide Cooperative Agreement Guidance. It should be organized to follow an outline of the guidance protocol(s). All information requested by Headquarters for national summaries should be included. A summary sheet pointing out the grantees' strengths, weaknesses, and accomplishments as well as the Project Officer's recommendations is suggested.

IV. Problem Resolution

Problems within a pesticide program may be disruptive to cooperation between the state and EPA. Minor problems may be easily resolved by the Project Officer; perhaps in such a way as to enhance the program. Major problems, on the other hand, if unresolved, may jeopardize the program. As a first step, the Project Officer may want to consult with more experienced Project Officers for advice. It is

important for the Project Officer to maintain complete and accurate files of all phases of the project. In the instance of noncompliance it is important that the Project Officer keep all notes, memos, and forms, related to noncompliance issues in the file from the time noncompliance is identified through resolution.

When the Project Officer perceives a major program problem that he/she can't resolve, it should be elevated to the program management. Examples of major program problems include not taking appropriate or timely enforcement actions and inappropriate use of funds. Management will decide if the issue should be further elevated. The problem should be discussed openly to determine its effect on the total program. If the problem cannot be resolved, various remedies are available to the region. They include:

- A. Placing conditions on the agreement
- B. Withholding funds
- C. Canceling agreements
- D. Withdrawing primacy

Single audits may disclose accounting problems that will be reported to Regional Grants Administration. Grant Specialists work directly with the award recipients to correct those problems, but Project Officers need to be kept

informed of those actions. A Disputes Decision Official will issue a determination letter sustaining the audit report and requesting reimbursement for unallowable costs or overpayment. When problems are detected as a result of audits it is important for the Project Officer to keep all notes, memos, and forms related to noncompliance issues in the file from the time noncompliance is identified through resolution.

CHAPTER NINE

HOW TO CONTINUE FROM YEAR TO YEAR

Certification grants and continuing environmental programs, e.g., enforcement agreements and repetitive projects, may be renegotiated annually for many years. The Project Officer has a major responsibility in the continual growth and development of those enterprises. Planning usually includes at least three fiscal years: the year just completed, the current year, and the next year. It is common to have uncompleted activities and unused money carried over to the next year. Both long and short term goals must be established.

The following activities will assure maintenance of continuing programs and projects:

I. Prenegotiation Strategy

The midyear review is a good time to prepare a prenegotiation strategy for the next year's activities. The Project Officer should develop a brief status of each of his/her grants and agreements that should be followed by a listing of items and goals to be planned for the next year. The listing should include new requirements called for in the most recent Consolidated Pesticide Cooperative Agreement Guidance, regional initiatives, special requests, pending activities, state needs, and so on.

The prenegotiation strategy can be a written document reviewed by program managers as appropriate. It forms the basis for negotiations with the State Lead Agency.

II. Negotiating with the State Lead Agency

Project Officers should begin negotiating the next year's agreements with the State Lead Agency about one month after the midyear review. Initial discussions may be by telephone and should concern the targets identified in the prenegotiation strategy. The state should be reminded to submit their draft applications to the Project Officer 90 days prior to the procurement date of the award; April 1st for awards beginning July 1st, and July 1st for awards beginning October 1st. This requirement allows time for the Project Officer to review the draft and provide written comments back to the state, and for the state to amend the draft and submit the application 60 days prior to the procurement date. Assistance in completing the applications should also be offered.

During the preparation of the cooperative agreement the Project Officer may need to negotiate specific items with the state, including inspection target projections and timelines for adjustments to the program, e.g., amending the Quality Assurance Plan, the State Plan for Certified Applicators, needed regulation changes.

During the project period, Project Officers while addressing major and minor problems normally negotiate adjustments or modifications to procedures and workplans in the cooperative agreement.

III. Amending State Plans

State Plans for Certification of Commercial and Private Applicators require annual review by Project Officers to assure they reflect current state conditions. Changes in programs may necessitate working with the state to amend the State Plan. EPA policy and procedural details for Federal Register publication of amendments to State Plans were set by EPA Headquarters in a memorandum dated June 16, 1988 (Exhibit 9-1). It is the Project Officer's responsibility to negotiate changes in State Plans, assure submittal of amended plans, and follow the above policy and procedures.

IV. Working with the Regional SFIREG

The State FIFRA Issues Research and Evaluation Group (SFIREG) (Exhibit 9-2) consists of state representatives from each EPA region who identify, analyze and recommend courses of action to EPA concerning various pesticide concerns. The Project Officer should know the SFIREG member for his/her region and participate in pre-SFIREG meetings within the region. He/she should encourage states to be actively involved in those meetings and exchange information

about state pesticide issues. Regions participate at national SFIREG meetings. Active participation at the regional level by Project Officer staff will strengthen the process. It will allow the Project Officer to be informed of the Regional SFIREG position and inform headquarters of the proposed action item.

GLOSSARY

The following terms are commonly used by Grants Specialists and Project Officers. A mutual understanding of what the terms mean is necessary for proper dialogue. Their definitions are scattered through the literature so we have made this compilation.

Advance. The method by which a Federal agency makes payments to grantees and subgrantees, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

Applicant. Any entity that files an application or unsolicited proposal for EPA financial assistance.

Assistance agreement. The legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose.

Award. Federal funds made available for obligation and expenditure by a recipient. A grant is considered awarded when an EPA award official signs an assistance agreement.

Budget period. The length of time EPA specifies in an assistance agreement during which the recipient may expend or obligate Federal funds.

Carryover. The amount of grantee unobligated balances available for subsequent grant periods at the discretion of the region.

Cognizant agency. The federal agency which, on behalf of all federal agencies, is responsible for reviewing and approving cost allocation plans or indirect cost proposals submitted by applicants for cooperative agreements or grants. (i.e., USDA, HHS, etc.)

Continuation award. An assistance agreement after the initial award, for a project which has more than one budget period in its approved project period.

Continuing environmental program. EPA supported environmental program which will not be completed during a definable project period (such as, an enforcement agreement). Recipients of continuation awards may be reimbursed for allowable costs incurred between the beginning of the budget period and the date of award and may receive funding under a continuing budget resolution enacted by Congress.

Contract. A mutually binding legal relationship obligating the seller to furnish supplies or services and the buyer to pay for them. Contracts are used when the principle purpose is acquisition of property or services for the direct benefit or use of the federal government.

Contractor. Any party to whom a recipient awards a subagreement.

Cooperative agreement. An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project. (does not include fellowships).

Cost sharing. The portion of allowable project costs that a recipient contributes toward completing its project (i.e., non-federal share, matching share).

Debarment and suspension. Actions taken by federal officials to permanently or temporarily exclude a person from federal financial and nonfinancial assistance and benefits under federal programs and activities.

Discretionary funds. Any funds made available, or that become available to regional offices for which the region has discretion on expenditure. This discretion is usually limited to a specific program such as enforcement or certification.

Disputes Decision Official. The EPA individual designated by the Award Official to resolve disputes concerning an assistance agreement.

Drug-free work place. A site for the performance of work

done in connection with a specific grant at which employees of the grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Encumbered. Refers to expenses during a given period that will require payment by the grantee during the same or a future period.

Enforcement Response Policy. A formal document used by an agency for consistent administration in determining what level of action to bring against persons that violate pesticide laws.

Equipment. Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

Fellowship. A lump sum award for which the recipient does not have to account.

Financial status report. A report on Standard Form 269 or 269A which grantees must complete to report the status of funds for all FIFRA grants and cooperative agreements.

Fringe benefits. Allowances and services provided by employers to employees as compensation in addition to regular salaries and wages. (e.g., costs of leave, employee insurance, pensions and unemployment benefit plans.)

Grant or grant agreement. An assistance agreement that does not substantially involve EPA in the project and where the recipient has the authority and capability to complete all elements of the program (does not include fellowships).

Grantee. A person who applies for or receives a grant directly from a federal agency (except another federal agency).

Indian tribe. Any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional or village corporation that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Indirect costs. Costs that have been incurred for common or joint purposes benefiting more than one cost objective and which cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. Indirect costs are most often set by a cognizant agency as a "rate" and expressed as a percentage, which is the ratio of the indirect costs to a direct cost base.

In-kind contribution. The value of a noncash contribution to meet a recipient's cost sharing requirements. An in kind contribution may consist of charges for real property and equipment or the value of goods and services directly benefiting the EPA funded project.

Interagency agreement. A legal agreement between federal agencies where goods or services are provided.

Letter of credit. A formal document prepared by EPA and submitted to the Department of Treasury for transmittal to a Federal Reserve Bank or branch which services a commercial bank to which a grant recipient can execute payment vouchers to meet its immediate cash needs.

Matching funds. See "Cost sharing".

Memorandum of understanding. A written document signed by representatives of two or more agencies which stipulates activities for which each agency will be responsible in a cooperative endeavor.

Obligated. By EPA, see "Award"; by recipient, see "Encumbered".

Outlays. Expenditures, or charges made to a project or program.

Oversight. A Project Officer's careful monitoring of activities performed by recipients of assistance awards.

Pass through funds. Financial assistance which State Lead Agencies, as EPA grant recipients, award as subgrants to other state agencies, or to local governments or Indian tribes.

Prior approval. Documentation evidencing consent prior to incurring specific costs.

Project. The activities or tasks EPA identifies in the assistance agreement.

Project costs. All costs the recipient incurs in carrying out the project. EPA considers all allowable project costs to include the Federal share.

Project Officer. The EPA official designated in the assistance agreement as EPA's program contact with the recipient; Project Officers are responsible for monitoring the project.

Project period. The length of time EPA specifies in the assistance agreement for completion of all project work. It may be composed of more than one budget period.

Quality Assurance Program Plan. A formal document which describes an orderly assembly of management policies, objectives, principles, organization responsibilities, and procedures by which an agency or laboratory specifies how it intends to produce data of documented quality and provide for the preparation of Quality Assurance Project Plans and standard operating procedures.

Quality Assurance Project Plan. An organization's written procedures which delineate how it produces quality data for a specific project or measurement method.

Recipient. Any entity which has been awarded and accepted an EPA assistance agreement.

Reimbursement. EPA's method of paying a recipient for costs that have been incurred and that are currently and legally obligated to be paid.

Single audit. A nonfederal audit to be obtained annually by grantees and subgrantees in accordance with the Single Audit Act of 1984 (31 U.S.C. 75017) and federal agency implementing regulations.

Standard operating procedure. A document which describes in detail an operation, analysis, or action which is commonly accepted as the preferred method for performing certain routine or repetitive tasks.

State. Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa, and federally recognized Indian tribes.

State Lead Agency. The state agency designated by the governor as responsible for administering the State Plan for certification of commercial and private applicators of restricted use pesticides. This is generally the agency with primary responsibility for implementing the pesticide program in the state.

State Plan. As used by FIFRA Project Officers, a written plan for the certification of applicators of restricted use pesticides, submitted to EPA by a state governor.

Subagreement. A written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for services, supplies, or construction necessary to complete the project. Subagreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

Subgrant. An award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee.

Subgrantee. The government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

Supplies. All tangible personal property other than equipment, as defined above.

Work program or plan. A written description of work and outputs to be accomplished under an assistance agreement. Schedules for accomplishing those projections are part of an acceptable program or plan.

Office of Compliance Monitoring

The Office of Compliance Monitoring (OCM) directs and coordinates national compliance monitoring activities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Toxic Substances Control Act (TSCA), the Emergency Planning and Community Right-to-Know Act (EPCRA), the Asbestos Hazard Emergency Response Act (AHERA), and the Organotin Antifouling Paint Control Act (OAPCA). The Office provides compliance overview and program policy direction to the regions and states, establishes national compliance priorities, develops enforcement response policies and national inspection/guidance documents, offers technical support for litigation activity, concurs on enforcement actions, maintains liaison with the National Enforcement Investigations Center (NEIC), collects/analyzes national enforcement data for the aforementioned statutes, develops annual fiscal budgets for the national programs, and manages fiscal and personnel resources for the Headquarters programs.

OCM coordinates with the Office of General Counsel (OGC) and the Office of Enforcement (OE) in an attorney-client relationship. The Office also coordinates with the Office of Pesticide Programs (OPP) in the implementation of pesticide regulatory and compliance programs under FIFRA, and with the Office of Toxic Substances (OTS) in the implementation of regulatory and compliance programs under TSCA, AHERA, and EPCRA. As illustrated on the next page the Office is organized into three divisions: Policy and Grants, Laboratory Data Integrity Assurance, and Compliance.

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- Operating Guidance

Connie McClain (382-7794)
- Administrative Officer
- Budget Execution
- Property Officer
- Personnel

Western Compliance Director:

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Work Fax: 484-1073 (415-744-1073)
Home Fax: 707-584-2338
- OCM Coordinator with Region VI through Region X
- OCM Liaison with SFIREG and AAPCO activities
- OCM Manager of UC-Davis Pilot Program and Executive Secretary of Steering Committee

* Note: All numbers have area code (202) unless otherwise indicated

Policy and Grants Division

The Policy and Grants Division (P&GD) is responsible for developing compliance monitoring policies and strategies, and federal enforcement response policies for the regions and states under FIFRA, TSCA, AHERA, EPCRA and OAPCA. The Division is also responsible for representing OCM views at regulatory workgroup meetings, and for reviewing regulatory documents to assure their enforceability. The Division develops and revises procedures and programs under FIFRA and TSCA state cooperative enforcement agreement programs, and assists the Regions in the implementation and management of these programs. The P&GD revises policy, guidance, priorities, and strategies following program evaluations made by Divisions within the Office of Compliance Monitoring.

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Pesticides Enforcement Policy Branch

This Branch develops Headquarters and regional compliance monitoring policies, strategies and priorities relating to FIFRA and OAPCA. They also develop regulations, federal enforcement response policies, and strategies in support of FIFRA and OAPCA. Members serve as OCM representatives on FIFRA regulatory workgroups, and serve as expert witnesses during hearings.

Chief: **Phyllis Flaherty**
Support Staff: **Tracy Cook**
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Branch Fax: (703) 308-8218

Grants and Evaluation Branch

The Branch is responsible for developing, reviewing and revising policy and procedures for FIFRA and TSCA state cooperative enforcement agreement programs. G&EB assists the regions in implementing and managing state cooperative enforcement agreement programs and develops procedures for information flow.

Chief: **Linda Flick**
Support Staff: **Betty McWilliams**
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Toxics Enforcement Policy Branch

The Branch develops compliance monitoring policies and strategies, proposed legislation and regulations, and guidance to the states and the regions concerning the national toxic substances, AHERA and EPCRA compliance programs. The branch also provides OCM policy input for agency-wide enforcement special projects and the four-year strategic plan.

Chief: Janet Bearden
Support Staff: Mary Smith
 Laverne Long
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Laboratory Data Integrity Assurance Division

LDIAD develops and executes Good Laboratory Practice (GLP) compliance programs under both FIFRA and TSCA. The Division validates studies submitted to the agency as required by either FIFRA or TSCA and monitors compliance to requirements published under both regulations. LDIAD provides compliance, data audit guidance, policies and procedures for the operations of FIFRA Section 3(c) and TSCA Section 4, 5(e) compliance monitoring programs and for the conduct and reporting of the results of GLP compliance inspections and data audits. The Division assesses the quality and effectiveness of these programs and provides normal administrative support for the Program Support and Compliance Referral Branch and the Scientific Support Branch. Both nationally and internationally, the division provides liaison with other Federal Agencies, similar authorities and foreign governments to conserve resources and standardize procedures.

Director: David L. Dull
Support Staff: Sylvia Curtis
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Scientific Support Branch

The Scientific Support Branch (SSB) is responsible for the detailed planning of all national and international inspections and data audits, both regularly scheduled and priority. The Branch provides liaison with the Food and Drug Administration (FDA) field investigators to coordinate joint inspections and audits, and prepares training programs and manuals for inspection and audit activities.

Chief: Frances Liem, Acting
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Branch Fax: (703) 308-8286

The Scientific Support Branch employees conduct Good Laboratory Practice (GLP) compliance inspections of laboratories and other test facilities and performs data audits.

Program Support and Compliance Referral Branch

This branch provides operational and information management support for LDIAD's GLP inspection and FIFRA/TSCA testing requirement compliance programs.

PSCRB supports the GLP inspection program by targeting laboratories for inspection through Neutral Administrative Inspection Scheme (NAIS) selection procedures, identifying relevant FIFRA and TSCA studies to audit, and participating in the review of inspection/data audit reports for compliance. PSCRB operates the Laboratory Inspection and Study Audit (LISA) computer system in support of these activities.

PSCRB supports the FIFRA/TSCA testing requirement program by monitoring documentation submitted by registrants, chemical manufacturers, and laboratories for compliance with FIFRA and TSCA testing requirements. This includes monitoring compliance with FIFRA '88 product reregistration requirements, issuing Notices of Intent to Suspend (NOITS) for pesticide product registrations, and working with OPP and OGC to settle NOITS actions. PSCRB operates the Pesticide Registration Enforcement System (PRES) data base in support of these activities.

Chief: Robert Zisa
Support Staff: Robin Brown
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Branch E-Mail: 7219
Branch Fax: (703) 308-8286 or
FTS 8-398-8286

Compliance Division

The Compliance Division (CD) is responsible for developing procedures for controlling imminent hazards involving pesticides and toxic substances. The division develops national compliance monitoring procedures and regional coordination functions in support of TSCA, AHERA, FIFRA, EPCRA and OAPCA. CD performs Regional coordination functions for the purpose of compliance monitoring, provides guidelines for training programs for the regions and the states, promulgates guidelines concerning administrative rules in case preparation procedures for enforcement cases, and provides case development support for Headquarters and Regional enforcement cases. The Division coordinates intra- and inter- agency case development efforts, and provides scientific and technical support to Headquarters, the regions and states for investigations and case development efforts. Other functions of the Division include management of contracts for inspection support and sample analysis, development or revision of reference manuals, publication of Notices of Judgement under FIFRA, and the development and operation of ADP systems.

Director: Michael F. Wood
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Compliance Branch

The Compliance Branch develops national compliance monitoring procedures, inspection guidance, and targeting lists to help ensure compliance with FIFRA, TSCA, EPCRA, AHERA, OAPCA, and associated specific regulatory actions. The Branch issues Investigation Requests, and coordinates with the regions on compliance monitoring activities initiated from the HQ level, as well as follow-up to GAO/IG audits. Working with the regions, the Branch collects/analyzes national enforcement data for the aforementioned statutes by developing/using national automated data processing (ADP) systems. The group develops STARS measures and coordinates STARS input at the national level for Office of Pesticides and Toxic Substances' enforcement activities.

The Branch serves as the liaison with the Office of Criminal Investigations and the national program coordinator for TSCA enforcement AARP grants, and coordinates national toxics enforcement conferences. The Compliance Branch includes the OCM document control officer, the OCM Coordinator for Regional Reviews, and the office coordinator for enforcement/certified statement requests.

Chief: **Maureen T. Lydon**
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Catherine Hall
Monojoi Jones
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Case Support Branch

The primary function of the Case Support Branch (CSB) is to provide case development support in relation to the enforcement of TSCA, FIFRA, and EPCRA. Specifically, the Branch is responsible for promulgating guidelines, administrative rules or case preparation procedures for enforcement cases, providing regional coordination for case development purposes, coordinating intra- and inter-agency case development efforts, providing scientific and technical support to Headquarters, the regions and states for case development purposes, and providing Headquarters concurrence on enforcement cases.

Other functions of the Case Support Branch include revisions to the Case Proceedings Manual, publication of Notices of Judgement, and updated publication of the Suspended, Canceled and Restricted Pesticide List (SAC List) under FIFRA.

Chief: **Gerald Stubbs**
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Section 3 Registration..... Cindy Coldiron 382-3081
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Initiatives..... John Mason 382-2301

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Section 17 (a) Policy writing/ interpretations.....	Steve Howie	(703) 308-8290
FIFRA '88.....	David Stangel	(703) 308-8295
	Susan Kavanaugh	475-7008
Pesticide Grant Allotments.....	Mary Ellen Podniesinski	382-7422
Grant Oversight Manual.....	Mary Ellen Podniesinski	382-7422
QUIPE.....	Curtis Fox	475-8318
U.S.D.A. Records Regulation.....	Phyllis Flaherty	(703) 308-8383
Preemption.....	Phyllis Flaherty	(703) 308-8383
Primacy Interpretive Rule Policy..	Phyllis Flaherty	(703) 308-8383
Water Purifiers.....	Cindy Colderon	382-3081
Notices of Judgement.....	Brian Dyer	382-3477
Devices.....	Brain Dyer	382-3477
FTTS (FIFRA/TSCA Tracking System).....	David Meredith	382-7864
GLI Inspections and Data Audits		
FIFRA Case Review/Enforcement.....	Cindy Coldiron	382-3081
Policy Support.....	Stephen Howie	(703) 308-8290
Laboratory Targeting.....	Stephen Brozena	(703) 308-8267
Ground Water		
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Compliance Monitoring.....	Amar Singh	245-3868
PEP Branch Coordinator.....	Virgina Lathrop	(703) 308-8292
Inspection Manuals.....	Pam Saunders	382-2809
NCDB.....	Dave Meredith	382-7864
Regional Reviews.....	Ken Gutterman	382-6902
Section 7 Tracking System.....	Richard Kratofil	382-3487
	Pam Saunders	382-3809
STARS measures/data.....	Dave Meredith	382-7864
Tribal Contact.....	Curtis Fox	475-8318

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Compliance Branch Coordinator.....	Amar Singh	245-3868
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Case Support Branch Coordinator...	Mike Hackett	245-4215



(1v) That a failure by the permittee to meet any other provisions of FIFRA or this subpart has occurred.

(2) The Administrator shall, prior to revoking a State experimental use permit, consult with the State agency which issued the permit, except in cases where continued use of the pesticide under the permit would create an imminent hazard to man or the environment.

(3) The Administrator shall notify the designated State agency, in writing, of the revocation, and the State agency shall notify the permittee, also in writing, of the revocation.

(4) The permittee shall notify all participants of the revocation within 10 days after he receives notice of revocation.

(5) The revocation of a permit shall not preclude the Administrator from initiating civil or criminal sanctions or violations of the permit conditions or other violations, as authorized by law.

(6) If a permittee wishes to contest the revocation of a State experimental use permit, he shall, within 30 days after receipt of notice of such revocation, file with the Administrator a written request for an opportunity to confer with the Administrator or his designee. The revocation of the permit shall remain effective pending the outcome of any conference requested under this paragraph.

(7) If a permittee requests a conference under paragraph (c)(6) of this section, the Administrator shall provide the permittee:

(i) With information as to the time, place and nature of the conference, and of the matters of fact and law asserted by the Agency as grounds for the revocation action;

(ii) An opportunity to offer a written statement of facts, explanations, and arguments relevant to the revocation action;

(iii) All other procedural opportunities to which the permittee may be entitled by law.

(8) The Administrator shall notify the affected permittee and State agency, in writing, of his final decision on the revocation matter as expeditiously as possible and shall attempt to do so within 30 days after the con-

clusion of a conference conducted under paragraph (c)(7). The Administrator shall also provide the permittee and the State agency with a written statement of the reasons for his decision, which shall take into account the evidence presented pursuant to paragraph (c)(7)(ii) of this section.

(9) A decision to revoke a permit under paragraph (c)(8) of this section is a final Agency action subject to judicial review as provided by law.

PART 173—PROCEDURES GOVERNING THE RESCISSION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY FOR PESTICIDE USE VIOLATIONS

Sec.

- 173.1 Applicability.
- 173.2 Definitions.
- 173.3 Initiation of rescission proceedings.
- 173.4 Informal conference and settlement.
- 173.5 Request for hearing.
- 173.6 Publication of the notice; scheduling the hearing.
- 173.7 Hearing and recommended decision.
- 173.8 Final order.
- 173.9 Judicial review.

AUTHORITY: 7 U.S.C. 136w and 136w-2.

SOURCE: 46 FR 26059, May 11, 1981, unless otherwise noted.

EDITORIAL NOTE: For an interpretive document affecting Part 173, see 48 FR 404, Jan. 5, 1983.

§ 173.1 Applicability.

These procedures govern any proceeding to rescind a State's primary enforcement responsibility for pesticide use violations conducted under section 27(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136 *et seq.*

§ 173.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the United States Environmental Protection Agency or his delegate.

(b) "Notice of intent to rescind" means a notice to a State issued under § 173.3 which initiates a proceeding to rescind the State's primary enforcement responsibility for pesticide use violations.

"State" means the agency or agencies primarily responsible for enforcing pesticide use laws or regulations within the State or jurisdiction undergoing rescission proceedings.

(d) "Party to the proceeding" shall mean the State or the Agency's Office of Enforcement.

(e) "Presiding Officer" means an attorney appointed by the Administrator to conduct the rescission proceeding. The Presiding Officer shall be an employee or representative of the Agency and shall not have had prior direct connection with the specific proceeding except in circumstances where subsequent hearings are in order.

§ 173.3 Initiation of rescission proceedings.

(a) Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out such responsibility, or cannot carry out such responsibility due to the lack of adequate legal authority, the Administrator shall notify the State in writing of his intent to rescind its primary enforcement responsibility, in whole or in part, by serving upon the State a notice of intent to rescind.

(b) The notice of intent to rescind shall:

(1) Specify those aspects of the State's pesticide use enforcement program determined to be inadequate;

(2) Specify the facts which underlie the findings contained in the rescission notice;

(3) Have attached thereto copies of any relevant documents discoverable under the Federal Rules of Civil Procedure and the Freedom of Information Act which contain data relied upon by the Administrator in making his decision to issue the notice;

(4) Have attached thereto a copy of this part; and

(5) Be sent to the State by certified mail, return receipt requested.

(c) The State may respond in writing to the findings specified in the notice of intent to rescind.

§ 173.4 Informal conference and settlement.

(a) After receipt of a notice of intent to rescind, the State may request that an informal conference be held between appropriate State and EPA officials to discuss the findings made in the notice of intent to rescind. The informal conference shall then be held in the State. If the Administrator finds, on the basis of information submitted by the State at the conference, that the deficiencies specified in the notice did not exist or were corrected by the State, the Administrator shall issue an order withdrawing the notice of intent to rescind and terminating the rescission proceeding.

(b) At any time after receipt of a notice of intent to rescind and before the issuance of a final order, the State and EPA may resolve the issues raised in the notice by agreement. Any settlement agreement shall be in writing and signed by the parties and shall:

(1) Detail the deficiencies found in the State program;

(2) Specify the steps the State has taken or will take to remedy the deficiencies; and

(3) Set forth a precise schedule for each remedial action yet to be initiated.

(c) If a written agreement is signed by the parties, the Administrator shall issue an order withdrawing the notice of intent to rescind and terminating the rescission proceeding. If the State does not comply with the terms of the settlement agreement, the Administrator may reissue the notice of intent to rescind.

§ 173.5 Request for hearing.

A State may request a hearing before a Presiding Officer not later than sixty (60) days after receipt of a notice of intent to rescind.

§ 173.6 Publication of the notice; scheduling the hearing.

(a) If the Administrator has not issued an order terminating the rescission proceeding within sixty (60) days after service of the notice of intent to rescind upon the State, the Administrator shall publish the notice of intent to rescind in the FEDERAL REGIS-

TER. The Administrator may modify the original notice of intent to rescind before its publication by deleting those deficiencies listed in the original notice which have been corrected or which were shown not to have existed. The public may submit comments upon the matters specified in the published notice of intent to rescind within the time specified therein.

(b) Concurrently with the publication of the notice of intent to rescind, the Administrator shall schedule a hearing in the State if one has been requested by the State. The date, time, and location of the hearing shall be published in the FEDERAL REGISTER along with the notice of intent to rescind.

(c) If a hearing is requested and the Administrator has not issued an order terminating the rescission proceeding, the Administrator shall provide for a hearing as scheduled. Representatives of the State, EPA, and the public may present evidence at the hearing. The Administrator shall appoint a Presiding Officer who shall preside over the hearing and make a recommended decision regarding the adequacy of the State's pesticide use enforcement program. The Administrator, after consultation with the State, may prescribe additional procedures governing the conduct of the hearing.

(d) If a termination order is issued or the hearing is rescheduled after the notice of intent to rescind is published in the FEDERAL REGISTER, such order or notice rescheduling the hearing shall also be published in the FEDERAL REGISTER.

§ 173.7 Hearing and recommended decision.

(a) The Presiding Officer shall:

(1) Conduct a fair and impartial hearing, without unnecessary delay;

(2) Ensure that the facts are fully elicited; and

(3) Consider all evidence, comment, and argument which is submitted by persons who will be affected by the outcome of the proceeding and which is not irrelevant, immaterial, unduly repetitious, or otherwise unreliable or of little probative value. The Presiding Officer may require any prospective witness to make available, in advance

of the hearing, a brief summary of his or her testimony.

(b) If, following the close of the hearing, the Presiding Officer finds that the State has corrected, or has agreed in writing to correct, the deficiencies specified in the notice of intent to rescind or has shown that such deficiencies do not exist, the Presiding Officer shall issue a decision recommending that the notice of intent to rescind be withdrawn and that the rescission proceeding be terminated.

(c) If, following the close of the hearing, the Presiding Officer finds that the State has not corrected the deficiencies in its program, the Presiding Officer shall issue a decision recommending that the State's primary enforcement responsibility for pesticide use violations be rescinded in whole or in part.

(d) The recommended decision of the Presiding Officer shall become final Agency action forty-five (45) days after its service upon the parties and without further proceedings unless (1) an appeal to the Administrator is taken from it by a party to the proceeding, or (2) the Administrator elects, sua sponte, to review the recommended decision.

§ 173.8 Final order.

(a) If the State does not request a hearing within the sixty-day time period and the Administrator has not issued an order withdrawing the notice of intent to rescind, the Administrator shall issue a final order as soon as practicable after the time for public comment on the notice of intent to rescind has elapsed. The final order shall either withdraw the notice of intent to rescind and terminate the proceeding or rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

(b) If a hearing has been held and the Presiding Officer has made a recommended decision, then either the Office of Enforcement or the State may appeal the recommended decision to the Administrator or the Administrator may elect to review the recommended decision on his own initiative.

(c) After an appeal or sua sponte review the Administrator shall issue a final order terminating the rescission proceeding or rescinding, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

(d) In no event may the Administrator issue his final decision sooner than ninety (90) days after service of the notice of intent to rescind on a State.

(e) Any final order, or a recommended decision which becomes a final order under § 173.7(c), shall be published in the FEDERAL REGISTER.

§ 173.9 Judicial review.

The State may appeal an order rescinding, in whole or in part, its primary enforcement responsibility for pesticide use violations to the appropriate federal court pursuant to section 16 of FIFRA.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

EDITORIAL NOTE: An alphabetical listing of pesticide chemicals appears at the end of this table of contents.

Subpart A—Definitions and Interpretative Regulations

DEFINITIONS AND INTERPRETATIONS

- Sec. 180.1 Definitions and interpretations.
- 180.2 Pesticide chemicals considered safe.
- 180.3 Tolerances for related pesticide chemicals.
- 180.4 Certification of usefulness and residue estimate.
- 180.5 Zero tolerances.
- 180.6 Pesticide tolerances regarding milk, eggs, meat, and/or poultry; statement of policy.

Subpart B—Procedural Regulations

PROCEDURE FOR FILING PETITIONS

- 180.7 Petitions proposing tolerances or exemptions for pesticide residues in or on raw agricultural commodities.
- 180.8 Withdrawal of petitions without prejudice.
- 180.9 Substantive amendments to petitions.

ADVISORY COMMITTEES

- 180.10 Referral of petition to advisory committee.
- 180.11 Appointment of advisory committee.
- 180.12 Procedure for advisory committee.

PROCEDURE FOR FILING OBJECTIONS AND HOLDING A PUBLIC HEARING

- 180.13 Objections to regulations and requests for hearings.
- 180.14 Public hearing; notice.
- 180.15 Presiding officer.
- 180.16 Parties; burden of proof; appearances.
- 180.17 Prehearing and other conferences.
- 180.18 Submission of documentary evidence in advance.
- 180.19 Excerpts from documentary evidence.
- 180.20 Submission and receipt of evidence.
- 180.21 Transcript of the testimony.
- 180.22 Oral and written arguments.
- 180.23 Indexing of record.
- 180.24 Certification of record.
- 180.25 Filing the record of the hearing.
- 180.26 Copies of the record of the hearing.
- 180.27 Proposed order.
- 180.28 Final order.

ADOPTION OF TOLERANCE ON INITIATIVE OF ADMINISTRATOR OR ON REQUEST OF INTERESTED PERSONS; JUDICIAL REVIEW; TEMPORARY TOLERANCES AMENDMENT AND REPEAL OF TOLERANCES; FEES

- 180.29 Adoption of tolerance on initiative of Administrator or on request of an interested person.
- 180.30 Judicial review.
- 180.31 Temporary tolerances.
- 180.32 Procedure for amending and repealing tolerances or exemptions from tolerances.
- 180.33 Fees.
- 180.34 Tests on the amount of residue remaining.
- 180.35 Tests for potentiation.

Subpart C—Specific Tolerances

- 180.101 Specific tolerances; general provisions.
- 180.102 Sesone; tolerances for residues.
- 180.103 Captan; tolerances for residues.
- 180.105 Demeton; tolerances for residues.
- 180.106 Dibron; tolerances for residues.
- 180.108 Acephate; tolerances for residues.
- 180.109 Ethyl 4,4-dichlorobenzilate; tolerances for residues.
- 180.110 Maneb; tolerances for residues.
- 180.111 Malathion; tolerances for residues.
- 180.113 Allethrin (allyl homolog of cinerin I); tolerances for residues.
- 180.114 Perbam; tolerances for residues.
- 180.115 Zineb; tolerances for residues.

Exhibit 2-2

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 173****[OPP 00159; PH-FRL 2215-3]****Federal Insecticide, Fungicide, and
Rodenticide Act, State Primary
Enforcement Responsibilities****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Final interpretive rule.

SUMMARY: This rule states EPA's interpretation of several of the key provisions in sections 26 and 27 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), but does not impose substantive requirements on the States. Sections 26 and 27 established a standard and procedure for according States the primary enforcement responsibility for pesticide use violations (primacy). The rule also provides operational substance to the criteria used by EPA for primacy related decisionmaking, and ensures that such decisionmaking is consistent throughout the regions.

EFFECTIVE DATE: This rule will not take effect before the end of 60 calendar days of continuous session of Congress after

the date of publication. EPA will publish notice of the actual effective date of this rule. See SUPPLEMENTARY INFORMATION for further details.

FOR FURTHER INFORMATION CONTACT: Laura Campbell, Pesticides and Toxic Substances Enforcement Division (EN-342), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. M-2824E, 401 M St. SW., Washington, D.C. 20460, (202-382-5388).

SUPPLEMENTARY INFORMATION:

Background

In 1978, Congress enacted Pub. L. 95-390 which contained numerous revisions to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*). One of the changes added two new sections to FIFRA, sections 26 and 27, U.S.C. 136w-1 and 136w-2, which together established a standard and procedure for according States the primary enforcement responsibility for pesticide use violations (primacy).

Section 26 provides three methods by which a State can obtain primacy. Section 26(a) requires a State to be accorded primacy if the Administrator finds that the State has (1) adopted adequate use laws, (2) adopted adequate procedures for implementing use laws, and (3) agreed to keep such records and make such reports as the Administrator may require by regulation. Section 26(b) allows a State to obtain primacy if the State has an approved section 4 certification plan that meets the criteria set forth in section 26(a), or if a State enters into a cooperative agreement for the enforcement of pesticide use restrictions under section 23.

Section 27 authorizes the Administrator to override or rescind a grant of primacy in certain situations. Section 27(a) requires the Administrator to refer significant allegations of pesticide use violations to the States. If a State does not commence appropriate enforcement action within 30 days of such referral, EPA may bring its own enforcement action.

Section 27(b) authorizes the Administrator to rescind the primary enforcement responsibility of a State if she finds that the State is not carrying out such responsibility. The Administrator initiates a rescission proceeding by notifying the State of those aspects of the State's pesticide use enforcement program which the Administrator has found to be inadequate. If the State does not correct deficiencies in its program within 90 days, the Administrator may rescind the State's primary enforcement responsibility in whole or in part. EPA

has promulgated procedures which govern the conduct of a proceeding to rescind State primacy. These procedures were published in the Federal Register of May 11, 1981 (46 FR 26058), (40 CFR Part 173).

Section 27(c) authorizes the Administrator to take immediate action to abate an emergency situation where the State is unable or unwilling to respond to the crisis.

As is evident from the above description, several of the operative terms in sections 26 and 27 require further definition. This rule clarifies the meaning of such words as "adequate" and "appropriate" which FIFRA sets forth as the criteria for most of the decisions which will be made under these two sections. The rule also sets guidelines to be used by EPA in making primacy-related decisions, and ensures that such decisionmaking is consistent by limiting, although not eliminating, Agency discretion in the primacy area.

Specifically, this rule addresses the following issues:

1. Procedures EPA will follow when referring allegations of pesticide use violations to the State and tracking State responses to these referrals (see Unit I Subdivision A below).

2. The meaning of "appropriate enforcement action" (see Unit I Subdivision B).

3. Clarification of when a State will be deemed to have (1) adopted adequate pesticide use laws and regulations, and (2) implemented adequate procedures for the enforcement of such laws and regulations (see Unit II).

4. The criteria the Administrator will use to determine whether a State is adequately carrying out its primary enforcement responsibility for pesticide use violations (see Unit III).

5. The factors which constitute an emergency situation, and the circumstances which require EPA to defer to the State for a response to the crisis (see Unit IV).

Comments Received

Four comments were received in response to the proposal of the Interpretive Rule. (47 FR 16759, April 20, 1982).

In the proposed rule, a determination of the gravity of violation was based on two factors: (1) risk associated with the violative action, and (2) risk associated with the pesticide. Some of the comments stated that EPA should determine the gravity of each violation based on whether actual harm occurred as a result of the violation. If the Agency were to determine the seriousness of a violation based on the actual harm which occurred in a particular case,

pesticide users would be encouraged to take the risk of misusing a pesticide, with the hope that no actual harm would result from their unlawful act. Congress charged EPA with regulating pesticide use in a manner which will prevent unreasonable risk of pesticide exposure to man or the environment. Congressional intent would not be carried out if EPA encouraged pesticide users to engage in unsafe activities by not charging violations in cases where no actual harm occurred. For this reason, the final rule retains the language of the proposed rule.

Two comments concerning the imposition of criminal penalties for pesticide misuse were received. One comment stated that Congress intended criminal sanctions to be applied only in cases involving unlawful manufacture of pesticides. Nothing in FIFRA or its legislative history so limits the use of criminal penalties. The only criterion in the statute for the imposition of criminal penalties is that a violation is "knowing". The language referring to criminal penalties in the proposed rule has been largely retained in the final rule.

Another comment expressed the concern that imposing more stringent sanctions where violations are found to be "knowing" penalizes persons who are informed about the law. Section 14 of FIFRA states that "knowing" violations are subject to criminal penalties. Knowledge of the violator is a valid criterion to use in determining gravity because of a "knowing" violation shows a disregard for the law.

One comment stated that no State with more stringent pesticide use laws than the Federal law should be granted primacy. Although EPA cannot require a State to enact a pesticide use law that is more stringent than FIFRA, there is no prohibition against granting primacy to a State whose pesticide use law is more stringent.

One comment suggested a change in the requirement that State laboratories conducting sample analysis participate in EPA's check sample program. The comment stated that the National Enforcement Investigation Center (NEIC) check sample program should be coordinated with the American Association of Pest Control Officials (AAPCO). The NEIC check sample program is currently coordinated with the AAPCO check sample program. The rule has been changed to reflect this comment.

Further Information on Effective Date of This Rule

On December 17, 1980, the Federal Insecticide, Fungicide, and Rodenticide Act extension bill (Pub. L. 96-539) became law. This bill amended several sections of FIFRA, including section 25 on rulemaking. Section 4 of the Extension Act adds a new paragraph, section 25(e), to FIFRA which requires EPA to submit final regulations to Congress for review before the regulations become effective. Copies of this rule have been transmitted to appropriate offices in both Houses of Congress.

Under section 4 of the 1980 FIFRA Extension Act, this rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. Since the actual length of this waiting period may be affected by Congressional action, it is not possible, at this time, to specify a date on which this regulation will become effective. Therefore, at the appropriate time EPA will publish a notice announcing the end of the legislative review period and notifying the public of the actual effective date of this regulation.

Compliance With the Regulatory Flexibility Act

I hereby certify that this rule will not have a significant economic impact on small entities. The rule affects only State pesticide control agencies, which are not small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major since it is interpretive in nature and does not contain new substantive requirements. The regulation:

1. Does not have an annual effect on the economy of \$100 million or more.
2. Will not substantially increase costs to consumers, industry, or government.
3. Will not have a significant adverse effect on competition, employment, investment, productivity, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291, (Sec. 25(a)(1) (7 U.S.C. 136w)). [Note: This rule will not appear in the Code of Federal Regulations.]

I. Appropriate Enforcement Action

A. *Procedures Governing Referrals.* 1. *General.* Section 27(a) requires EPA to

refer to the States any information it receives indicating a significant violation of pesticide use laws. If a State has not commenced appropriate enforcement action within 30 days, EPA may act on the information.

Given current resource limitations, EPA is not in a position to monitor State responses to every allegation of pesticide misuse referred by the Agency. Rather, the Agency will focus its oversight activities on evaluating the overall success of State pesticide enforcement programs, and will track, on a case-by-case basis, only those allegations involving particularly serious violations. Such "significant" allegations will be formally referred to the States and tracked by EPA, while other less serious complaints will be forwarded to the States for information purposes only.

2. *Criteria for significant cases.* To determine which alleged violations are sufficiently significant to warrant formal referral and tracking, the regions will go through a two step process. First, the regions, in consultation with each State, will identify priority areas for referral. These priority areas will consist of those pesticide activities in the State which present the greatest potential for harm to health or the environment (e.g. the application of a pesticide by a certain method to a particular crop, such as ground application of endrin to apple trees). The selection of these priority areas will depend primarily on the results of pesticide enforcement program evaluations conducted by the States and the regions. The priority areas will be revised on an annual basis based upon the effectiveness of the program in reducing the harm associated with pesticide use.

Thereafter EPA will determine on a case-by-case basis which allegations in these priority areas involve sufficiently "significant" violations to be formally referred to the State and tracked. If a complaint received by EPA alleges a minor infraction which clearly presents little or no danger to health or the environment, or if the information contains patently spurious allegations, such as those from sources which have repeatedly proved unreliable, the matter will be forwarded to the State for information purposes only.

3. *The 30-day time period.* The Agency interprets the term "commence appropriate enforcement action" in section 27(a) to require States to initiate a judicial or administrative action in the nature of an enforcement proceeding, if one is warranted. Starting an investigation of the matter would not be sufficient. If the State does not commence an appropriate administrative, civil, or criminal

enforcement response, EPA would then be permitted, although not required, to bring its own enforcement action.

Although section 27(a) permits EPA to act if the State has not commenced an enforcement action within 30 days, the Agency recognizes that States may not be able to complete their investigation of many formal referrals in so short a time. The time needed to investigate a possible use violation will vary widely, depending upon the nature of the referral. A referral which simply conveys an unsubstantiated allegation will usually require more investigation than a referral which partially or fully documents a pesticide use violation. Consequently, the Agency wishes to develop a flexible approach towards the tracking of referrals.

To accomplish this objective, EPA is adopting a system in which the referral process is broken down into two stages, investigation and prosecution.

4. *The investigation stage.* Following the formal written referral of an allegation of a significant pesticide use violation, the appropriate regional pesticide official will contact the State to learn the results of the investigation and the State's intended enforcement response to the violation. If the State has not conducted an adequate investigation of the alleged violation, the region may choose to pursue its own investigation or enforcement action after notice to the State. As a general rule, however, the regional office will attempt to correct any deficiencies in the investigation through informal communication with the State.

An investigation will be considered adequate if the State has (1) followed proper sampling and other evidence-gathering techniques, (2) responded expeditiously to the referral, so that evidence is preserved to the extent possible, and (3) documented all inculpatory or exculpatory events or information.

5. *The prosecution stage.* After completion of the investigation, the State will have 30 days, the prosecution stage, to commence the enforcement action, if one is warranted. An appropriate enforcement response may consist of required training in proper pesticide use, issuance of a warning letter, assessment of an administrative civil penalty, referral of the case to a pesticide control board or State's Attorney for action, or other similar enforcement remedy available under State law. The 30-day period may be extended when necessitated by the procedural characteristics of a State's regulatory structure (see Unit V.A. Hypothetical 1).

If, after consultation with the State, EPA determines that the State's intended enforcement response to the violation is inappropriate (see subdivision B), EPA may bring its own action after notice to the State. Regional attorneys will not, however, initiate an enforcement proceeding sooner than 30 days after the matter was referred to the State.

At times, a State may find that the particular enforcement remedy it views as the appropriate response to a use violation is not available under the State's pesticide control laws. Therefore the State may, at any time, request EPA to act upon a violation utilizing remedies available under FIFRA. In these instances, of course, EPA will immediately pursue its own action, if one is warranted.

To illustrate better the proposed referral system, two hypothetical situations are described in Unit V. A.

B. Appropriate Enforcement Action. 1. *General.* After the Agency learns of the enforcement action, if any, the State proposes to bring against the violator, the EPA regional pesticide office will consider, in consultation with the State, whether the proposed action is "appropriate", relative to the remedies available to the State under its pesticide control legislation. EPA interprets the modifier "appropriate" in section 27(a) of FIFRA to require that the severity of the proposed enforcement action correlate to the gravity of the violation.

It is not possible in this Interpretive Rule to prescribe the specific enforcement action which will constitute an appropriate response to a particular violation. There are too many variables which will influence the treatment of a use violation, including the disparity between the types of enforcement remedies available under the various State pesticide control statutes. This document can, however, establish criteria to be employed in evaluating the appropriateness of a proposed State enforcement action. More detailed guidance on evaluating relative gravity is contained in EPA's "Guidelines for the Assessment of Civil Penalties under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended", published in the Federal Register of July 31, 1974 (39 FR 27711). The Guidelines establish dollar amounts to be applied under the Federal statute to use violations in civil penalty proceedings. Regional personnel can use these figures as a guide in evaluating the gravity of a particular violation. The Agency will not require that a State response to a violation have a monetary impact equivalent to that of a civil penalty which EPA would impose under

the Guidelines. Rather, the dollar amounts contained in the penalty matrices can be used by regional personnel to define the relative gravity of a violation by comparing the figures applicable to different violations.

2. *Gravity of the violation.* The Agency believes that the gravity of a pesticide use violation is dependent upon the risk the violation poses to human health and the environment. The factors which determine the degree of risk presented by a use violation can be divided into two categories: factors related to the particular action which constituted the violation and factors related to the pesticide involved in the incident.

a. *Risk associated with the violative action.* The circumstances surrounding the violative action partially determine the risk the violation presents to human health or the environment. To assess the degree of such risk, State and regional personnel should ask such questions as:

i. Did the violation occur in a highly populated area, or near residences, schools, churches, shopping centers, public parks or public roads, so that health was endangered?

ii. Did the violation occur near an environmentally sensitive area, such as a lake or stream which provides drinking water to the surrounding community, a wildlife sanctuary, a commercial fishery, or other natural areas?

iii. Did a structural application threaten to contaminate food or food service equipment?

iv. Did the violation have the potential to affect a large or a small area?

v. What was the actual harm which resulted from the violation?

vi. Was the nature of the violation such that serious consequences were likely to result?

This last question is designed to take into account the variation in the inherent risk associated with different categories of use violations. For example, a drift violation resulting from improper aerial application generally presents a greater risk of harm than a storage violation, since the latter infraction does not necessarily involve the improper exposure of the pesticide to the environment.

b. *Risk associated with the pesticide.* The factors which will be crucial in evaluating the risk associated with the pesticide itself include:

i. The acute toxicity of the pesticide or pesticides involved in the incident. The toxicity of a pesticide will be indicated by the "human hazard signal word" on the labels (see 40 CFR 162.10). "Danger" or "Poison" are indicators of a highly toxic pesticide while "Warning" and

"Caution" signify successively less toxic substances.

ii. The chronic effects associated with the pesticide, if known.

iii. The amount of the pesticide involved in the incident, relative to the manner of application (e.g., aerial versus structural).

iv. Other data concerning the harm a pesticide may cause to human health or the environment, such as data concerning persistence or residue capability.

An analysis of the interrelationship between these two categories of risk factors should yield a notion of the relative gravity of the violation and the severity of the action which should be taken in response.

3. *Category of applicator, size of business, and history of prior violation.* Gravity is not the only factor which EPA will take into account in evaluating the propriety of an enforcement action. Section 14 of FIFRA requires that distinctions in the severity of an enforcement response be made between the categories of persons who commit use violations. The intent of Congress, as expressed in section 14, is that commercial pesticide applicators who violate use requirements will be subject to more stringent penalties than other persons who violate use restrictions. Congress also envisioned that the size of the violator's business will be a factor in determining the severity of the penalty. In addition, section 14 distinguishes between violators who have committed previous infractions and those who are first offenders. Thus, the issuance of a warning letter by a State to a person or firm who has been repeatedly warned in the past about a certain violation would not generally be considered an appropriate response to the violation.

4. *Knowing violations; criminal penalties.* The state of mind of the violator is another important consideration. In extreme circumstances where the civil penalty remedy is inappropriate, it is the Agency's policy to pursue a criminal action against persons who knowingly violate a provision of FIFRA. EPA will be particularly interested in pursuing criminal prosecution for those violations which involve a death or serious bodily injury or in which the violator has demonstrated a reckless or wanton disregard for human safety, environmental values or the terms of the statute. To be appropriate, a State's response to a knowing violation under the circumstances indicated above must be similarly severe.

5. *Deterrence.* It should be noted that the appropriateness of an enforcement

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action is a dynamic, rather than a static, concept. Because it is dynamic, penalties must be periodically evaluated. If a certain violation is occurring more frequently, the leniency of the remedies which have been applied to this infraction in the past should be questioned. Consequently, what is appropriate in one year may be viewed as an inadequate response in the next.

The factors described above, together with the aforementioned Guidelines, should help to clarify the Agency's

definition of "appropriate enforcement action." To understand better how the criteria described above can be used to evaluate whether a proposed State enforcement action is appropriate, the reader is referred to the hypothetical fact situations in Appendix B.

II. Criteria Governing Grants of Primacy

Section 25 of FIFRA sets forth the general criteria which apply to EPA's decision whether to grant primacy to a State:

"(a) For the purposes of this Act, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

"(1) has adopted adequate pesticide use laws and regulations; *Provided*, That the Administrator may not require a State to have pesticide use laws that are more stringent than this Act;

"(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and

"(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

"(b) Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 23 of this Act for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 4 of this Act that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under Section 4 of this Act in effect on September 30, 1978 not later than March 31, 1979.

Thus, a State may obtain primacy in two ways: (1) by demonstrating that the elements of its use enforcement program, or of its approved certification program, satisfy the two main criteria in section 25(a), (adequate laws and adequate procedures implementing those laws), or (2) by entering into a cooperative agreement for the enforcement of use restrictions, provided the terms of the agreement do not specify otherwise. The Agency will also evaluate the adequacy of a State's use enforcement program before conferring primacy by this latter method.

A. Adequate Laws and Regulations. To be considered adequate, a State's pesticide control legislation must address at least the following areas:

1. Use restrictions. State pesticide control legislation will be considered adequate for purposes of assuming full primacy if State law prohibits those acts which are proscribed under FIFRA and which relate to pesticide use. The activities presently proscribed under FIFRA include:

a. Use of a registered pesticide in a manner inconsistent with its label (FIFRA section 12(a)(2)(C)).

b. Use of a pesticide which is under an experimental use permit contrary to the provisions of the permit (section 12(a)(2)(H)).

c. Use of a pesticide in tests on humans contrary to the provisions of section 12(a)(2)(P).

d. Violation of the provision in section 3(d)(1)(c) requiring pesticides to be applied for any restricted use only by or under the direct supervision of a certified applicator. Violations of suspension or cancellation orders are not considered use violations for purposes of the primacy program.

States may be granted partial primacy if they regulate less than all categories of use violations. For example, EPA may in the future decide to issue "other regulatory restrictions" on use under section 3(d)(1)(C)(ii), (such as a requirement to notify area residents before pesticide spraying). If such a restriction were issued, (and not reflected on pesticide product labels), each State would automatically have partial primacy extending to all of the categories listed above which are proscribed by State law, unless the State already has authority to enforce such restrictions. A State with partial primacy would obtain full primacy by enacting a prohibition tracking the

section 3(d)(1)(C)(ii) restriction.

2. Authority to enter. To carry out effectively their use enforcement responsibilities, State officials should be able to enter, through consent, warrant, or other authority, premises or facilities where pesticide use violations may occur. States should also have concomitant authority to take pesticide samples as part of the use inspection process.

3. Flexible remedies. Finally, State legislation must provide for a sufficiently diverse and flexible array of enforcement remedies. The State should be able to select from among the available alternatives an enforcement remedy that is particularly suited to the gravity of the violation. Without such flexibility, a State may frequently be forced to underpenalize violators, and thereby fail significantly to deter future use violations. Thus, in order to satisfy the "adequate laws" criterion, States should demonstrate that they are able to:

a. Issue Warning Letters or Notices of Noncompliance;

b. Pursue administrative or civil actions resulting in an adverse economic impact upon the violator, e.g., license or certification suspensions or civil penalty assessments; and

c. Pursue criminal sanctions for knowing violations.

B. Adequate Procedures for Enforcing the Laws. In order to obtain primacy, States must not only demonstrate adequate regulatory authority, but must also show that they have adopted procedures to implement the authority. These procedures must facilitate the quick and effective prevention, discovery, and prosecution of pesticide use violations.

1. Training. One step towards this objective is the training of enforcement personnel. At a minimum, States, in cooperation with EPA, should implement procedures to train inspection personnel in such areas as violation discovery, obtaining consent, preservation of evidence, and sampling procedures. Enforcement personnel should be adequately versed in case development procedures and the maintenance of proper case files.

Instruction in these techniques should take the form of both on-the-job training and the use of prepared training materials. The Agency also considers a continuing education program to be a crucial training procedure, so that enforcement personnel can be kept abreast of legal developments and technological advances.

2. Sampling techniques and laboratory capability. Requests for should also show that the State is technologically capable of conducting use enforcement program. States must have ready access to the equipment necessary to perform sampling and laboratory analysis, and should implement a quality assurance program to train laboratory personnel and protect the integrity of analytical data. Laboratories conducting sample analyses must also agree to participate in EPA (NEIC) Check Sample programs which are designed to ensure minimum standards of analytical capability. (Such program is already operational for formulation samples, and a residue sample program is also under consideration). The EPA Check Sample program is coordinated with the Association of American Pesticide Control Officials (AAPCO) to reduce unnecessary duplication of effort. The EPA will be guided in evaluating the adequacy of State analytical procedures by official compilations of approved analytical methods, such as the Food and Drug Administration's (FDA) Pesticide Analytical Manual, the CIPAC (Collaborative International Pesticides Analytical Council) Handbook, the EPA Manual of Chemical Methods for Pesticides, and Official Analytical Chemists Analytical Procedures. For additional guidance on adequate sampling techniques, States should consult EPA's FIFRA Inspectors Manual and contact the appropriate regional office.

3. Processing complaints. Since a significant portion of pesticide use violations are identified through reports from outside EPA or the State lead agency, the State must implement a system for quickly processing and acting to complaints or other information indicating a violation. An adequate referral system should contain:

- A method for funneling complaints to a central organizational unit for review.
- A logging system to record the receipt of the complaint and to track the progress of the follow-up investigation.
- A mechanism for referring the complaint to the appropriate investigative personnel.
- A system for allowing a rapid termination of the status of the case.
- A procedure for notifying citizens of

the ultimate disposition of their complaints.

4. Compliance monitoring and enforcement. Along with the above described enforcement procedures, States must provide assurance that sufficient manpower and financial resources are available to conduct a compliance monitoring program, i.e., either planned or responsive use inspections. In addition, States must implement procedures to pursue enforcement actions expeditiously against violators identified through compliance monitoring activities.

The Agency also believes that program planning and the establishment of enforcement priorities is an integral part of an adequate enforcement program. Such planning, taking into account the national program priorities as manifested through the grant negotiation process, as well as the priorities specific to the individual State, will help assure that compliance

"(b) Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

In deciding whether a State is not carrying out, or cannot carry out, its use enforcement responsibilities, the Administrator will apply the criteria for an adequate program set forth in Unit II to the performance of the State during the time the State had primacy.

A. Adequate Laws. The legal authority can conduct an adequate use enforcement program is a criterion which affects both the decision to grant primacy and the decision to rescind it. Within the context of rescission, the Administrator will assess the impact of any amendments or supplements to the State's pesticide use laws and regulations. If legislative changes have adversely affected the State's ability to collect information or bring enforcement actions, the State may be subject to a rescission action on grounds of inadequate laws.

B. Adequate Procedures. In determining whether a State which has adequate legal tools is carrying out its use enforcement obligations, the Agency will examine the efficacy of the

monitoring and enforcement resources are properly allocated.

5. Education. States should implement a program to inform their constituencies of applicable pesticide use restrictions and responsibilities. Examples of education methods include disseminating compliance information through cooperative extension services, seminars, publications similar to the Federal Register, newspapers, and public assistance offices where persons can call to ask questions or report violations. Such an educational program will promote voluntary compliance and is essential to effective enforcement. States should also develop procedures for soliciting input from the public regarding the administration of the pesticide use enforcement program.

III. Criteria Governing Rescission of Primacy Under Section 27(b)

Section 27(b) authorizes the Administrator to rescind primacy from a State in certain situations:

procedures adopted by the State to implement its pesticide laws. The Agency will be particularly interested in the remedies the State has actually applied to the various use violations. The lack of sufficient correlation between the gravity of a use violation and the severity of the enforcement response would be evidence that the State's arsenal of remedies is not being applied in a flexible manner.

In addition, EPA will evaluate each program element listed in Unit II.B., in light of the performance of the State during the period the State had primary use enforcement responsibility.

1. Training. The Administrator will note whether any difficulties encountered by the State in enforcing pesticide use restrictions have resulted from a lack of adequate training of State enforcement personnel.

2. Sampling techniques and laboratory capability. The Administrator will consider whether the State's sampling techniques and

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analytical capabilities are enhancing or hindering the State's ability to unearth and prosecute successfully persons who misuse pesticides. Another important consideration will be the degree to which State laboratory and sampling procedures have kept pace with developments in analytical technology.

3. *Processing complaints.* The Administrator will examine whether complaints have been processed quickly and efficiently. The degree to which citizens alleging a use violation seek redress from EPA after first directing their complaint to the State will be considered. In addition, the Administrator will take into account the performance of the State in responding to allegations referred to the State by EPA under section 27(a) of FIFRA.

4. *Compliance monitoring and enforcement.* Under this element, the Administrator will compare the State's level of compliance monitoring activities with that of other comparable States. The EPA will review State case files to determine whether the State has aggressively investigated a case before deciding on the disposition of the matter. The EPA will also investigate whether a State's Attorney General's office or other prosecutorial authorities have demonstrated a willingness to pursue cases referred by the State's pesticide control lead agency.

The Agency will examine whether State enforcement resources have been directed towards the more significant enforcement problem areas, and whether enforcement priorities have been reevaluated as the demands of an adequate program change over time.

5. *Education.* The Administrator will evaluate whether the State's education program is encouraging voluntary compliance with pesticide use restrictions. As part of this process, the Administrator will note those use violations which are at least partially attributable to the violator's lack of familiarity with applicable laws and regulations. The Administrator will also review State procedures for facilitating public participation in the enforcement program.

These criteria are indices of the adequacy of a State's use enforcement program, but they do not conclusively determine whether a State is discharging its primary responsibilities. Since the Agency's goal is to protect the public from the risks associated with pesticides, one of EPA's central inquiries will be whether the State's primary program assures compliance with pesticide use restrictions. EPA, in evaluating State program adequacy, will consider both the deficiencies of the

program and the success of the program in achieving compliance.

IV. Emergency Response

Notwithstanding other provisions of sections 26 and 27, the Administrator may, after notification to the State, take immediate action to abate emergency situations if the State is "unwilling or unable adequately to respond to the emergency."

FIFRA does not define "emergency conditions." Other EPA-administered statutes, however, characterize emergencies in fairly consistent terms. The consensus of these statutes is that an emergency presents a risk of harm to human health or the environment that is both serious and imminent, and that requires immediate abatement action.

Examples of use-related emergency situations are:

1. Contamination of a building by a highly toxic pesticide.
2. Hospitalizations, deaths, or other severe health effects resulting from use of a pesticide.
3. A geographically specific pattern of use or misuse which presents unreasonable risk of adverse effects to health or sensitive natural areas. This situation may occur, for example, if a hazardous pesticide is consistently misused in a particular area so that the net effect is the creation of substantial endangerment to the environment, such as runoff into a water supply.

A. *"Unwilling"*. When EPA learns of an emergency situation, Agency representatives must notify the affected State. These representatives will try to obtain a commitment from the State as to (a) what the State is capable of doing in response to the situation, and (b) when the State intends to respond to the crisis.

Emergencies, by nature, require the quickest possible response. In most cases, due to proximity, the State will have the opportunity to be first on the scene. If the State manifests an unwillingness to respond rapidly to the situation, or if the State cannot give assurances that it will respond more quickly than EPA could respond, Agency emergency response teams will be activated.

B. *"Unable"*. The EPA will immediately take action to abate an emergency if the State is unable to do so. The Agency interprets "unable" to mean that either the State does not have the authority to adequately respond or that the State is incapable of solving the problem due to the lack of technology or resources.

1. *Authority.* The EPA can utilize its authority in section 16(c) of FIFRA to seek, in conjunction with the

Department of Justice, a district court order preventing or restraining misuse of a pesticide. States should also be able to address a use-related emergency in this manner or by the rapid issuance of an enforceable stop-use order or other similar means. If the State lacks this authority and the emergency conditions warrant a legal response in the nature of specific enforcement or equitable relief, EPA may initiate its own action after notice to the State.

2. *Technical capability.* Some emergency situations may present problems which the States are technologically incapable of solving. In these instances, if EPA possesses the requisite technology or equipment, the Agency will immediately respond to the crisis. For example, where a dissolved organic pesticide has contaminated a surface water system, EPA would activate its portable advanced waste treatment unit, a resource that is not generally available to the States.

The EPA will also take action if the State cannot rapidly commit the necessary manpower to the emergency situation. In most cases EPA will not, however, initiate a response on this basis if the State has developed an emergency response plan detailing the procedures to be followed in counteracting a pesticide emergency.

V. Hypothetical Situations

In reading the hypotheticals in Units A and B, assume that the cases discussed fall under priority referral areas discussed in Unit I.A.2.

A. *Action by Citizen. Hypothetical 1.* EPA refers to the State a citizen's allegation that an aerial applicator has allowed pesticides to drift over his property. After 25 days, the EPA Region obtains the results of State's investigation and learns that the State plans to issue a warning letter to the applicator. The EPA advocates a more firm response and, after discussion, the State agrees to suspend the applicator's certification. The State certification board does not meet, however, until two months later. In this instance, the Region may decide to extend the normal 30 day prosecution stage to accommodate the schedule of the board.

Hypothetical 2. A citizen calls EPA with information concerning a fish kill which occurred in a stream near his residence. The citizen claims that he reported his information to the State, but State officials have not responded to his complaint. The EPA's Regional official calls the State, and learns that the State did indeed know of the problem, but has not yet had the opportunity to investigate the allegation. The Regional

official, believing the allegation to be significant, formally refers the complaint to the State, and the State agrees that the matter should be investigated within 20 days. After 20 days, the Region learns that the State has not yet begun its investigation. In this case, the Region will begin its own inquiry into the matter, and may commence its own enforcement action, after notice to the State, provided that 30 days have elapsed from the date of the referral.

B. Action by State. In both of these hypotheticals, assume that the State has chosen a Warning Letter as the appropriate enforcement response.

Hypothetical 1. Mr. Smith operates a one-man dry dusting company. Smith is hired to spray Herbicide A over a power company's lengthy right-of-way. The right-of-way is bounded on one side by a residential development and on the other by a wooded area. Smith performs the aerial application amidst high swirling winds in contravention of the instructions on the herbicide's label. A significant portion of the herbicide drifts onto the wooded area. Herbicide A, which contains the hazard word "danger" on its label, is a highly toxic and persistent restricted use pesticide. Smith has no record of prior pesticide-related violations with government pesticide control offices.

The Agency would consider the issuance of a warning letter to be an inappropriate response to this violation.

a. Risk associated with the violative action. Fortunately in this instance, the herbicide did not result in damage to humans or sensitive environmental areas. But at the time the violation was committed, the risk that harm would result from the misuse was quite significant, given the high swirling winds and the proximity of a residential neighborhood. Only chance prevented the herbicide from drifting into an unhabited area. The risk of harm was also increased by the fact that a great deal of land was subject to drift given the length of the target area.

b. Risk associated with the pesticide. Herbicide A is labelled "danger" and is therefore an acutely toxic Category I pesticide under 40 CFR 182.10. The harm that would result from exposure to this persistent substance is substantial, regardless of whether chronic effects or residue properties have been ascribed to it. In addition, a large amount of herbicide A was involved in the violation.

c. Other factors. Smith is a commercial applicator under FIFRA and could be subject to the maximum penalty. As a mitigating factor, however, Smith could point to the absence of prior FIFRA violations.

In summary, since Smith's actions were highly likely to result in serious harm to human health, his drift violation warrants a severe enforcement response, such as assessing a fine or suspending his certification. Despite Smith's clean record, a warning letter would not be deemed "appropriate enforcement action."

Hypothetical 2. A small food processing firm which markets frozen TV dinners utilizes company maintenance personnel to accomplish its pest control needs. No particular training is provided for such employees but they are instructed to read and follow the label directions. They are provided all appropriate application equipment and protective clothing. A company employee applied a non-persistent general-use (Category IV) pesticide which was registered for structural pest control to combat a particularly serious cockroach infestation. Despite label instructions requiring the user to avoid contaminating food, food containers, or cooking utensils, the employee applied the pesticide directly upon and below counter tops and related surfaces in the room where food cooking racks are stored. The application took place late Friday afternoon. The cooking racks were not utilized again until Monday morning. An inspection took place on Monday morning. This was the third pesticide use inspection which the State had conducted at the firm in the last four years. None of the prior inspections had revealed a pesticide-related violation. Residue samples taken Monday morning revealed no trace residue of the pesticide on the treated surfaces.

Since the violation constitutes a first offense by an "other person" under section 14(a)(2) of FIFRA, the maximum federal enforcement response would be a Notice of Warning. Accordingly, the Warning Letter issued by the State would constitute an appropriate enforcement action.

a. Risk associated with the violative action. The direct application of any pesticide to a cooking rack in a food processing establishment poses some risk of exposure to humans. Although the pesticide used in this case was not applied in great amounts or over large areas, the inherent risk associated with the violation is relatively high, since violation results in the introduction of the pesticide into non-target surfaces with the likelihood of human exposure.

b. Risk associated with the pesticide. In this instance, the risk associated with the pesticide itself is relatively small. This Category IV pesticide is not acutely toxic or persistent, and is not known to

cause any chronic effects. Sample analysis revealed no trace of the product at the time the exposed cooking racks were to be used.

c. Other factors. Under FIFRA, the issuance of a Notice of Warning is the maximum enforcement response to a use violation committed by a private applicator with no history of prior violations. Thus, the Agency would, of course, view the proposed State enforcement action as appropriate. If the violation were repeated, a more stringent enforcement action would be warranted.

Dated: December 22, 1982.

John W. Hernandez, Jr.,
Acting Administrator.

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FY 92 CONSOLIDATED PESTICIDE COOPERATIVE AGREEMENT GUIDANCE

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FY92 CONSOLIDATED PESTICIDE COOPERATIVE AGREEMENT GUIDANCE

INTRODUCTION

A. PURPOSE OF GUIDANCE

Section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended authorizes the U.S. Environmental Protection Agency to enter into cooperative agreements with the states and Indian tribes for pesticides enforcement and to train and certify applicators. (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 Territory of the Pacific Islands and American Samoa.") Regulations governing financial assistance to participants in the cooperative pesticides program are found at 40 CFR Part 35.001 - 35.155, 35.600 - 35.605 and 40 CFR Part 31.1 to 31.6. This guidance document, developed by the Office of Compliance Monitoring (OCM) and the Office of Pesticide Programs (OPP), supplements the above regulations by setting forth in more detail the required elements of cooperative agreement applications, procedures for reviewing applications and awarding funding allotments, and guidance for program evaluation and management.

This document is specifically directed to the EPA regional offices, which are responsible for issuing program guidance to the applicants. Regional guidance to the states and Indian tribes must contain all the key provisions of the national guidance, including all work program items. However, the national guidance may be modified or supplemented to reflect special environmental or managerial conditions in each region. The regions should send to the Chief of OCM's Grants and Evaluation Branch a copy of the draft and final guidance which they send to their states, assuming that it is not identical to the national guidance; a copy should be sent at the same time as the mailing to the states.

For FY 92, this document was developed as a "Consolidated Cooperative Agreement Guidance" covering all pesticide activities for which financial aid will be available. These activities are categorized in the following five components of the pesticide cooperative agreement program: 1) all of the enforcement activities; 2) certification of pesticide applicators; 3) ground water program activities; 4) endangered species program activities; and 5) worker protection program activities. (Components # 2-5 are considered "pesticide program activities".)

In relation to above, the enforcement funds will be available for the enforcement component, certification funds will be available for the certification component and distinct pesticide program funds will be available for worker protection program activities, ground water program activities and endangered species program activities.

Section II of the consolidated guidance discusses application requirements which apply to all components of the pesticide cooperative agreement program. The remaining sections deal with work program activities, and specifically address each of the five individual components outlined previously. The funding section cannot be distributed until after the President's FY 92 budget is released.

The consolidated guidance was developed, in part, to encourage states to prepare one cooperative agreement application for assistance for all components (enforcement, certification, worker protection program, ground water program and endangered species program activities). However, it is recognized that due to unique circumstances or timing, this will not be feasible in every case. The guidance allows for the state lead agency/tribe to submit more than one application or amended applications to address the five components, if this is more practical, as agreed between the applicant and EPA regional office.

In submitting a consolidated cooperative agreement application, the applicant must submit three budgets at a minimum: 1) one for the enforcement component (including worker protection enforcement activities and all the enforcement activities); 2) one budget for the certification component; and 3) one budget for the pesticide program activities (addressing the groundwater, endangered species and worker protection program activities together).

Under the consolidated cooperative agreement, the recipient must separately track the expenditure of funds under three components at a minimum: 1) all of the enforcement funds; 2) the certification funds; and 3) the pesticide program funds for the new initiatives (groundwater program activities, endangered species program activities and worker protection program activities).

The regions and states are strongly encouraged to read through the first 64 pages (sections I-IV) of the guidance. We have highlighted the major changes from the FY 91 guidance.

B. NATIONAL PRIORITIES

Note: This is a new section of the introduction. This information was previously included in the work program section.

1. ENFORCEMENT NATIONAL PRIORITIES

In developing the compliance cooperative agreement work programs, applicants need to address the national pesticide enforcement priorities, along with State/Tribal priorities. For FY 92, the two national priorities are: A) helping to ensure compliance with pesticide cancellations, suspensions and other major regulatory actions; and B) planning for and conducting enforcement activities for the revised worker protection standards and associated labeling requirements, based on publication of the final rule.

2. CERTIFICATION AND TRAINING OF PESTICIDE APPLICATOR - NATIONAL PRIORITIES

a. Program Goals. In FY92, the Agency will work with the states/tribes to address the changes to certification plans which will be required as a result of revised provisions in the regulations concerning "Certification of Pesticide Applicators," 40 CFR 171. The revisions to 40 CFR 171 should be final and in effect in FY92. Working with USDA and others, EPA will develop new training modules and upgrade training materials to assist in meeting the more stringent pesticide applicator competency standards contained in the revised regulations.

b. National Program Priorities. In the area of certification and training of pesticide applicators, the Agency has identified five program areas for priority activities in FY92 at the national and/or regional levels. These activities will be undertaken in cooperation with the states, tribes, territories, and with USDA:

1. Encourage Interaction between State Agencies and Cooperative Extension Services in the States

EPA will continue to encourage frequent interaction between the Lead Agency for pesticide programs and Cooperative Extension Service in each State, particularly where the training offered by the Extension Service is a means of obtaining certification or recertification credit.

2. Training

EPA will address state/tribal needs in the area of training material. EPA will continue to work with USDA to identify needed training programs and materials and to develop these programs and materials at the national level, and facilitate such development at the regional and state level, as appropriate.

EPA will cooperate with the private sector to encourage development of training materials.

EPA will encourage states/tribes and facilitate their efforts to ensure that training is made available to applicators in situations where the state/tribe itself cannot offer training.

EPA will continue to develop train-the-trainer programs that address new regulations, emerging issues, and innovative C&T materials.

EPA will encourage and assist in the development of methods/programs for verifying that training has occurred in cases where the state/tribe itself does not administer the training.

EPA will continue to cooperate with USDA to upgrade state private applicator training programs and certification mechanisms based on the Joint EPA-USDA/CBS reviews which were completed in FY 89.

3. Publication of Revised Federal Regulations

EPA will promulgate, in FY 92, revised regulations for the certification of pesticide applicators.

4. State Certification Programs

EPA will encourage states/tribes to maintain their state/tribal plans, in accordance with FIFRA Section 11 and 40 CFR 171. When the revised regulations are promulgated, EPA will assist in the transition from existing certification programs to programs that meet the requirements of the regulations.

5. Cooperation and Interaction

EPA will facilitate cooperation and interaction between federal and state/tribal agencies for identifying emerging issues, and in developing and implementing state/tribal and regional programs to address those issues.

3. GROUND WATER PROTECTION PROGRAM – NATIONAL PRIORITIES

a. Program Goals. EPA's environmental goal in its Pesticides and Ground Water Strategy is to manage the use of pesticides to protect ground water resources. The strategy provides states, tribes, and territories the opportunity to take the lead role in meeting this goal by designing and implementing plans to manage pesticides for the prevention of ground water contamination. This approach allows for the tailoring of pesticide management measures to meet specific local ground water protection needs.

Resources devoted to protecting ground water from pesticide contamination will be focused on those areas that have the most serious agrochemicals in ground water problems or with the potential for such problems. The Regional Program Offices will provide technical assistance to states, tribes and territories on pesticide management plan development and review of state and tribe management plans, ensuring cooperation among key state/ tribal agencies, sharing information and reviewing grant plans.

Protection of ground water requires a localized protection approach which require a greatly expanded/strengthened state/tribe role in problem identification and in the management of pesticide use with a focus on prevention of contamination.

At the regional level, the pesticides, ground water and non-point source programs will need to work closely together to develop consistent state and tribal work plans to support program specific grants. At the state and tribal level, there is the same need for cooperation and coordination between involved agencies.

b. National Program Priorities. In the area of ground water protection, the Agency has identified program areas for priority activities in FY92 at the national and/or regional levels. These activities will be undertaken in cooperation with the states, tribes, territories, and with USDA and USGS:

1. Implementation of the Final Management Plan Guidance Document and Technical Support Documents

EPA will provide guidance to states, tribes, and territories in their efforts to develop management plans and to promote national consistency in using these plans as a key element of the foundation for pesticide registrations. EPA also will provide technical assistance to those preparing to develop management plans.

2. Oversee the Development and Implementation of Both Generic and Chemical-Specific State Management Plans

EPA will develop plans to strengthen the Agency's foundation for the Federal registration of pesticides posing ground water contamination concerns. These plans should be developed in close coordination with state ground water programs. The EPA Office of Ground Water Protection (OGWP) also is providing funds to state/tribal ground water programs for the development of pesticide management plans.

3. Resolution of Organizational Roles and Responsibilities with Respect to OPP, ODW, OGWP, USDA, and USGS

EPA will foster communication and harmony among these organizations and their regional/state counterparts. With respect to the Office of Ground Water Protection (OGWP), the Comprehensive State Ground Water Protection Programs (CSGWPP's) will be the vehicle for addressing organizational roles and responsibilities. EPA will develop and implement MOUs with USGS and USDA (Soil Conservation Service, Cooperative Extension Service, Agricultural Research Service, and Cooperative States Research Service).

4. Review of Management Practices

EPA will facilitate the transfer of technology among states, tribes, and territories. EPA will determine what is and is not working and share that information with those in similar situations.

5. Outreach to Pesticide Users and the Public

EPA will develop public information materials such as brochures, fact sheets, and audio-visual materials to aid in outreach.

4. ENDANGERED SPECIES PROTECTION PROGRAM – NATIONAL PRIORITIES

a. Program Goals. The Endangered Species Protection Program focuses on providing the best protection for listed species while minimizing any unnecessary impacts on pesticide users. During the 1992 growing season, OPP anticipates the continuation of the voluntary and pilot programs begun in 1990 and 1991.

During FY92, the Agency will begin requiring registrants to relabel some products with endangered species precautions and reference to county-specific bulletins to conform with the Endangered Species program. Because approximately twelve months will be allowed for relabeling, few products at the end-use level will bear the revised labeling during the 1992 growing season.

The Regions' focus will be on providing technical assistance to the states/tribes. This assistance will include coordinating the review of habitat maps with the states and other interested parties, ensuring coordination between State agriculture and fish/game agencies, and reviewing State plans.

b. National Program Priorities. In the area of endangered species protection, the Agency has identified program areas for priority activities in FY92 at the National and/or regional levels. These activities will be undertaken in cooperation with the states, tribes, territories, and with USDA:

1. **Voluntary Programs Including Pilot Programs**

EPA will assist with on-going pilot programs and work to establish new pilot programs in the states/tribes during the 1992 growing season. Results from the pilot programs will be used to revise the Endangered Species Protection Program as necessary.

2. **Customized State-Initiated Plans**

Through the Regional Offices, EPA will provide technical assistance to states/tribes developing their own state/tribe-initiated plans. Regions will participate in the first level of review for state/tribe-initiated plans. EPA Headquarters will assist in reviewing state/tribe-initiated plans submitted through the Regions, and in obtaining concurrence from the Fish and Wildlife Services (FWS).

3. **Outreach to Pesticide Users and the Public**

EPA will develop educational materials for use in the field as well as to inform the public about the Endangered Species Protection Program.

EPA will provide program informational materials (including bulletins, brochures, fact sheets, videos/slides) to the Cooperative Extension Service, Regional Offices, etc., as these materials are developed by EPA.

4. Coordination with the Federal and State Lead Agencies

EPA will promote cooperation with other Federal and state/tribal agencies including USDA, FWS, Regional Office, State Agriculture and Fish and Game departments. This cooperation will result in (a) the development of educational materials and habitat maps, (b) review of program outreach activities, and (c) the development of technical aspects of the program.

5. Review of Habitat Maps

Through the Regions, EPA will coordinate the review of habitat maps with the states and other interested parties.

5. WORKER PROTECTION PROGRAM – NATIONAL PRIORITIES

a. Program Goals. In FY92, the Agency goal will be to disseminate information on the new Worker Protection Standards (WPS) and to continue to develop and disseminate training materials required by the program.

Successful implementation of the WPS and related product label changes will require continued public outreach to inform workers and employers about requirements that will be initiated in FY91. The complexity of reaching so many groups and individuals requires a decentralized Federal program. Training materials and technical assistance will be directed through regional and state/tribes programs to tailor them to local conditions and programs.

The pesticides worker protection compliance monitoring and enforcement activities will focus on ensuring compliance with the pesticide worker protection rule, through routine comprehensive inspections, and follow-up to incidents and complaint reports. Training seminars for states and technical assistance for public and private groups will also be an important part of compliance monitoring and enforcement efforts.

b. National Program Priorities. In the area of worker protection, EPA has identified program areas for priority activities in FY92 at the national and/or regional levels. These activities will be undertaken in cooperation with the states, tribes, territories, and with USDA:

1. Continued Development of Program Implementation Strategies by the States, Tribes, and Territories

EPA, through the regions, will provide information and assistance for finalizing individual worker protection program implementation strategies for states, tribes, and territories.

2. Outreach to Pesticide Users and Workers Potentially Exposed to Pesticides

To assist the state, tribes, and territories in their outreach programs, EPA will provide information on the WPS to the regulated and affected communities. These communities will be identified in individual worker protection program implementation strategies. EPA will develop materials to inform users of the new WPS requirements. Headquarters will facilitate regional interaction through informational meetings and workshops.

3. Coordination of Activities with the States, Tribes, and Other Agencies and Organizations

EPA will promote cooperation between USDA, OSHA, the Cooperative Extension Services, and the private sector in the development of educational materials and dissemination of information and training efforts. EPA encourages states/tribes to include groups/coalitions representing migrant workers when naming organizations to work with in implementing Worker Protection Standards (i.e., utilize organizations representing or concerned with migrant issues). EPA will also promote cooperation between states and tribes.

4. Publicizing the Worker Protection Program

EPA will develop materials, such as brochures, fact sheets, and guides, for informing the public of the new WPS. EPA, through the regions, will also use the media to announce the WPS and inform the public of its requirements.

5. Management of Cooperative Agreements with the States, Tribes, and Territories for the WPS

EPA will review the focus and progress of the FY92 Pesticide Cooperative Agreements. Improvements and corrections will be suggested, as necessary.

Head-quarters, through the Regional Program Offices, will issue and transmit guidance to the states/tribes.

6. Training Programs and Materials

EPA will develop a national set of guidance documents on basic occupational safety that meets the minimum requirements set out in the WPS. Then, in cooperation with the private sector and other state agencies (the Cooperative Extension Service, OSHA), EPA will help states, tribes, and territories tailor programs and materials to meet specific needs.

Using EPA/state/tribe/employer "train-the-trainer" type programs, EPA will also prepare persons who can offer training or distribute information about the WPS.

II. COOPERATIVE AGREEMENT APPLICATION REQUIREMENTS

To ensure an orderly administrative review, programmatic evaluation, and funding of cooperative agreement applications, the applications must 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 CFR Part 35.140. This requirement may be addressed in any audits conducted of a state/tribal cooperative agreement program.

We recommend that states/tribes operating pesticide enforcement grant programs under the Federal fiscal year cycle (October 1 - September 30) submit their cooperative agreement application 90 days prior to the beginning of the proposed budget period. This will allow additional lead time and help to avoid cooperative agreements not being awarded on time. Funds will be awarded as promptly as possible following release of FY 92 federal funds.

For FY 92, applicants for pesticide enforcement cooperative agreement funds are urged to complete and submit an enforcement application review checklist with their applications; this checklist is provided in appendix V. The checklist will aid the applicant in submitting a complete package and help to streamline processing.

In accordance with 40 CFR Part 35.141, 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 state 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 request approved by the Grants Administration Division before any pre-award costs may be approved.

In addition to this guidance document, regional and state/tribal staff should consult the appropriate regulations in 40 CFR Parts 31 and 35, the Administrator's Policy on Performance-Based Assistance, and the Assistance Administration Manual, previously distributed, when preparing, negotiating, and evaluating cooperative agreement applications.

Listed below are the principal elements needed in an application to enable EPA to perform a proper review and evaluation of the proposed program and to make a timely award of funds. The outline below is a suggested format for applications.

A. STANDARD APPLICATION FORMS

The regulations (40 CFR Part 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. (A copy of the application form can also be found in appendix I of this guidance.)

It is recommended that applicants submit one consolidated application, for EPA review and approval, with a distinct work program component for each of the five activities (namely enforcement, certification, worker protection program activities, endangered species, and groundwater program activities).

If submitting one application is not feasible, the state lead agency/tribe may submit separate or amended applications which address each component for which funding is available as described in this document.

In submitting a consolidated cooperative agreement application, for EPA review and approval, the applicant must submit three budgets at a minimum: 1) one for the enforcement component (including worker protection enforcement activities and all the enforcement activities); 2) one budget for the certification component; and 3) one budget for the pesticide program activities (addressing the groundwater, endangered species and worker protection program activities together). (Appendix IX includes an example of a partially completed application form showing how at least three individual budget components could be entered on one application form SF 424.)

B. BUDGET REQUIREMENTS

1. Cost Sharing

a. Enforcement Component

EPA's share of the "total project costs" for the FIFRA enforcement component should not exceed 85% of the total funding level.

b. Certification Component

FIFRA Section 23 limits EPA's share of the "total project costs" to not more than 50% of the total funding level.

c. Pesticide Program Component (Addressing Worker Protection Program Activities, Groundwater Program Activities and Endangered Species Program Activities)

EPA's share of the "total project costs" for the worker protection program activities, groundwater program and endangered species program activities should not exceed 85% of the total funding level.

2. Itemized Budget Detail

The applicant should include supportive itemized statements or fact sheets to expand upon the expenditures proposed for at least each of the three components (namely enforcement, certification, and pesticide program activities) for the cost categories listed below. Any additional cost categories that may appear to be out of the ordinary should be itemized, as well.

a. Personnel

Personnel costs should be itemized to show the type of work activity, number of persons involved, number of work years involved and the total cost for each of the major categories of personnel (e.g., inspectional, analytical, etc.) for which funding is requested.

b. Travel

Travel costs must be adequately described to show the basis for the total travel cost estimate.

c. Equipment and Supplies

Each item costing \$25,000 or more should be listed separately. Items costing less than \$25,000 may be grouped, as appropriate.

C. NARRATIVE STATEMENT

Each cooperative agreement application must be accompanied by a narrative statement covering the subject areas listed below (addressing background information, ability to implement the program, objectives of the project, benefits of the project to the applicant and EPA, and the work program). If a subject has been adequately documented in previous applications, project reports, etc., a reference to the earlier document will suffice, as long as the pertinent pages of the earlier document are attached.

A new work program narrative for each component, for review and approval, must be submitted annually along with the application. With changing conditions and priorities (both nationally and locally), it is expected that work program activities will change from year-to-year.

1. Background

40 CFR Part 35.140 requires all applications to include a discussion of performance to date under the existing award.

2. Ability to Implement Program

Each applicant must certify that there are no impediments to the state's/tribe's ability to carry out the proposed program or programs. Applicants with continuing cooperative agreement programs are not required to annually certify their ability to carry out the proposed programs, unless one or more of the areas described below has changed. The applicant should address the areas described below, as well as any others, which might pose problems.

a. Authority to Conduct the Proposed Program

State Authority

The state must have enacted legislation which empowers it to enter into a cooperative agreement with EPA and conduct specific activities proposed under the cooperative agreement.

Tribal Authority

The tribe must have established a governmental body to execute a cooperative agreement with EPA. Most reservations are covered by tribal governments, recognized by the Department of the Interior in the Federal Register and organized pursuant to treaties and/or Acts of Congress.

b. Authority to Accept Federal Funds

A state/tribe, which can only implement a program under a cooperative agreement with prior authorization by its legislature to spend federal funds, must include a statement indicating the date on which such authorization will be obtained. Commitment of EPA funds will be contingent upon such authorization by the state legislature or Tribal Council.

c. Designation of Lead Agency for Enforcement

Although several agencies within a state/tribe may be responsible for regulating various aspects of pesticide manufacture, handling, and use, EPA will continue to enter into only one cooperative agreement with the state/tribe for pesticides enforcement, as has been done in the past. It is a necessity for a coordinated enforcement program for this practice to continue.

The Governor of the state or the Tribal Chairman (or equivalent), through a letter to the regional office, should designate a lead agency which will be responsible for the cooperative enforcement agreement program. The designated lead agency must have the authority to enter into contracts or interagency agreements with other agencies for the performance of all necessary activities. The lead agency must follow through on their "lead" responsibilities, as outlined in the work program section of this guidance document, as the recipient of cooperative agreement funds.

3. Objectives of the Project

Each applicant should clearly define the principal objectives which support the achievement of the national and individual state/tribal priorities.

4. Benefits of Project to the Applicant and EPA

The applicant must identify expected results and benefits to be derived from the project, including all primary and secondary benefits to the applicant. This statement should clearly establish the project as a cooperative agreement with benefits accruing to both the applicant and EPA.

5. Work Program

The applicant must develop, for EPA review and approval, a proposed work program for each component including a narrative description of the projected outputs and work to be accomplished, along with a schedule for accomplishing these activities. The cooperative agreement work programs for each component are discussed in sections III and IV.

Additionally, while developing the work program, the applicant should identify and consider the concerns of persons in the state/tribe who may be exposed to pesticides or otherwise affected by the pesticides enforcement program. The EPA considers public participation in the planning process to be an important element of the program. Each applicant may use a variety of means to identify the concerns of the public and involve the public in the planning process. As a reference, applicants may wish to use EPA's Public Participation Policy, January 19, 1981, 46 Fed. Reg. 5736, (included in appendix X). This policy discusses the following factors: outreach, dialogue, assimilation, feedback and associated methods.

D. ACCOUNTABILITY UNDER THE COOPERATIVE AGREEMENT

According to 40 CFR Part 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 each of three components (enforcement, certification, and pesticide program activities) of a consolidated pesticide agreement; 2) permit preparation of Financial Status Reports (FSRs) 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.

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 CFR 31.30 (in appendix XI), recipients and sub-recipients can rebudget within the approved direct cost budget. Certain types of changes require prior approval [see 31.30(c) through 31.30(f).]

E. REQUIRED CERTIFICATION FOR DRUG FREE WORK PLACE

On May 25, 1990, the Office of Management and Budget published "Drug-Free Workplace Requirements; Notice and Final Rules." For EPA, this new rule is included in 40 CFR Part 32 (See appendix XII), Government Debarment and Suspension

(Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants). This rule was effective July 24, 1990 except for the certification requirements of section 32.630(c) and (d) for states and state agencies which was effective on June 25, 1990. The rule requires all recipients to certify that they will maintain a drug-free workplace. The regional Grants Office must make sure that each application includes a properly executed certification. The rule provides for suspension of payments, suspension or termination of grants, or suspension or debarment of the recipient for violation of the rule.

F. CERTIFICATION CONCERNING AND DISCLOSURE OF "INFLUENCING ACTIVITIES"

Note: This is not a new requirement, but it is a revision to the guidance.

Persons (including states and municipalities) 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, please contact the regional Grants Management Office.

G. DEBARMENT AND SUSPENSION CERTIFICATION

Note: This is not a new requirement, but it is a revision to the guidance.

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

H. STATE APPLICATION REVIEW CHECKLIST, REGIONAL REVIEW PROCEDURES AND SEMI-ANNUAL EVALUATIONS

The responsibilities and requirements associated with application review procedures and semi-annual evaluations are discussed in Appendices III and IV respectively. The national evaluation protocol is being updated in FY 91 to reflect changes in the grant guidance, increased emphasis on follow-up to compliance monitoring strategies, findings from recent audits of the state enforcement grant program, and pertinent findings from the National Qualitative Review of the FY 89 Pesticide Enforcement Cooperative

Agreement Program. The protocol will be circulated to the EPA regions for comment prior to being finalized. Some highlights in the application review process are discussed below.

State application checklist: For FY 92, the pesticide enforcement applicant may wish to complete a cooperative agreement application review checklist (in appendix V) and submit it along with the application for enforcement cooperative agreement funds. This should help ensure that the applications address all of the required enforcement work program elements and reduce the number of comments on the applications by EPA. (Regions may revise or add to this checklist.)

Regional review and submittal of applications: When state applications are submitted, regions should review the checklist, if provided, and the application to ensure all of the required elements have been addressed. (A suggested review checklist for regional use appears in appendix VII). The enforcement applications should be sent by the regions to the appropriate regional liaison in OCM's Grants and Evaluation Branch within two weeks of the region's receipt of the documents. This allows for OCM review and comment early in the negotiation of a final agreement. (If they are available, any comments from the regions on the applications should also be included. Checklists may also be sent along with the application).

OCM'S Grants and Evaluation Branch will review a representative number of the enforcement applications from all regions in order to: 1) help ensure national consistency and adherence, as appropriate, to the national guidance; 2) assist in ensuring that recurring comments made in recent Inspector General audits are addressed from the national perspective; we fully expect that follow-up audits may occur; and finally, 3) remain aware of what the states and tribes are actually proposing to do under their enforcement agreement and help identify areas for next year's guidance which need to be revised in order to address consistent problems if any. Such knowledge and awareness is essential to developing and updating this guidance. If OCM has any comments they will be relayed via telephone or in writing. Comments from the regions or HQ should be reduced for the states and tribes completing checklists themselves to identify gaps in their applications.

Additional aids to processing applications are provided in the appendix. Appendix VII is the suggested regional review checklist. This checklist may be used instead of or to supplement a checklist submitted by the applicant. In addition, a one-page time line/chart is found in appendix VI. Regions may choose to adapt the time line for tracking due dates in the grant award process.

III. PESTICIDE PROGRAM ACTIVITIES FOR THE FY 92 WORK PROGRAM

Note: The format of this section was revised from the last draft.

A. INTRODUCTION

1. General

For FY92, program development in the new pesticide initiatives will continue. Pesticide applicator certification programs, that have been in place in the States for several years, will be updated and maintained.

2. Work Program Components

Each state/tribe applying for FY92 pesticide program cooperative agreement funds must prepare a proposed work program that includes the following five components, at a minimum:

- a. A description of the work, as outlined in the specific sections on work program activities in this chapter of the grant guidance
- b. A schedule for accomplishing the work program activities
- c. Reporting
- d. Accounting records and filing system
- e. Evaluation plans

3. Program Flexibility

EPA recognizes that the states/tribes will be designing programs particular to specific concerns in their areas, and work programs may vary from State to State.

The guidance for the new initiatives may lack some degree of specificity by design, to allow the states/tribes flexibility in developing their programs and to allow for states/tribes that have progressed further in some of these areas as well as those who are in the initial stages of addressing them.

4. Cooperation Between States/Tribes and the EPA Regional Offices

The state/tribe and the Regional Program Office should work closely together to develop complementary EPA/state or EPA/tribal pesticide programs, especially as they address the new initiatives. Cooperation between EPA and the applicants is essential in developing effective programs. Discussions between the states/tribes and the Regional Program Offices with regard to priorities, planning and the extent of different program activities to be conducted are particularly important.

5. Renegotiation of Work Programs for Program Initiatives

Since the new program initiatives are in developmental stages, the guidelines set by EPA for these activities may change during the year. There can be a renegotiation of the work program for ground water, endangered species, and worker protection program activities after regulations or guidelines are issued in final form. The Regional Program Office will work with the states/tribes to determine if there is a need to change the specifications of the work program after final regulations or strategies are available.

B. CERTIFICATION AND TRAINING OF PESTICIDE APPLICATORS – WORK PROGRAM ACTIVITIES

1. Introduction

Seven core elements are needed in the applicant's work plan. These elements are described below. The work program elements should be prioritized based on discussions with the EPA Regional Program Office.

2. Work Program Requirements

a. Revisions to State Mechanisms for Certification

The State will implement revisions to State mechanisms for certification (including examinations, training sessions and/or self-study packets if applicable) as previously agreed upon between the EPA project officer and the State. This effort also applies to any revisions agreed upon as a result of the FY 88/89 joint reviews, but not fully implemented by FY 91.

The State Lead Agency (SLA) should provide oversight and assistance as appropriate in implementing changes to training programs which were discussed as a result of joint reviews, and the SLA should cooperate with the

State Cooperative Extension Service (SCES) in implementing required changes to certification mechanisms as a consequence of such training changes.

b. Implementation of Changes to State Certification Programs

The State will implement any remaining changes to State certification programs/plans which were agreed upon between the State and EPA as a result of the FY 87 and subsequent discussions on State Certification Plans. (These changes should have been implemented or should be implemented according to a schedule agreed upon and approved by the EPA Regional Program Office and the State.)

c. Review by the EPA Regional Program Office of Revisions of Certification/Recertification Examinations

Revisions to state/tribal certification/recertification examinations will include review by the EPA Regional Program Office to assure that, in addition to the other topics required by federal regulations, the exams include information on: 1) chronic health effects; 2) ground water contamination; 3) endangered species; 4) disposal methods; 5) calibration of dispersal equipment; 6) proper use, maintenance and disposal of personal protective equipment and clothing; 7) applicator laws and responsibilities; 8) significant pesticide use problems identified through enforcement actions. When the EPA identifies areas in the examinations that need amendment, the State will work with EPA to make needed changes.

d. Meetings with the State Cooperative Extension Service

States/tribes must meet a minimum of twice each year with the state Cooperative Extension Service to discuss and evaluate the state/tribal pesticide applicator certification and training program. EPA Regional Program Offices should be notified of meetings in advance. At least twice a year, states/tribes will submit a report of points of agreement and decisions to the EPA Regional Program Office. These reports may be submitted by states/tribes with their mid-year reports and end-of-year reports.

e. Reporting of Certification and Training Projections and Accomplishments on EPA Form 5700-33H

On a semi-annual basis, the state/tribe will submit information on the number of training sessions participated in or monitored and the number of applicators certified and recertified (including the numbers certified and recertified for each category).

These reports showing certification accomplishments should be submitted by the State within 30 calendar days following the completion of the Federal fiscal year, second and fourth quarters. Semiannual reports are due April 30 and October 30 of each year. The end of year Form 5700-33H should include the number of applicators holding valid certification as of September 30, and the recertification period, in years, for each commercial category.

For Regions encompassing States that operate on a fiscal year that is different from the Federal fiscal year (e. g. July 1 - June 30 vs. October 1 - September 30), States must provide most current reporting data available at the time required reports are due.

In addition, the States are required under 40 CFR Part 171.7(d) to submit an annual report at a time to be specified by the State. The State may choose to have an annual State Plan report period that corresponds to their cooperative agreement budget period.

The states/tribes may consider using completed EPA Forms 5700-33H as part of their State Plan reports because the data reported on Form 5700-33H are the same as the first three items required in State Plan annual reports. This can be done only when the State chooses to have an annual State Plan report period that corresponds to their cooperative agreement budget period.

f. Information About High Quality Training Programs and Training Materials; Information about Training Needs

The EPA and USDA are working together to ensure maximum program utility in the area of training materials. To assist in this effort, states/tribes are asked to include the following information in mid- and end-of-year reports:

- o State/tribes will provide information about specific training programs and/or training materials identified as being of high quality.
- o When states/tribes are involved in development of training programs and/or materials, a detailed description of these programs and/or materials will be included in reports.
- o States/tribes are asked to identify specific programs and/or materials needed for the training of certified applicators in the state/tribe.

g. State/Tribal Specific Activities

The State/Tribal work program will address any unresolved problem areas identified in mid-year and end-of-year evaluation reports of current and past project periods.

h. State/Tribal Plan for Implementing the Revised 40 CFR 171

The proposed revised certification and training regulation, 40 CFR Part 171, was published as a notice of proposed rule making in the Federal Register on November 7, 1990. The final regulation is scheduled for publication in FY 92. States/tribes will compare their FY92 C&T requirements with the proposed Federal regulation to identify changes that will be needed to implement the regulation. Within six months after the revised 40 CFR 171 becomes final, States/Tribes will submit a plan and schedule to implement the changes in Part 171.

C. GROUND WATER PROTECTION PROGRAM – WORK PROGRAM ACTIVITIES

1. Introduction

The Regional Program Offices and the states/tribes need to work together to utilize funds effectively in developing programs. The flexibility needed to implement priority tasks such as those identified by the Comprehensive State Ground Water Protection Programs, as well as the flexibility provided in this guidance, should allow for a degree of creativity and uniqueness in designing ground water protection programs. Where States/Tribes have already completed some/all of these work goals, new or expanded work goals can be negotiated.

2. The Work Program

a. Establishing a State/Tribal Ground Water Protection Program Schedule

For FY92, the State/Tribe will develop a program schedule for accomplishing the work program activities described in this section. The state/tribe and the Regional Program Office must agree upon a work program schedule.

Work toward completion of these activities will be pursued in FY92 according to the established schedule. Completion of the work on all components may not occur in FY92, owing to the complexity of certain activities.

b. Work Program Requirements

1. Completion of the Ground Water Protection Program Implementation Plan

The state/tribe will complete the implementation plan for ground water protection. The state/tribe will submit the implementation plan to the Regional Program Office according to the established ground water protection program schedule.

The implementation plan will include the following components:

- a. An outline of how states/tribes will accomplish the provision and/or requirements of the EPA Pesticides and Ground Water Strategy pending the receipt of final guidance documents from EPA
- b. A framework for conducting ground water activities, including whether the state/tribe will opt to develop a generic state management plan or chemical-specific management plans
- c. An estimated time line for the development of either type of plan within EPA guidelines
- d. A description of preparations for communicating the strategy to users and to the public, such as identifying target audiences, establishing mechanisms for the dissemination of information, and conducting public meetings

- e. A description of plans to develop appropriate infrastructures, and/or memoranda of understanding with other State agencies
- f. A description of preliminary monitoring
- g. A description of any other preliminary activities that should be undertaken to prepare for implementing the strategy

2. Implementation

After approval of the implementation plan and schedule by the EPA Regional Program Office, the state/tribe will initiate the activities defined in the plan.

3. Development of Generic Management Plans

States/tribes opting to develop a generic state management plan in their implementation plan should begin work on the various generic components. EPA strongly encourages states/tribes to develop generic management plans and to submit them for review and preliminary approval prior to the 1992 use season. Generic plans would contain the basic components common to all management plans and could then be modified and expanded to address management of specific pesticides. A copy of the generic management plan should be submitted to the EPA Regional Office according to ground water protection program schedule.

4. Assessment and Identification of Areas Most Vulnerable to Ground Water Contamination by Pesticides

The state/tribe will begin to assess and identify the areas most vulnerable to ground water contamination by pesticides in the State or within tribal lands. This effort may require monitoring and mapping activities, and may also require coordination with other State agencies and/or the development of statutory authorities which may not currently be in place to carry out these activities. A portion of cooperative agreement funds, as agreed upon with the Regional Program Office, can be used toward these efforts, and the development should occur according to an agreed upon schedule with the Regional Program Office.

To the extent possible, the state/tribe will identify those aquifers where protection is most critical based on available criteria, which may include use, proximity to the surface, well location, population density, etc. Vulnerability may also be dependent upon climate, type of soil, extent of irrigation, range in pesticide type and application rates, point source contamination and other factors.

5. Outreach Activities

The state/tribe will conduct an outreach campaign to explain to users and to the public how the EPA ground water strategy affects them, how the strategy works, what the state/tribe is doing to respond to the strategy, and how they may be involved.

6. Development of Chemical-Specific Management Plan Components

The state/tribe will develop the chemical-specific components (for those developing generic management plans) or a chemical-specific management plan in response to designation from EPA regarding a particular pesticide. The chemical-specific management plan or components should be developed and submitted to the EPA Regional Program Office on a case-by-case basis as specified by EPA, and according to the state/tribal ground water protection program schedule.

7. State/Tribe Developed Projects

States/tribes/tribal consortia are encouraged to propose an expanded work program in cases where the state/tribe/tribal consortia has an active ground water protection program and has already addressed many of the other work program requirements. Again, the flexibility provided in the guidance allows for creativity and uniqueness in the design of ground water protection programs.

D. ENDANGERED SPECIES PROTECTION PROGRAM – WORK PROGRAM ACTIVITIES

1. Introduction

The Regional Program Offices and states/tribes need to work together to utilize funds to develop state/tribal specific programs, whether the State/Tribe

is participating in a pilot or devising its own plan/procedures. The flexibility provided in this guidance should allow for a degree of creativity and uniqueness in designing state/tribal programs.

2. Work Program Requirements

a. General

Where states have already completed some or all of the work goals described in this section, new or expanded work goals should be negotiated. All activities in the work program should be prioritized within each state/tribe based on discussions with the EPA Regional Program Office.

b. Work Programs for Base Programs

States/tribes participating in a base endangered species protection program are eligible to receive the base allocation. The base work program must outline how the state/tribe will address the following activities, to the extent of the resources available:

1. Information Response System

The state/tribe will develop a framework for an information response system which will be used to disseminate EPA-developed educational materials, such as maps, bulletins, and fact sheets, to individuals and groups affected by the program and in response to public inquiries.

Suggested components for the information response system are:

- a. A telephone information service for agricultural and home pesticide users
- b. State/tribal development and dissemination of public outreach materials where needed to deal with particular local situations
- c. State/tribal solicitation of public comment on review maps and pesticide tables

2. **Compilation/Dissemination of Information on Federally-Listed Endangered Species**

The work program will also address the following activities concerning Federally-listed endangered species:

- a. **Habitat identification**
- b. **Mapping of endangered species habitats**
- c. **Disseminating information regarding newly-identified/listed species**

This activity may include the review of habitat maps to ensure that they provide accurate descriptions of where endangered species must be protected and an on-going collection of information for map development and revision as well as information on pesticide use by county.

c. **Additional Work Program Activities**

1. **General**

A state/tribe may elect to participate in activities beyond base program activities.

Participation in these activities will require the state/tribe to obtain any necessary information on agricultural land uses in areas inhabited by endangered species and determine alternate pesticides and/or use limitations to achieve the goal of protecting species while minimizing impacts on pesticide users. These efforts should incorporate agricultural, fish and wildlife, and conservation interests.

For the activity selected, the state/tribe should outline the criteria to evaluate the program's effectiveness, the economic and environmental impacts on the recommendations, and plans or pilots they may have, including any benefits to the species. State/tribal-initiated plans or pilot programs can be evaluated after implementation.

2. Additional Activities

a. Outline of State/Tribal Endangered Species Protection Program

The state/tribe can outline its own program with specific measures for the protection of endangered species. The state/tribal outline should include a schedule for implementing the state/tribal-initiated plan and for conducting a pilot using the approved plan.

b. Participation in the Federal Program as a Pilot

The state/tribe can outline their participation in a pilot program of the Federal Endangered Species Protection Program. The outline should include the method the state/tribe will follow to implement the use of the habitat maps and bulletins in their counties to protect endangered species and track the results.

c. States/Tribes Conducting Public Review of Maps

States/tribes are strongly encouraged to obtain public comment on review maps and pesticide tables. A review would be announced (perhaps jointly by EPA and the state/tribe) and a location to obtain review materials identified. All comments would be coordinated by the state/tribe.

d. State/Tribe Developed Projects

States/tribes are encouraged to propose an expanded work program in cases where the state/tribe has an active endangered species protection program and has already addressed many of the other work program requirements. Again, the flexibility provided in the guidance allows for creativity and uniqueness in the design of endangered species protection program.

E. WORKER PROTECTION PROGRAM – WORK PROGRAM ACTIVITIES

1. Introduction

a. General

This section identifies the elements required for inclusion in the state/tribal work program in the area of worker protection.

b. Overlap with OCM Worker Protection Enforcement Program

OCM's guidance for worker protection enforcement activities is described in the Enforcement Component of the FY92 work program. The OCM guidance addresses planning for and initial implementation of a worker protection enforcement program. The inherent relationship between the program activities required in this section by OPP and the OCM-required enforcement activities results in some necessary overlap.

For example, a worker protection program requirement is the development of an Implementation Strategy, which must include several chapters as discussed in the following section. One chapter and one enforcement requirement is the development and subsequent implementation of a Compliance Monitoring Strategy. Work program requirements may involve inter-agency coordination as well as outreach and communication activities. Where there is such overlap, the applicant may decide to coordinate and jointly develop the particular activities. However, the Implementation Strategy and the Compliance Monitoring Strategy must be presented as distinct documents.

2. Work program Requirements

a. General

The applicant will develop a work program for worker protection program activities and submit the proposed work program to the EPA Regional Program Office.

The work program will include, at a minimum, these three program components:

- (1) An initial outreach/communication effort
- (2) A final implementation strategy for the worker protection program
- (3) An implementation schedule

b. Initial Outreach/Communication Effort

Within three to six months after the WPS is published in the Federal Register, the state/tribe will reproduce and distribute informational materials which will be provided by the EPA Regional Program Office. These materials will be directed at employers, employee organizations, and other interested parties. For quick distribution, the State/Tribe will have prepared a distribution list of employers and employee organizations that will receive the information, and submit it along with the approved work program submitted with the grant application.

c. Implementation Strategy

1. Submission Time table/EPA Review

The strategy should be submitted by the applicant to the EPA Regional Office within eight months after the final Worker Protection Standards (WPS) are published.

Within one month after receipt, the EPA Regional Office will provide the applicant with comments, if any. The state/tribe will address any comments within one month of their receipt and forward the revised implementation strategy to the EPA Regional Program Office.

2. Implementation Strategy Components

The Implementation Strategy explains how the state/tribe will implement the provisions of the new Worker Protection Standards (WPS) in the regulated and affected communities.

The Implementation Strategy will include, at a minimum, distinct chapters that address:

- (a) Outreach/communication
- (b) Training
- (c) Establishing cooperative relationships with other agencies, where applicable
- (d) A compliance monitoring strategy (See Note below)

The Regional Program Office and states/tribes are to work together to utilize funds to develop state specific programs. The flexibility provided in the guidance should allow for a degree of creativity and uniqueness in designing programs. Where states/tribes have already completed some or all of these three work goals, new or expanded work goals will be negotiated.

Note: The requirement of a compliance monitoring strategy is discussed further in the enforcement section of this guidance. The applicant's compliance monitoring strategy must be included as a distinct section of the implementation strategy.

a. Outreach/Communication

The major focus of the worker protection program in FY92 is outreach. The development of an outreach/communication program as part of the implementation strategy is key to the success of the program. OPP is developing outreach materials in the form of camera-ready copy and master video/slide programs that will be made available to states/tribes in a format for easy duplication and dissemination.

The applicant will present a detailed, organized method for distributing educational materials and providing information relevant to the WPS to the public and the regulated community. The state/tribal plan for disseminating such information will include provisions for duplicating materials. Outreach/communication efforts should include cooperative efforts with other state agencies, user groups, and the Cooperative Extension Service. The plan also will specify which

groups will be targeted, and the methods/activities that will be used to relay the information.

The outreach program will include briefing workshops to educate the affected public about the WPS. States/tribes may want to utilize funds to organize meetings in different parts of the state and to send participants to EPA-sponsored regional briefing meetings about the WPS.

b. Training

EPA is developing national training/ educational materials and guidance documents that will meet the requirements of the WPS. These materials will be made available to states/tribes in the form of camera-ready copy for written materials and masters for audio-visual materials. These materials are designed to promote consistent standards among state/tribal WPS programs and to avoid duplication of effort that would result if each state/tribe developed their own materials. A catalog of these materials will be forwarded to state/tribal agencies as soon as they are available. The applicant should plan for training sessions that will be held when the WPS are final. The applicant may wish to make provisions for modifying the EPA-produced training materials to include state/tribal-specific provisions. The applicant may also wish to make provisions for duplication and dissemination of the training materials.

c. Cooperative Relationships with Other Agencies

The applicant will outline the cooperative relationships established with other state agencies, or Federal agencies, where applicable, to coordinate program activities where duplication of effort or conflict may occur. Where appropriate, states and tribes will outline how they plan to coordinate activities and explain how the state/tribe will work cooperatively among the different agencies to identify areas of overlap and define inter-agency responsibilities.

d. **Compliance Monitoring Strategy**

The applicant must develop, complete and submit the compliance monitoring strategy as discussed in the enforcement section of this guidance.

3. **Implementation Schedule**

Within ten months of the publication date of the final revised WPS, at the latest, the states/tribes must begin putting their implementation strategies into effect. States/tribes should carry out the activities contained in the strategy in the order of their priority and according to schedule.

The 10-month requirement is based on this calculation:

	8 months	State/Tribe development of the implementation plan
+	1 month	Regional review and comment
+	<u>1 month</u>	State/Tribe incorporates comments
	10 months	Total.

See section E(2)(c)(1) above.

F. **SCHEDULING**

The state/tribe prepares and submits a schedule of activities and accomplishments planned for the grant period.

G. **REPORTING**

States/tribes report on pesticide program activities and accomplishments conducted under cooperative agreements.

1. **Certification and Training Program**

The reports concerning the State/Tribal program for certification and training of pesticide applicators are submitted semi-annually according to the specifications outlined in item "e" of the Certification and Training Work program section and in the protocol for certification mid-year and end-of-year evaluations.

2. Program Initiatives

Reports on activities and accomplishments in the program initiative areas of worker protection, ground water, and endangered species also are required at mid-year and end-of-year. These reports are submitted by the State/Tribe to the EPA Regional Program Office within 30 calendar days following the completion of the second and fourth Federal fiscal year quarters.

3. Report Format

Reports consist of a narrative summary of the activities and accomplishments during the reporting period. Projected accomplishments, updated schedules, and activities are reported according to the quarter in which they occurred (or will occur for the upcoming six month period). The reports describe how the state/tribe has progressed in developing the program (implementation strategies, management plans, etc.), as well as how they have put their strategies and plans into effect and what has resulted. The summary includes:

- (1) Tangible outputs completed
- (2) Possible outputs in the up-coming quarter
- (3) An updated schedule for the up-coming quarter (noting any changes made from the original accomplishments schedule)
- (4) Problems and proposed resolutions
- (5) Utilization of funds (not an accounting of where funds have been spent, but an indication of how well funding is being utilized, e.g., if the State/Tribe expects to have a surplus that could be used for additional activities, or if funding may be insufficient for planned activities)

The EPA Regional Program Office submits the mid-and end-of-year reports to the Field Operations Division (H7506C), EPA Office of Pesticide Programs.

H. ACCOUNTING RECORDS AND FILING SYSTEMS

According to 40 CFR Part 31.20, applicants 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 each of three components (enforcement, certification and pesticide program activities) of a consolidated pesticide agreement; 2) permit preparation of financial reports required by the regulations; and 3) permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

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.

I. EVALUATION PLAN

The cooperative agreement should include an evaluation plan mutually acceptable to EPA and the state/tribe. As a minimum, the plan should include a schedule for conducting the mid-year and end-of-year evaluations. Appendix VII describes program evaluations. The mid- and end-of-year evaluations of pesticide program activities are provided with the state reports to the Field Operations Division (H7506C), EPA Office of Pesticide Programs.

J. PROGRAM FUNDING

Appendix XXIV provides information on FY92 funding for the Certification Program, the Ground Water Protection Program, the Endangered Species Protection Program, and the Worker Protection Program.

IV. ENFORCEMENT ACTIVITIES FOR FY 92 WORK PROGRAM

A. INTRODUCTION

Each application for FY 92 enforcement cooperative agreement funds must include a proposed work program consisting of a description of the work to be conducted and a schedule for accomplishment of the outputs and activities. In order to be eligible for enforcement funds, applicants must be able to demonstrate a need for an enforcement program of at least one half of a work year of inspectional/ enforcement activities.

The applicant and regional office should work closely together to develop a complementary EPA/state or EPA/tribal compliance program. EPA and the applicants need to work together to effectively target compliance monitoring and enforcement efforts towards the areas which may pose the greatest risk to health and the environment. Targeting for environmental results must be an everyday part of the enforcement program in the field.

The two national enforcement priorities for FY 92 (follow-up on major pesticide regulatory actions, and planning for and conducting worker protection enforcement activities), once implemented in the field, should help yield environmental results.

In order to help focus specific compliance monitoring efforts across the country, Compliance Monitoring Strategies are developed by the Office of Compliance Monitoring as major pesticide regulatory actions are taken by EPA throughout the year. These strategies directly impact the work conducted under cooperative agreements and will be forwarded to the states/tribes by the regional offices. Additional outputs required by new or revised strategies may require the renegotiation, during the project period, of the outputs agreed upon prior to the beginning of the project period; this may include substituting newly required outputs for similar type outputs in the original agreement. Follow-up on these compliance monitoring strategies is essential if their intended purpose is to be met. EPA will place increased emphasis on follow-up to compliance strategies in FY 92 through semi-annual evaluations and more frequent follow-up after the issuance of specific enforcement strategies.

To assist pesticide enforcement grantees, a sample core enforcement work program for FY 92 is included in appendix VIII. The sample core work program outlines the activities which must be addressed as a minimum in every application. It could be used by interested pesticide enforcement grantees as a starting point for developing their FY 92 pesticide enforcement grant work programs. The EPA regional offices have also received computer discs containing this sample core work program.

B. WORK PROGRAM ACTIVITIES

As a minimum, each compliance cooperative agreement work program must address: 1) each of the eight national issue-specific compliance monitoring activities discussed below (a-h); 2) priority setting; 3) inspection and sample collection activities; 4) quality assurance; 5) formal referrals; 6) enforcement response, and case development; 7) tracking requirements; 8) reporting; 9) accounting records and filing systems; 10) evaluations; 11) unresolved problems; and 12) EPA support.

1. Issue-Specific Compliance Monitoring Activities

This section addresses the following compliance monitoring activities: a) cancellation, suspensions and other major regulatory actions; b) worker protection enforcement activities; c) enforcement activities for the pesticide removal regulations; d) enforcement activities for groundwater protection; e) enforcement activities for endangered species protection; f) Section 6(g) information submittal and pesticide recalls; g) exports; and h) certification and training.

a. Cancellations, Suspensions and Other Major Regulatory Actions

For FY 92, a national enforcement priority will be following up on cancellations and suspensions of pesticide products, and other major regulatory actions. States will conduct cancellation/suspension 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 will address: 1) major cancellation actions; 2) all suspensions under FIFRA Section 6; 3) FIFRA Section 3(c)(2)(B) suspensions; and 4) other major pesticide regulatory actions (i.e. label improvement programs, etc.)

On the quarterly reporting form (EPA form 5700-33H), the recipients must document that compliance monitoring for cancellation/suspensions was completed as a component of their comprehensive inspections. (There is a reporting block under each type of inspection on the reporting form for this purpose.) **As discussed under the "tracking" section of this guidance, recipients must track the inspections, violations found and enforcement actions taken in follow-up to cancellations and suspensions. Narrative reports will be prepared on the inspections and enforcement actions taken as specified in the applicable compliance monitoring strategies.**

6. Worker Protection Enforcement Activities

Another national enforcement priority for FY 92 will be planning for and conducting enforcement activities for the revised worker protection standards and associated labeling requirements. This will be based on publication of the final rule as described below. (Required worker protection enforcement activities are discussed in items "1" through "6" and continue through page 43.)

1. Notification to Prospective Constituents

Between the publication date of the Final Rule and effective dates for compliance, states and tribes must use the opportunity of inspections conducted under the cooperative agreement (with the exceptions noted below) to notify prospective constituents of the provisions of the final rule and to ensure compliance with current worker protection requirements. This would be in addition to any other methods for notification used by the state. (Export and dealer inspections would tend to be the only inspections which would not facilitate notification of prospective constituents.)

2. Compliance Monitoring Strategy

states and tribes must submit to their EPA regional office a Compliance Monitoring Strategy for worker protection within six months of the publication date of the final rule. This is part of the overall implementation strategy discussed in Part III. E. of the this guidance.

OCM's Pesticide Enforcement Policy Branch will issue the draft national Compliance Monitoring Strategy upon publication of the rule or shortly thereafter, giving states a chance to study it and begin developing their own. The state strategy should be consistent with the national strategy.

The state's strategy will then be reviewed and commented on by the EPA regional office within one month of receipt. (The region's review should focus on whether the state's strategy adequately follows the national strategy and whether the proposed strategy is appropriate, given the state's particular situation.) The state or tribe will then address the region's comments, if any, within one month of receipt and forward the revised strategy to the regional office.

If a state/tribe cannot submit the strategy within six months of the publication date of the final rule, the regional office and state should reach agreement on a new date for submittal. In the meantime, the state must follow the national Compliance Monitoring Strategy. The regional office shall then request, in writing, concurrence from OCM's

Grants and Evaluation Branch on the new date, explaining the reason for the delay. (Such requests are expected to be the exception rather than the rule.)

For informational purposes, the regional office shall send a copy of the state/tribe's final strategy to OCM's Grants and Evaluation Branch.

(Appendix XIV provides two outlines which the state may use for OCM's Compliance Monitoring Strategy and for OPP's Implementation Strategy.)

As a minimum, the compliance monitoring strategy must include a compliance communication strategy, a description of interagency coordination, and a targeting scheme as distinct components, as discussed below.

a) **Compliance Communication Strategy**

The applicant must develop and submit a compliance communication strategy for worker protection. This will describe the actions which the applicant will take using enforcement funds to communicate the enforceable provisions and effective dates of the worker protection rule.

(If an applicant is concerned about the distinction between the "outreach/communication" section of the Implementation plan required by OPP, and the compliance communication strategy, keep the following point in mind. The compliance communication strategy shall focus on the types of communication activities to be supported with enforcement funds. If no such activities will be supported with enforcement funds, then this section of the compliance monitoring strategy should simply state so and refer to the outreach section of the Implementation Plan. Otherwise, this section should describe the actions to be taken in FY 92 to communicate the enforceable provisions.)

The applicant must identify in the Compliance Communication Strategy the specific sectors of the regulated community that will be affected, explaining how and when the state/tribe plans to inform each sector of the requirements of the revised rules.

The applicant shall gather information available on the number and location of the pesticide users and regulated community in the state or on the reservation within the various sectors likely to be affected. (The national Compliance Monitoring Strategy will provide further guidance on where a state might find information outside of the lead agency to help identify the sectors of the regulated community that will be most affected by the new standards). The applicant should discuss with the region the extent and quality of the information gathered, based on the

information resources available. This information is necessary to give the state/tribe an objective basis from which to better target worker protection inspections. It could also help the applicant decide where to concentrate efforts to inform the affected regulated community. (The national Compliance Monitoring Strategy for Worker Protection will give further guidance on priorities for targeting.)

The applicant must inform the regulated community of its responsibility to comply with the Worker Protection Rule. Apart from inspections, the applicant will need to develop other means of communicating this information. The state/tribe might, for example, hire a communications expert to develop a media strategy, post compliance notices in pesticide dealerships or develop compliance newsletters or "compliance articles" for inclusion in appropriate journals. These and other approaches could be considered by the applicant in developing their enforcement compliance strategy. The approaches and actions to be taken to communicate the enforceable provisions of the final rule and to be supported with enforcement funds must be described in the compliance communication strategy.

b) Inter-Agency Coordination

Some agencies other than the recipient of enforcement cooperative agreement funds may have jurisdiction and responsibility for enforcing the worker protection standards for pesticides and associated labeling requirements. The recipient of the enforcement cooperative agreement funds is the lead agency for enforcement and must develop a mechanism for coordination with the other agencies involved. The lead agency must clarify in writing this mechanism and specific roles and responsibilities of each agency. The applicant may want to consider entering into a sub-grant with the other agency involved and pass through a portion of the worker protection enforcement cooperative agreement funds, as appropriate. As soon as the final revisions to the worker protection regulations are published, cooperative agreement recipients should begin discussions with other appropriate agencies.

The Inter-Agency component of the compliance monitoring strategy must include:

1. A clarification of the specific roles and responsibilities of each agency which has jurisdiction and responsibility for enforcing the worker protection standards in the state;
2. A description of the mechanism for coordinating with the other agency/agencies involved; and

3. A copy of any sub-agreement package negotiated and approved.

Development and submittal of the above only applies to applicants in situations where more than one agency has jurisdiction and responsibility for enforcing the worker protection standards. (It is important to address this topic specifically within the enforcement context since it may be the case in some states that worker protection enforcement responsibilities are shared, but program responsibilities are not shared, or vice versa.)

c) **Targeting Scheme to Ensure Compliance with the Worker Protection Rule**

The applicant must develop and submit a scheme specifically for targeting inspections to ensure compliance with the worker protection rule. Targeting will not be implemented until the effective dates for compliance have passed. The dates will be specified in the Final Rule. (OCM recognizes that if a state requires more than six months to complete their compliance monitoring strategy, it will probably be due to the development of a targeting scheme. If it is necessary to renegotiate a date for submittal, the region might want to require timely submittal of the first two components while allowing the state more time to develop a targeting scheme.)

These inspections should be comprehensive, targeted specifically for when and where activities regulated by the worker protection rule are most likely to take place. (Specific guidance on the priorities to consider in targeting worker protection inspections will be included in the national Compliance Monitoring Strategy, which applicants will use to help identify the priorities applicable within their state/tribe.)

3. **Implementation of Compliance Monitoring Strategy**

Within eight months of the publication date of the final Revised Worker Protection Standards, or before, states/tribes must begin to implement the compliance communication strategy and inter-agency coordination components of their Compliance Monitoring Strategies. (If the state/tribe does not have a compliance monitoring strategy in place eight months after the publication date of the rule, it must begin implementing the National Compliance Monitoring Strategy until the state strategy is in place.) This eight month time frame takes into account submittal of the strategy, review by EPA and the aforementioned time for making changes, if any, to the strategy.

Once the effective dates for compliance with the Final Rule have passed, the targeting scheme must be implemented.

4. Inspectional Activity

(a) Conducting Inspections

Once the compliance dates for the revised worker protection rule have passed, the state/tribe's pesticide inspection activities will need to include monitoring for compliance with the new worker protection labeling requirements. Monitoring for compliance with worker protection requirements shall be another element of comprehensive inspections.

(b) Incident and Complaint Investigations

Applicants will also conduct investigations in response to incident and complaint reports.

(c) Tracking

EPA will track Section 26 and 27 referrals; applicants will track tips and complaints not referred by EPA.

(d) Inspection Checklist

It is recommended that the applicant use the national Checklists now under development. The Checklists will include a section for monitoring compliance with Worker Protection requirements once the compliance dates are effective. The checklist may be expanded or modified to suit state/tribe requirements, as appropriate.

5. Training

Using funds received for worker protection enforcement, states/tribes should send appropriate personnel to available EPA-sponsored training sessions on the new Worker Protection Rule, provided that the state lead agency can obtain approval for employees to travel out-of-state, if necessary. The number and type of personnel to be sent should be discussed with the region. If the state or tribe needs to supplement federal training with their own training, the development of this training should be coordinated and discussed with the regions.

6. Reporting

Applicants will need to specifically report on the implementation of their compliance monitoring strategy and the other worker protection enforcement activities described in this section. Two reporting mechanisms will be used to document the state/tribe's worker protection compliance monitoring activity.

1. Evaluation Reports

The regions will document the state/tribe's worker protection compliance efforts as part of the mid-year and end-of-year evaluation reports. (As a minimum, evaluations must address the topics listed in OCM's core protocol for FY 92 mid-year and end-of-year reviews of worker protection enforcement activities. This evaluation protocol is being updated during FY 91.)

A thorough discussion and evaluation of activities will be necessary in order to provide useful information to Congress.

2. Quarterly Accomplishment Reports

The second mechanism will be through the quarterly reporting mechanism. Following the effective dates for compliance, the state's inspections performed under the cooperative agreement must include monitoring for compliance with the worker protection rule. (Export, certified applicator records and dealer inspections are not applicable in this case.) If monitoring for worker protection requirements was not included as part of every remaining type of inspection, the grantee must explain why in the narrative section of the quarterly report.

Once the compliance dates are effective, this information will be used in reporting to Congress and responding to Congressional requests for specific information on the number of inspections performed to monitor compliance with the worker protection rule and to ascertain the status of enforcement efforts and implementation of worker protection compliance strategies.

c. Planning Enforcement Activities for Residue Removal

For FY 92, states will need to plan for enforcement activities to ensure compliance with the pesticide residue removal regulations. (Implementation of these activities is expected to be a national enforcement priority for FY 93.)

Under Section 19(f) of the amended FIFRA, by December 24, 1991 (the end of the first quarter of FY 92), EPA must promulgate regulations that prescribe procedures and standards for removing pesticides from containers before disposal. Effective December 24, 1993, a state may not exercise primary enforcement responsibility under Section 26, or certify an applicator under Section 11, unless the Administrator determines that the state is carrying out an adequate enforcement program to ensure compliance with the aforementioned regulations.

In preparation for this deadline, states must plan for the state enforcement activities which will ensure compliance with these regulations. To this end, by the end of FY 92, each state must, as a minimum, submit an outline detailing specific proposed activities which will be conducted to ensure compliance with the residue removal regulations. (The national enforcement guidance to be issued with these regulations should assist the states in identifying and carrying out these enforcement activities.)

d. Enforcement Activities for Groundwater Protection

1. In FY 92, states/tribes will continue to monitor compliance with and enforce labeling as part of their routine inspections based on priorities agreed upon between the region and the state.

In targeting use inspections, states/tribes will take into account areas of high risk for groundwater contamination, along with how these areas overlap with locations of pesticide use. In their quarterly reports, states/tribes will document the number of inspections which included compliance monitoring for groundwater-related requirements or groundwater sampling.

2. As part of the enforcement activities associated with a groundwater protection implementation plan or state/tribal Management Plan, states/tribes may conduct the following activities in FY 92:

These activities relate to enforcement elements that may make up a particular state's/tribe's groundwater management plan. These activities may be part of either a generic or pesticide-specific management plan that may be funded by OCM enforcement monies.

- a. For those states/tribes that have not already done so, they must plan for, identify and describe their enforcement authorities, capabilities and activities which will be used to ensure compliance with the provisions of their ground water management plan (or groundwater protection implementation plan); they must also include a clear statement of the

roles of different agencies if more than one agency within a state/reservation will potentially be involved with enforcement activities for protection of ground water from pesticide contamination.

This identification/description must occur according to a schedule agreed upon with the regional office and the aforementioned description must be submitted to the regional office for review and approval.

- b. States/tribes will implement the aforementioned enforcement activities.
 - c. If applicable within a state, FY 92 funds may be used by states/tribes to develop any Memoranda of Understanding with other agencies to coordinate specific enforcement responsibilities and actions.
 - d. If states/tribes need to develop enforcement authorities and/or prohibitions which are more stringent than those currently in place for the protection of ground water from pesticides, then a portion of cooperative agreement funds, as agreed upon with the regional office, can be used for development of such enforcement authorities. The development should occur according to a schedule agreed upon with the regional office.
3. Several existing federal statutes currently provide enforcement authorities in cases where water supplies have been contaminated and are posing imminent and substantial risks to the health of those using the effected water system.

For example, when contamination is detected within a public water supply and exceeds a Maximum Contaminant Level (MCL), the contamination constitutes a violation of the Safe Drinking Water Act (SDWA) regulations for which the public water system is responsible. The SDWA includes emergency powers to respond to contamination, of either public water supplies or underground sources of drinking water, that present an imminent and substantial endangerment to the health of persons. Under this expanded authority, EPA may issue orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment. Under CERCLA, EPA has the authority to require corrective action by parties responsible for ground water contamination. The Agency can also recover the costs of cleaning up a site resulting from illegal disposal or leaks and spills. EPA and the states needs to take advantage of the CERCLA

enforcement authorities by closely coordinating their efforts under FIFRA and the SDWA with those of CERCLA. In general, EPA and the states should place more emphasis on coordinating FIFRA, SDWA, RCRA and CERCLA enforcement activities to identify parties responsible for ground-water contamination as a result of misuse of pesticides, including illegal disposal or leaks and spills.

When developing either the generic or pesticide-specific management plan, states/tribes should consider the enforcement authorities available under other federal/state statutes, when it comes to contamination of ground water or drinking water supplies, and coordinate enforcement activities with EPA and other state agencies, as appropriate, to make full use of other statutes where applicable.

In relation to the above, it is recommended (but not required) that the state lead agency (SLA) develop for their own use an "enforcement authorities chart" which indicates the enforcement authorities of each of the state agencies associated with enforcement for pesticide contamination of ground water or drinking water supplies. This chart would also contain the name of the state agency contact and his/her phone number. The state inspectors and managers could use this as one tool in developing the best enforcement approach with regard to preventing or follow-up to ground-water contamination.

e. Enforcement Activities for Endangered Species Protection

Please note: EPA anticipates that sometime in FY 92 the Agency will issue Pesticide Registration (PR) Notices to registrants of affected products. The Notices will require pesticide registrants to modify the labeling of products affected by the Endangered Species Protection Program. All affected products "sold or distributed" after a specified date will be required to carry a label statement directing the user of the product to comply with the limitations in the bulletin.

1. Enforcement of the use limitations to be imposed to protect listed species will be carried out under the provisions of FIFRA addressing misbranding and misuse. Products whose use requires limitations to protect listed species and which do not carry the necessary information on the product labeling, may be identified through routine inspections of manufacturing facilities and pesticide distributors and dealers or through information received regarding suspected misbranding. Products found to be misbranded (i.e., do not carry the required label language to protect listed species) may be subject to

enforcement action. In the field, pesticide misuse will be identified similarly through routine inspection and information provided regarding alleged misuse of a pesticide product. In targeting use inspections, states/tribes will take into account areas inhabited by endangered species, along with how these areas overlap with locations of pesticide use.

2. Once the final Endangered Species Protection Program is published by the Agency, the states/tribes will need to plan for and implement appropriate enforcement measures. The states/tribes will need to comply with the national Compliance Monitoring Strategy for the Endangered Species Protection Program to be issued in FY 1992.

f. Section 6(g) Information Submittal and Pesticide Recalls

Section 6(g): Under FIFRA Section 6(g), EPA may require all persons who produce, sell, distribute or commercially use a suspended or cancelled pesticide to notify EPA, state and/or local officials of the quantities in their possession and their location. Time frames for submission of the section 6(g) information will be stated in each cancellation or suspension order or in a FIFRA section 6(g) notice. Failure to submit accurate section 6(g) information, and/or failure to submit information in the required time frames, is a violation of FIFRA section 12(a)(2)(K) and is subject to civil penalties up to the statutory maximum.

As part of their routine inspections, states and tribes will help to enforce the information submittal requirements. States will consider the information they receive on quantities and locations of suspended or cancelled pesticides (received either directly from the regulated community or from the region) in targeting future inspections. Additionally, the region may refer inspections to the states, although the number that the state may be asked to perform in support of the information submittal requirements is impossible to project and may require some adjustments to other projected inspectional activities.

Note: OCM plans to track information submitted by the regulated community. OCM plans to then send a report to each regional office indicating the quantity and location of cancelled or suspended pesticides stored within the jurisdiction of that region. It has not yet been determined if the region will be required to submit this information to the affected states. How the state plans to track the information necessary to enforce the 6(g) information requirements - - whether using information provided by the region or through the state's own tracking efforts - should be clarified in the cooperative agreement.

Pesticide Recalls: EPA may also require registrants and distributors to recall pesticide products which have been both suspended and cancelled. Once these recall requirements are effective, states/tribes will need to enforce where applicable. (This applies only to pesticides suspended under section 6.) Once these requirements are effective, the states/tribes and regional offices should discuss the relative priority of the different activities being conducted under their enforcement cooperative agreement. (For both section 6(g) and section 19, OCM plans to issue either generic or chemical specific national strategies, which also address the suspension/cancellation.)

g. Exports

In order to enhance enforcement in this area, the states were requested to conduct pesticide export inspections in FY 91, the number for which was negotiated with the regions. In FY 92, the states will continue this effort by conducting a number of pesticide export inspections; the specific number will continue to be negotiated with the regions. OCM will provide specific information for targeting facilities by early FY92.

(For your background information, an explanation of the pesticide export requirements is included in appendix XV. OCM previously provided guidance on conducting and targeting facilities for export inspections. Compliance checks dealing with the export of a newly cancelled product will be included in all chemical specific cancellation strategies. In addition, since a new export policy is expected to be issued in FY 91, the states and the regions should be aware that a compliance monitoring strategy dealing with exports will follow shortly thereafter.)

h. Certification and Training

States will enforce the revised final certification and training regulations to be issued in FY 92. The new certification and training regulations will cover minimum standards for training and certifying pesticide applicators and minimum record-keeping requirements.

2. Priority-Setting

The work program should include a priority-setting plan for compliance-related activities.

New applicants need to submit a priority-setting plan with their cooperative agreement application; the plan should be based on the best available data. Applications for continuing programs need to: 1) reference their existing priority-setting plan; 2) indicate any changes in the plan and include a copy of their plan, if it has been amended or changed; and 3) list the priorities for the year being addressed.

Each priority-setting plan should include the following elements: 1) establishment of criteria for setting priorities; 2) review of information sources and listing of problem areas; 3) ranking of problem areas to be dealt with; and 4) a distribution of the available resources to the problem areas based upon the magnitude of the problem. The priority-setting process should enable a state to concentrate its training, compliance monitoring, and enforcement programs on specific pesticide manufacturing, distribution and use activities that pose the greatest risk to health and the environment. The outline for priority-setting plans, provided in appendix XIX, is recommended, not required; states may use their own outline, provided that the four basic elements listed above are addressed. Appendix XIX also includes a model priority-setting plan, based on the recommended outline.

During FY 91, a work group on priority-setting is proposing a standard method for organizing data that serves as the basis for priority-setting. A full description of this proposal will be circulated for comment. As part of FY 92 cooperative agreement activities, states and tribes may be asked to begin planning and implementing a mechanism to collect and track this violation information. The costs for gathering and submitting this information may be negotiable under the cooperative agreement.

3. Inspection and Sample Collection Activities

Applicants will project and conduct inspections and sample collection activities. Once the applicant has determined its priorities (taking into account the national enforcement priorities), the state/tribe shall describe its proposal for carrying out a balanced program that addresses these priorities during the agreement period. The outputs, which the applicant proposes to accomplish during the agreement period, must be aimed at solving and dealing with the pesticide problems identified by the priority-setting process.

With regard to sample-related projections, prior to negotiations with EPA, the state lead agency shall consult with their colleagues in the state laboratory which will be conducting sample analyses under the cooperative agreement. This should help facilitate input from the state laboratories into the cooperative agreement program, in a coordinated manner within the state. Where appropriate, the state lead agency (SLA) is encouraged to invite their state laboratory representative to the negotiation session with EPA.

Categories of Inspections: Inspections must be conducted in accordance with the procedures set forth in the updated Pesticides Inspectors Manual (or comparable state procedures). The categories of inspections and investigations to be conducted include:

- o agricultural use;
- o non-agricultural use;
- o experimental use;
- o producer establishments;
- o marketplace;
- o imports;
- o exports;
- o certified applicator records;
- o restricted use pesticide dealer.

Federal facility inspections would be sub-sets of these.

Federal Facility Inspections: With regard to federal facility inspections, as stated in the EPA Federal Facility Compliance Strategy, November 1988, "... with the exception of very limited presidential exemptions ... federal agencies must generally comply with all provisions of federal environmental statutes and regulations as well as all applicable state requirements...". The state/tribe and region should agree on a plan to ensure adequate inspection coverage of federal facilities in each state. In most cases the regional office will negotiate a commitment for the recipient to conduct an agreed upon number of federal facility inspections. These inspections should be sub-sets of the categories of inspections routinely conducted and outlined above.

Comprehensive Inspections: It is expected that the states/tribes will conduct comprehensive inspections, addressing every element of each type of inspection. As part of comprehensive inspections, we want to highlight the importance of specifically checking for cancellations/suspensions, child resistant packaging and any labeling or other requirements affecting groundwater, endangered species and worker protection, once the compliance dates are effective.

Strategies: States/tribes need to follow requirements related to inspections which are included in national Compliance Monitoring Strategies.

In FY 92 EPA will be placing increased emphasis on follow-up of compliance monitoring strategies through semi-annual evaluations and more frequent/detailed follow-up after the issuance of specific compliance monitoring strategies. State/tribes should continue to prepare narrative reports on the inspections and enforcement actions taken as specified in the applicable compliance monitoring strategies.

EPA Form 5700-33H: EPA Form 5700-33H must be completed and include projections for the categories of inspections listed on the form. (Detailed instructions for completing the form are in appendix XVIII.)

Inspection Time frames: Appendix II on "Application Review Procedures" contains the time frames for inspection and sample collections/analyses to be used in evaluating pesticide enforcement cooperative agreement applications. During the application negotiation the grantee will commit to inspectional, sampling, and analytical time-frames agreed upon. (They are the same as those included in the FY 91 guidance. During FY 92, the time frames will be reviewed to determine how they need to be changed, if at all, to address disposal-related compliance monitoring efforts.)

Documentation of Inspections: Inspections must be conducted in accordance with the procedures set forth in the updated EPA Pesticides Inspection Manual (or comparable state procedures).

Among other things, it is critical to ensure proper documentation of inspections (affidavits, maps, photos, etc.). This has been recently identified as an area of concern in several states. States need to ensure that proper documentation is completed for each inspection.

Inspection Reports: Copies of all inspectional reports shall be retained by the state/tribe for a reasonable period of time, but at least until any associated enforcement cases are resolved and closed, or until the close-out of a grant cycle. These reports must be available for examination by EPA or be forwarded to the EPA regional office. EPA Headquarters recommends that inspectional reports be retained for a minimum of three years.

Applicants with partial or no enforcement capability must develop procedures for forwarding inspection reports to EPA for enforcement determination and action. These procedures must be submitted for review with the cooperative agreement application and must be approved.

4. Lawn Care Activities

A March 1990 GAO report entitled, "Lawn Care Pesticides: Risks Remain Uncertain While Prohibited Safety Claims Continue", recommended that EPA pursue an enforcement strategy for monitoring lawn care pesticide industry compliance with misbranding and "claims differ" provisions of FIFRA section 12(a)(1)(B) and (E).

The Environmental Protection Agency has determined that labeling claims like "environment friendly", "environment conscious", "chemicals EPA approved", "environmentally sound", or the unsupported statement of "biodegradable" constitute misbranding. These claims are prohibited because they are safety claims, or non-

numerical comparative statements. The Agency believes these terms are relative, not definite, and therefore could be misleading to the product user. A claim for a product which is substantially different from claims made for the product at the time of registration constitute a 12 (a)(1)(B) violation or labeling which meets the definition of false or misleading under 40 CFR, Part 156.10 (a)(5) constitutes a 12 (a)(1)(E) violation.

Collection and analysis of data is needed in FY 92, as well as follow-up on any identified problems, to determine whether a long-term lawn care enforcement strategy is appropriate. As part of the one-year FY 92 enforcement strategy, each state pesticide enforcement grantee will:

- 1) Review all possible literature from lawn care pesticide registrants, manufacturers, distributors and professional applicators, and pesticide advertisements in magazines, newspapers, and telephone yellow pages to identify potential violations of FIFRA section 12(a)(1)(B) and (E). In the course of doing so, potential violations of state advertising regulations and/or the Federal Trade Commission (FTC) Act may be identified as well;
- 2) Maintain a log of the names, issues and/or dates of literature or any periodicals reviewed. (This is to be provided to Congress at the end of FY 92 to demonstrate the scope of the review.);
- 3) Identify potential violations of section 12 (a)(1)(B) and (E). Document enforcement actions or referrals as follows:
 - A. Enforcement taken under section 12 (a)(1)(B) or (E) (Product Violations)
 - B. Enforcement taken under state law
 - C. Referral to FTC region (Service Violations)
 - D. Referral to other state agency
- 4) Refer to the FTC Regional offices, or appropriate state agencies, prohibited safety claims made by professional pesticide applicators or any identified violations of the FTC Act. A Brief background information is included in appendix XXII. Additional information will also be included in the compliance monitoring guidance to be issued by OCM.
- 5) Within the category of non-agricultural use inspections, negotiate and

incorporate into regularly scheduled inspections, a specific number of lawn care use inspections, e.g. professional and private applicators, golf courses and turf farms. The number of lawn care inspections should be no less than ten (10) in a state and be written into the cooperative agreement.

- 6) During the mid-year FY 92 evaluations, the states will submit the documentation to date on review of periodicals. Included will be the number of inspections focussing on lawn care as of the end of the second quarter, any enforcement actions taken under FIFRA or state laws, and any referrals to FTC/state agency as of that date. The data for the third and fourth quarters of FY 92 will be submitted with the fourth quarter report on inspections. To facilitate consistency in documentation, the states should create a format similar to appendix XXIII documenting the results of their activities. The appendix contains the acceptable minimum requirements for a log.

To facilitate these use inspections and the aforementioned review of advertising and periodicals, separate FY 92 compliance monitoring guidance will be sent to the States, through the Regions, during FY91. The results of the FY 92 initiative will be analyzed and distributed during the second quarter of FY 93.

Producer Establishment Inspections: An agreed upon number of routine producer establishment inspections should be negotiated with the region so that all producer establishments in any given state are inspected over a specified time-frame on a routine basis.

5. Quality Assurance

Applicants are responsible for analytical activities under their compliance cooperative agreements and therefore must establish and implement Quality Assurance Practices as described below. Analytical procedures conducted for enforcement purposes under conditions specified by the cooperative agreement are not subject to Good Laboratory Practices (GLPs). Laboratories performing analytical services under this cooperative agreement must follow practices and methodologies as agreed upon in their approved QA Project Plan.

All cooperative agreements involving environmentally related measurements or data generation are required by the EPA Grant regulations (40 CFR Part 31.45) to develop and implement quality assurance practices consisting of policies, procedures, specifications,

standards and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out of control conditions or malfunctions.

a. Quality Assurance Project Plan

For FIFRA Enforcement Cooperative Agreements, a Quality Assurance Plan is required for sampling/analytical activities conducted under the agreement. Sampling activities are not allowed until an EPA-approved Quality Assurance Plan is in place. The EPA Quality Assurance Management Staff (QAMS) recommends that Quality Assurance (QA) Project Plans, rather than QA Program Plans, be developed for FIFRA Enforcement Cooperative Agreements.

QAMS has issued a document titled, "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans" (QAMS - 005/80, December 29, 1980) to assist applicants in complying with the quality assurance requirements. In addition, to assist applicants, NEIC has developed a model quality assurance project plan for pesticides sampling and analytical activities. The states/tribes may use this model or develop their own. (See appendix XVI.)

Each region has an individual assigned as the Quality Assurance Officer and that person will be available to assist the state/tribe in development of a quality assurance program. Copies of the documents referenced above will be obtained from the regional Quality Assurance Officer, who is responsible for approval of the Quality Assurance Plan.

For continuing cooperative agreements, applicants conducting sampling/analytical activities under the agreement must have in place a current approved QA Project Plan. If a Quality Assurance Project Plan submitted in previous years continues to reflect the sampling and analytical activities proposed for the current year, reference to the approved plan on file in the EPA regional office will suffice. Any significant changes in content (including signatories), however, requires submittal of updated pages, or the entire plan as appropriate, with their cooperative agreement application. For FY 91 every recipient which did not update their QA plan in FY 90 was required to review and update their plan (as appropriate) and resubmit it to the regional QA officer for approval by the end of FY 91. Therefore, we would expect, in the majority of cases, submittal of updated pages or the entire updated plan during the first month of FY 92.

New applicants, including both states and tribes, which will conduct sampling/analytical activities under their FY 92 enforcement cooperative agreement must submit their Quality Assurance Project Plans for approval and implement these plans prior to conducting sampling activities under the agreement. EPA Headquarters recommends

that this be done within three months of the start of the project period if not before the start. Sampling activities are not allowed until an EPA-approved Quality Assurance Plan is in place. The schedule for submittal of the QA Plan must be included in the FY 92 cooperative agreement as agreed upon between the applicant and EPA.

b. Analytical Methods

Pesticide formulation samples collected for determination of product compliance will be analyzed by the applicant's laboratory, or other laboratory specified in the agreement, using the EPA Manual of Chemical Methods for Pesticides and Devices, Association of Official Analytical Chemists (AOAC) analytical manual (14th Ed.), the Collaborative International Pesticide Analytical Council Manual (CIPAC), or other standard analytical methods. All potentially volatile samples will be verified by procedures spelled out in the NEIC Pesticide Products Procedures Manual or as otherwise specified in the Quality Assurance Project Plan.

Pesticide residue samples in support of misuse investigations will also be analyzed by the applicant's designated laboratory, using available FDA, EPA, USGS or other accepted methods available in the scientific literature or by the pesticide industry. All reported results will be accompanied by appropriate quality control parameters so as to allow evaluation of precision, accuracy, freedom from interferences and confirmation of pesticide (or metabolite) identity.

c. Cross Contamination Screening

Applicants conducting sampling activities will establish and utilize a cross contamination screening program for pesticide formulations in accordance with the EPA Cross Contamination Guidelines. (See appendix XVII.)

d. Check Sample Program

Each applicant conducting sampling activities will participate in the EPA's national Enforcement Investigations Center (NEIC) Check Sample Program. Under this program, EPA submits pesticide formulations and residue samples to applicants' laboratories for analysis and Cross contamination screening, as appropriate.

The applicant must submit a report indicating the methodology used and the results of the analysis to EPA. EPA will review the report and inform the state/tribe regarding the accuracy of their analysis and the methodology selected. If a state/tribe fails to obtain the correct results, EPA will assess the problem, provide assistance to the applicant's laboratory as appropriate and/or conduct other follow-up activities. This program will also

help assess whether the states/tribes are screening pesticide formulations for cross contamination, since some check samples may be contaminated with another pesticide. NEIC currently notifies each laboratory and regional office of the check sample results. The regional offices will provide a copy of these results to each state lead agency or tribal agency/Chairman in their region which utilizes that particular laboratory for sample analysis.

e. Back up Analysis Procedure

The applicant can request back-up analyses from NEIC or other NEIC recommended laboratories, if necessary or requested by the region. Examples where backup analysis may be requested are:

- o A state/tribe, which is unsure of the results of an analysis, requests an impartial or second analysis before initiating an enforcement action;
- o A state/tribe requests that EPA take the enforcement action and EPA desires to check the state's/tribe's analysis.
- o A reference analysis is required due to conflicting results between the state/tribe and the regulated party.

f. Training of Analytical Chemists

EPA will provide training of state inspectors and analytical chemist, as necessary. Using cooperative agreement or other funds, the states should avail themselves of EPA workshops, seminars and meetings on proper sampling, analytical procedures, instrumentation, methodology and quality assurance. The regions will work closely with the states to assist in identifying needed training opportunities and help in coordinating participation.

g. Laboratory Reviews

Personnel from EPA will also be available, if requested by the state or EPA regional office, to review state laboratory analytical capability and procedures, and to discuss areas needing improvement. Requests for these visits, which will usually be made by representatives from NEIC or the regional Quality Assurance Section, may be initiated by the state or the EPA regional office; they will be arranged by the regional office. A formal report of findings and recommendations will be prepared by EPA for the state upon completion of the on-site visit.

h. Provisions of Analysis Results

The applicant will send a copy of the results of any sample analysis made under the authority of FIFRA to that person from whom the sample was collected. This is a statutory requirement under section 9(a) of FIFRA.

i. Submission/Retention of Reports

Copies of all analytical reports, associated raw data and other necessary records for samples collected will be retained by the state/tribe and be available for examination by EPA, or be forwarded to the EPA Regional Program Office.

The analytical reports must be retained by the applicant or the EPA Regional Program Office until the associated enforcement cases are resolved and closed out. It is recommended that analytical reports be retained for a minimum of five years.

6. Formal Referrals

States/tribes will conduct activities under FIFRA Section 26 and 27. Section 27(a) of FIFRA requires EPA to refer to the states/tribes any information the Agency receives indicating a significant violation of pesticide use laws. In accordance with the Final Interpretive Rule governing FIFRA Section 26 and 27 and the 1985 policy memoranda from A.E. Conroy II, EPA in consultation with each state/tribe will identify, in writing, priority areas for formal referral to the state. These priority areas will consist of those pesticide activities in the state/tribes which present the greatest potential for harm to health and the environment. The priority areas will be revised annually, based upon the effectiveness of the programs in reducing the harm associated with pesticide use in the state/tribe. The negotiated written agreement between the state/tribes and the region will contain the criteria for the selection of significant pesticide use cases. Pesticide use cases involving worker protection, groundwater and endangered species will be among those considered significant within the context of the agreed upon criteria for significant pesticide use cases.

All pesticide use cases, identified as significant, will be referred to the state/tribe by EPA in writing, and will be formally tracked as set forth in the Final Interpretive Rule. All other cases will be referred to the state/tribe for information purposes and will not be formally tracked.

The EPA regional offices will formally track all significant pesticide use cases, which are formally referred to the states/tribes under the Final Interpretive Rule governing FIFRA Sections 26 and 27. The state/tribe must commence appropriate enforcement

action for cases, so tracked, within 30 days after completion of the investigation. This period may be extended, after negotiation, if required by the procedural characteristics of the state/tribe regulatory structure or the complexity of the case.

If the state/tribe has not reported on the investigative status within 30 days of the date of referral, EPA will contact the state/tribe to learn the results of the investigation and the intended enforcement response to any violations detected. An investigation should be considered adequate if the state/tribe has: (1) followed proper sampling and other evidence gathering techniques; (2) responded expeditiously to the referral; and (3) documented all inculpatory or exculpatory events or information.

If the region determines that the intended enforcement response to the violation is inappropriate, EPA will first attempt to negotiate an appropriate state/tribe enforcement response. If the state/tribe is unwilling or unable to alter its original enforcement response, EPA may bring its own enforcement action after notice to the state/tribe. That notice will summarize the facts relating to the state/tribe's enforcement response, discuss reasons for EPA's determination that the enforcement action is inadequate and state that EPA will initiate its own enforcement action. The region will not initiate an enforcement action sooner than thirty (30) days after the state/tribe was notified.

7. Enforcement Response and Case Development

Applicants without state pesticide laws or tribal pesticide codes and associated regulations must conduct inspections under federal authority. State pesticide laws and tribal pesticide codes empower the state/tribe to conduct both pesticide inspections and enforcement activities as authorized by their laws or codes.

It is understood that most states have pesticide laws and regulations in place. However, many states do not have civil penalty authority. Such states are encouraged to take the necessary steps to develop a civil penalty program and set a goal for completion of the law/regulations. Enforcement grant funds can be used toward this effort based on discussions with the regional offices. It is also understood that most tribes have not, to date, developed tribal laws or codes including civil penalty authority. Tribes are encouraged to initiate this activity and set a schedule for completion of the law/code and initiation of implementation.

Work programs must address each of the following items (a-c) in this section.

a. **Enforcement Response Policy**

Each applicant conducting enforcement activities under the FY 92 grant must have an up-to-date Enforcement Response Policy (ERP) in place before the regional office approves funding for a cooperative pesticides enforcement agreement. The timing of this guidance document should provide sufficient lead time to affected applicants so that they can update their ERPs, if necessary, prior to their submittal of the FY 92 enforcement cooperative agreement application.

In their applications, states/tribes must agree to follow their ERPs. The regions and applicants should closely monitor the implementation of each state's/tribe's Enforcement Response Policy to determine its effectiveness and appropriateness. (If the SLA does not follow the ERP, then this problem must be addressed during the semi-annual evaluations.) A properly prepared Enforcement Response Policy (ERP) will provide the applicant with a mechanism to evaluate the gravity of each violation encountered, and to respond in a predictable, uniform, and timely manner with an appropriate enforcement action.

A copy of the up-to-date ERP must be submitted along with the application, to OCM's Grants and Evaluation Branch in order to develop a national repository of state ERPs.

As a minimum, each state's Enforcement Response Policy should include the following:

- o List of violations likely to be encountered;
- o Mechanism for determining level of gravity for each type of violation;
- o List of enforcement remedies available for each type and level of violation (include both state/tribal and federal action);
- o Escalation of penalties for second and subsequent violations;
- o Consideration of potential pollution prevention enforcement penalties and/or in settlement of enforcement cases; and
- o Timetable which the state/tribe will follow to insure the timely investigation of complaints and the timely issuance of enforcement actions when violations are detected.

In determining enforcement penalties and/or in negotiating settlement agreements, applicants are encouraged to consider potential pollution prevention activities which a violator could undertake in exchange for an appropriate reduction in the enforcement penalty. States are also encouraged to consider the inclusion of single or cross-media pollution prevention conditions, as either the means of correcting the violation or as additional conditions incidental to injunctive relief. Such conditions are appropriate when they discourage recurring or future violations, have no negative cross-media impacts, and are technologically and economically feasible.

b. Case Development

As part of their work programs, applicants with enforcement capability are responsible for preparing cases and taking appropriate enforcement actions.

Applicants with partial or no enforcement capability must develop procedures for forwarding inspection reports to EPA for enforcement determination and action. These procedures must be submitted with the Cooperative agreement application for review and approval.

Once an applicant chooses to develop a pesticide law or code, standardized case preparation and enforcement procedures should be developed concurrently with the law or code. These procedures must be developed according to a time line mutually agreed upon between the applicant and EPA, and cited in the cooperative agreement prior to approval of the agreement.

The review of all inspection reports for the detection of possible violations and the initiation of appropriate enforcement action, is an important part of every comprehensive pesticide enforcement program. Applicants with enforcement capability will review the quality and adequacy of evidence gathered during the course of all investigatory activities performed under the cooperative agreement. Each cooperative agreement should include sufficient resources, for this activity, to ensure an adequate level of case development and enforcement. Violations of the applicant's and federal laws are discussed below.

1. Violations of Applicant's Law Only

The state/tribe must review the quality and sufficiency of evidence gathered in the course of all investigative activities performed under the cooperative agreement. If the evidence reveals a violation of only the state's/tribe's pesticide laws/codes, the state/tribe shall pursue an appropriate remedy provided by state/tribal Law.

2. Violations of Federal Law Only

Where evidence reveals a possible violation of federal law only, the state/tribe shall forward the information to the EPA Regional Program Office within 30 days after completion of the investigation. All cases forwarded to EPA shall include all evidence, inspection reports and/or forms, a brief narrative of the case, and a recommended enforcement response. The regional offices should have established time frames for processing state referrals and a tracking system for referrals to the states. Regions are encouraged to provide status reports to states/tribes on cases referred.

The state/tribe will prepare and make available to EPA, when requested, testimony and other evidence pursuant to the procedures adopted by EPA. The state/tribe will provide witnesses for informal settlement conferences, public hearings, and appearances in a court of law, as the EPA requests.

3. Violations of Both the Applicant's and Federal Law

If evidence reveals a violation of both state/tribal and federal law, the state/tribe may bring appropriate enforcement action under state/tribal law or refer the case to EPA for action under FIFRA. In the event that a case is referred to EPA for action, the EPA case preparation officer should review the case file to ensure that state/tribal inspection procedures adhere to basic constitutional guarantees and EPA should proceed with the case.

For all pesticide cases, for which the state/tribe determines that the most appropriate enforcement action is not available under state/tribal law, the state/tribe may refer such cases to EPA for enforcement action under FIFRA.

c. Cross Jurisdictional Situations

For a successful cooperative pesticide enforcement program, there should be cooperation between the tribe(s) and the state(s) in which a tribe is located. Because many of the distributors and applicators of pesticides on tribal lands are not located on the reservation, it is important that tribe(s) and state(s) involved be agreeable to developing procedures for cooperative enforcement of problems involving cross-jurisdictional situations. As a goal, EPA Headquarters recommends establishment of such procedures. EPA regional Project Officers can facilitate coordination between tribal representatives and state representatives of the state in which the tribe is located by negotiating time lines, where appropriate, to be included in both the tribe's and the state's work programs.

8. Tracking Requirements

The applicant will establish and utilize a management system for tracking all inspections, violations found, and enforcement actions initiated. The tracking system should, at a minimum, include the following elements:

- Date of inspection
- Reason for inspection (routine, complaint)
- Name of person or firm inspected
- Violation found
- Summary of past compliance history (or reference to an appropriate case file number)
- Enforcement action taken
- Date of enforcement actions
- Disposition of action

The tracking system must constitute a system for allowing the rapid identification of the status of a case and an information resource for informing citizens of the ultimate disposition of their complaints.

Maintenance of the tracking documents and associated files and the length of time that such files will be maintained must be addressed in the cooperative agreement work program.

New applicants must submit a description of the tracking system with their cooperative agreement application and the system must be evident within three months of the start of the project period.

Under the aforementioned or a separate tracking system, states/tribes will document and track the inspections, violations found and enforcement actions taken in follow-up to cancellations and suspensions of pesticides. Reports will be prepared on the inspections and enforcement actions taken after the suspensions and cancellations as specified in the applicable compliance monitoring strategies.

9. Reporting

Applicants need to use EPA Form 5700-33H (in appendix XVIII) for reporting inspection and sample collection accomplishments under the FIFRA Enforcement Cooperative Agreement. A narrative report may need to accompany the revised reporting

form to discuss any pertinent state/tribal enforcement activities not addressed on the form, any program highlights and/or any program problem areas.

Completed compliance monitoring reporting forms are required quarterly. These reports showing inspectional activities and enforcement actions accomplished will be submitted by the state/tribe to the EPA regional office within 30 calendar days following the completion of each federal fiscal year quarter. Quarterly reports are due by January 30, April 30, July 30 and October 30 of each year. States with fiscal years that do not begin on October 1, should still report accomplishments as of these dates.

Reports will be prepared on inspections and enforcement actions taken after "major pesticide regulatory actions" as specified in the applicable compliance monitoring strategy.

The regional offices' requirements for reporting cooperative agreement projections and accomplishments to Headquarters are discussed at the end of appendix XVIII.

10. Accounting Records and Filing Systems

Applicants must maintain accounting records for funds awarded for each component under each agreement (including receipts, state/tribal 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.

11. Evaluation Plan

The cooperative agreement should include an evaluation plan mutually acceptable to EPA and the state/tribe. As a minimum, the plan should include a schedule for conducting timely mid-year and end-of-year on-site evaluations. During, or in follow-up to, evaluations the states and tribe should be prepared to discuss strengths and problems in the program, negotiate a corrective action plan as necessary, and discuss specific recommendations for follow-up activities. Appendix IV will describe program evaluations. (The national evaluation protocol is being updated to reflect changes in the grant guidance, increased emphasis on follow-up to compliance monitoring strategies, findings from recent audits of the enforcement grant program, and pertinent findings from the national Qualitative Review of the FY 89 state Pesticide Enforcement Cooperative

Agreement Program, It will be circulated to the EPA regions for comment prior to being finalized.)

12. Unresolved Problems

The cooperative agreement work program must address any unresolved problem areas identified in the most recent end-of-year evaluation and the mid-year evaluations for the current project period and indicate how the state/tribe and/or EPA will address the problem(s). The plan for addressing the problem(s) must include a schedule/time frame for implementing the plan.

13. EPA Support to States/Tribes

The cooperative agreement should describe the types of support (inspector training, NEIC laboratory analysis training, technical assistance, contractor assistance, expert witnesses for state enforcement proceedings, etc.) that the applicant expects EPA to provide and is or will be available to assist the state/tribe in meeting its commitments.

The cooperative agreement should describe any negotiated agreement between the state/tribe and EPA for the handling of referrals and requests for information from the state/tribe. The agreement should include any time frames that are mutually agreeable to the state/tribe and EPA.

V. ALLOTMENT OF COOPERATIVE AGREEMENT FUNDS

This section addresses how specific funding allotments were determined for the components of the cooperative agreement program dealing with enforcement, certification, worker protection program activities, ground water program activities and endangered species program activities. A summary of funding allotments for all components is provided on the chart at the end of this section.

The Pesticides Program annual budget submission to Congress requests an overall program appropriation for pesticides enforcement cooperative agreements. Applicants are to use the initial allotments as a basis for developing, with their respective regional offices, work programs that meet both the applicant's and the Agency's needs.

OCM expects to receive \$15,803,400 for funding the cooperative enforcement program. This is the same funding level as that received in FY 91.

If the budget is not approved by Congress, the proposed allotments will be readjusted. The majority of the Agency's appropriation is allotted to the regions and

cooperative agreement applicants through a base and formula funding system described in sections "a" and "b" below.

Sections "a" and "b" which follow address the enforcement cooperative agreement budget minus the following: a) \$500,000 in funds for possible continuance of a Pesticide Officials Pilot Program, location as yet undetermined; b) \$1,000,000 for worker protection, groundwater and endangered species enforcement-related activities; c) the \$2,000,000 budget for worker protection enforcement-related activities; d) \$500,000 for addressing some of the state laboratory-related needs, in consultation with the U.S. Department of Agriculture, which has related activities underway in the area of food safety. The funds specifically set aside for laboratory-related needs will be discussed in separate correspondence to the regions and states, who will be asked to work with EPA in continuing this effort; and e) approximately \$300,000 in funds set aside in case government-wide budget reductions are necessary in FY 92; rather than ask for the return of funds in the event such government-wide reductions occur, it seemed prudent instead to set aside some funds up front to cover potential reductions. If such reductions are not mandated in FY 92, the funds set aside will be redistributed to the states.

The \$2 million budget for worker protection enforcement is addressed separately under section 2, and the \$1 million budget for groundwater, endangered species and worker protection enforcement related activities is discussed under section 4.

A. Base Funding

A base funding level is established for each state, territory and Indian tribe expected to participate in the cooperative agreement program. For FY 92, the following base funding levels have been established: \$107,100 for each participating state, the District of Columbia and Puerto Rico (51 entities); \$56,700 for the Virgin Islands; \$42,600 for Guam; \$28,500 for American Samoa; \$28,500 for the Commonwealth of the Northern Mariana Islands (CNMI); \$22,300 for the Trust territories of the Pacific Islands; \$140,500 for five Indian tribes in Region VIII; \$280,000 for the Inter-tribal Council of Arizona and the nine Indian tribes under ITCA which receive enforcement funds; \$81,500 for the Navajos; and \$30,000 for the Shoshone-Bannock Indian tribe in Region X.

Please note that the funding levels listed above for the Virgin Islands, Guam, American Samoa, CNMI, the Trust Territories and Indian tribes are derived from both the core enforcement and worker protection enforcement budgets.

The FY 92 enforcement base funding level will continue at \$107,100 per state. We will continue to provide a \$20,000 base for worker protection enforcement activities (with funds from the worker protection enforcement budget, discussed in section 2).

For FY 92, the guideline used in determining the base funding level for an enforcement cooperative agreement with a tribe is \$30,000. Budgets must be submitted and approved for all enforcement cooperative agreement programs. Tribal programs requiring less than the \$30,000 guideline will receive funding based on approved budget submittal. Any tribal program requesting more than the base funding level for FY 92 must submit a detailed budget to EPA clearly justifying the need for the proposed funding level, this budget must be approved by the EPA regional office and OCM's Grants and Evaluation Branch. Funds have been set-aside for new tribal grantees which may apply for enforcement cooperative agreements in FY 92. These funds will be redistributed if applications are not received.

The total base funding for the basic enforcement program is \$6,030,100.

1. Formula Funding

Total formula funding available is determined by subtracting the total base amounts from the total appropriation. The total amount of funds available for distribution by formula in FY 92 is \$5,551,500. The formula funds for the enforcement base program will be divided among 49 states, the District of Columbia and Puerto Rico using the following factors and weights:

January 7, 1991, Estimates of Population, U.S. Department of Census, December 30, 1990. 20%

Number of Pesticide Producing Establishments Per state - FIFRA and TSCA Enforcement System printout, March 4, 1991, OCM (Numbers do not include custom blenders.) 20%

Number of Certified Private Applicators per state holding a valid certification on March 6, 1991, OPP 10%

Number of Certified Commercial Applicators per state holding a valid certification on March 6, 1991, OPP. (Total number of individuals certified.)	20%
Estimated number of Farms Per state- Agricultural Statistics Board, national Agricultural Statistics Service, USDA Farm Numbers, August 1989	20%
Estimated Farm Acreage Per state- Agricultural Statistics Board, national Agricultural Statistics Service, USDA Farm Numbers, August 1989	10%

2. Allotment Schedule

Allotments for regions and states are obtained by combining the appropriate base and formula funding levels for each state. The FY 92 Allotment Schedule for the pesticide enforcement component is summarized on the chart at the end of this section. More detailed information can be found in appendix XX.

B. Worker Protection Enforcement

The Office of Compliance Monitoring expects to receive \$2,000,000 in FY 92 compliance cooperative agreement funds to help support worker protection enforcement activities in FY 92. Individual funding allotments for worker protection enforcement activities were determined as described below.

1. Base Funding

A base funding level is established for each participating state for worker protection enforcement activities conducted under enforcement grants. (Territories and Indian tribes will receive funds for worker protection enforcement as previously discussed.) For FY 92, the base funding level is \$20,000 for each participating state.

2. Formula Funding

Total formula funding available for worker protection is determined by subtracting the total base amounts from the total funding amount dedicated towards worker protection enforcement. The total amount of funds available for distribution by formula in FY 92 is \$579,600.

Formula funds for the worker protection enforcement program will be divided among the 50 states in the program, the District of Columbia and Puerto Rico using the factors and weights described below. These factors were selected based on the best available and appropriate data.

Estimated number of Farm Laborers Per state - Bureau of the Census, U.S. Dept. of Commerce, 1982 Census of Agriculture. (Most recent data compiled state by state.)	25%
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Estimated number of Farms Per state - Agricultural Statistics Board, national Agricultural Statistics Service, USDA Farm Numbers, August 1989.	25%
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Estimated number of nursery and greenhouse sites Per state - Bureau of the Census, U.S./ Dept. of Commerce, 1982 Census of Agriculture. (Most recent data compiled state by state.)	25%
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Number of Certified Private Applicators per state holding a valid certification on March 6, 1991, OPP.	10%
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Number of Certified Commercial Applicators per state holding a valid certification on March 6, 1991, OPP. (Total number of individuals certified.)	15%
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3. Allotment Schedule

Allotments for regions and states are obtained by combining the appropriate base and formula funding levels for each state. The FY 92 Allotment

Schedule for the worker protection enforcement component is provided at the end of this section.

C. Adjustments to Initial Allotments

Regions should not award funds based solely on a state's/tribe's initial allotment, but rather based on the negotiated need of the applicant. The region will base final state/tribal funding decisions for applications on the initial allotment, the demonstrated pesticide enforcement program needs of the applicant, and the exceptional nature of a program.

The Regional Administrator may modify any allotment for an applicant, as necessary, as long as total funding for all states/tribes does not exceed the regional allotment. 40 CFR Part 35.155(a) states that the Administrator or the Regional Administrator may use funds not awarded or committed to an applicant for supplementing awards to other applicants within the same program.

OCM will contact the regions at mid-year to determine the status of available grant funds. An evaluation of the information obtained in this survey will be made by OCM. A reallocation of funds between regions will be made if it is determined that some regions do not need their entire initial allotment while states in other regions demonstrate a need for additional funding.

D. Regional Allotments for State Worker Protection, Groundwater and/or Endangered Species Enforcement-Related Activities

One million dollars is included in the President's FY 92 budget for state worker protection, groundwater, and endangered species enforcement-related activities.

These funds are allocated to the regions based on the formula for distribution of the program grants for the aforementioned initiatives. The formula allocation is outlined in appendix XXI.

The resulting distribution per region is as follows:

Region I:	\$73,900	Region VI:	\$96,400
II:	\$52,900	VII:	\$93,800
III:	\$87,600	VIII:	\$90,700
IV:	\$201,300	IX:	\$95,600
V:	\$149,000	X:	\$58,800

The regions will have discretion in allocating these funds to the states for enforcement-related activities addressing worker protection, groundwater and/or endangered species.

Given the above, we will not initiate an FY 92 process for national enforcement special projects.

VI. SUMMARY OF FY 92 COOPERATIVE AGREEMENT ALLOTMENTS

SUMMARY OF FY 1985 COOPERATIVE AGREEMENT ALLOTMENTS

EPA Region/ State	ENFORCEMENT ACTIVITIES		CERTIFICATION ACTIVITIES		PESTICIDE PROGRAM ACTIVITIES				
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
	ENFORCEMENT	WORKER PROTECTION ENFORCEMENT	SUBTOTAL FOR ENFORCEMENT	CERTIFICATION PROGRAM	WORKER PROTECTION PROGRAM	GROUNDWATER PROGRAM GEOGRAPHICAL AREA ALLOCATION	ENDANGERED SPECIES PROGRAM	SUBTOTAL OF PESTICIDE PROGRAMS (WP, GW, ES)	TOTAL FOR ALL PROGRAMS
	(85-15% matching grant)		(50-50% matching grant)		(85-15% matching grant)				
Region I									
Connecticut	140,500.00	23,500.00	164,000.00	28,700.00	20,800.00	51,000.00	5,000.00	76,800.00	269,500.00
Massachusetts	161,100.00	24,600.00	185,700.00	31,400.00	20,800.00	51,000.00	5,000.00	76,800.00	293,900.00
Maine	126,800.00	23,500.00	150,300.00	35,700.00	20,800.00	53,000.00	5,000.00	78,800.00	264,800.00
New Hampshire	120,200.00	21,600.00	141,800.00	25,200.00	20,800.00	50,000.00	5,000.00	75,800.00	242,800.00
Rhode Island	119,400.00	20,000.00	139,400.00	25,700.00	20,800.00	50,000.00	5,000.00	75,800.00	240,900.00
Vermont	120,000.00	21,900.00	141,900.00	28,700.00	20,800.00	51,000.00	5,000.00	76,800.00	247,400.00
Discretionary	0.00	0.00	73,900.00	7,700.00	25,000.00	26,800.00	0.00	51,800.00	133,400.00
SUBTOTAL:	\$788,000.00	\$135,100.00	\$997,000.00	\$183,100.00	\$149,800.00	\$332,800.00	\$30,000.00	\$512,600.00	\$1,692,700.00
Region II									
New Jersey	207,600.00	28,600.00	236,200.00	50,900.00	20,800.00	54,000.00	5,000.00	79,800.00	366,900.00
New York	369,900.00	43,100.00	413,000.00	97,900.00	20,800.00	73,000.00	5,000.00	98,800.00	609,700.00
Puerto Rico	160,300.00	22,800.00	183,100.00	44,800.00	15,000.00	30,000.00	20,000.00	65,000.00	292,900.00
Virgin Islands	56,700.00	10,200.00	66,900.00	26,100.00	15,000.00	10,000.00	1,000.00	26,000.00	119,000.00
Discretionary	0.00	0.00	52,900.00	23,200.00	25,000.00	14,400.00	28,700.00	68,100.00	144,200.00
SUBTOTAL:	\$794,500.00	\$104,700.00	\$952,100.00	\$242,900.00	\$96,600.00	\$181,400.00	\$59,700.00	\$337,700.00	\$1,532,700.00
Region III									
Dist. of Col.	113,400.00	20,200.00	133,600.00	24,200.00	10,000.00	10,000.00	5,000.00	25,000.00	182,800.00
Delaware	120,200.00	21,200.00	141,400.00	36,700.00	20,800.00	61,000.00	5,000.00	86,800.00	264,900.00
Maryland	169,600.00	25,900.00	195,500.00	52,500.00	20,800.00	72,000.00	5,000.00	97,800.00	345,800.00
Pennsylvania	283,600.00	38,600.00	322,200.00	133,300.00	20,800.00	73,000.00	5,000.00	98,800.00	554,300.00
Virginia	218,900.00	32,400.00	251,300.00	56,000.00	20,800.00	82,000.00	5,000.00	107,800.00	415,100.00
West Virginia	142,500.00	23,600.00	166,100.00	43,600.00	20,800.00	52,000.00	5,000.00	77,800.00	287,500.00
Discretionary	0.00	0.00	87,600.00	37,800.00	25,000.00	30,400.00	0.00	55,400.00	180,800.00
SUBTOTAL:	\$1,048,200.00	\$161,900.00	\$1,297,700.00	\$384,100.00	\$139,000.00	\$380,400.00	\$30,000.00	\$549,400.00	\$2,231,200.00

SUMMARY OF FY 9 OPERATIVE AGREEMENT ALLOTMENTS

EPA Region/ State	(A) ENFORCEMENT (85-15% matching grant)	(B) WORKER PROTECTION ENFORCEMENT (85-15% matching grant)	(C) SUBTOTAL FOR ENFORCEMENT	(D) CERTIFICATION PROGRAM (50-50% matching grant)	(E) WORKER PROTECTION PROGRAM	(F) GROUNDWATER PROGRAM GEOGRAPHICAL (85-15% matching grants)	(G) ENDANGERED SPECIES PROGRAM	(H) SUBTOTAL FOR PESTICIDE PROGRAMS	(I) TOTAL FOR ALL PROGRAMS
Region IV									
Alabama	202,800.00	29,600.00	232,400.00	53,300.00	20,800.00	115,000.00	15,000.00	150,800.00	421,400.00
Florida	376,700.00	45,700.00	422,400.00	50,400.00	20,800.00	163,000.00	25,000.00	208,800.00	647,300.00
Georgia	244,200.00	31,400.00	275,600.00	54,000.00	20,800.00	196,000.00	20,000.00	236,800.00	566,800.00
Kentucky	270,000.00	41,400.00	311,400.00	91,300.00	20,800.00	103,000.00	15,000.00	138,800.00	528,200.00
Mississippi	181,700.00	27,400.00	209,100.00	46,500.00	20,800.00	106,000.00	5,000.00	131,800.00	389,800.00
North Carolina	279,900.00	42,600.00	322,500.00	86,700.00	20,800.00	147,000.00	15,000.00	182,800.00	584,100.00
South Carolina	173,300.00	26,600.00	199,900.00	39,900.00	20,800.00	110,000.00	15,000.00	145,800.00	390,500.00
Tennessee	264,600.00	38,400.00	303,000.00	83,700.00	20,800.00	90,000.00	20,000.00	130,800.00	485,000.00
Discretionary	0.00	0.00	201,300.00	58,200.00	25,000.00	89,600.00	201,000.00	315,600.00	613,600.00
SUBTOTAL:	\$1,993,200.00	\$283,100.00	\$2,477,600.00	\$564,000.00	\$191,400.00	\$1,119,600.00	\$331,000.00	\$1,642,000.00	\$4,626,700.00
Region V									
Illinois	402,500.00	37,100.00	439,600.00	86,100.00	20,800.00	162,000.00	5,000.00	187,800.00	704,500.00
Indiana	289,600.00	32,600.00	322,200.00	58,700.00	20,800.00	152,000.00	5,000.00	177,800.00	560,600.00
Michigan	263,000.00	35,000.00	298,000.00	67,800.00	20,800.00	100,000.00	5,000.00	125,800.00	468,600.00
Minnesota	309,000.00	37,300.00	346,300.00	134,100.00	20,800.00	155,000.00	5,000.00	180,800.00	597,000.00
Ohio	330,600.00	38,100.00	368,700.00	110,200.00	20,800.00	98,000.00	5,000.00	123,800.00	566,900.00
Wisconsin	275,600.00	37,500.00	313,100.00	68,400.00	20,800.00	92,000.00	5,000.00	117,800.00	486,100.00
Discretionary	0.00	0.00	149,000.00	69,400.00	25,000.00	66,000.00	0.00	91,000.00	309,500.00
SUBTOTAL:	\$1,870,300.00	\$217,600.00	\$2,236,900.00	\$594,700.00	\$149,800.00	\$825,000.00	\$30,000.00	\$1,004,800.00	\$3,693,200.00
Region VI									
Arkansas	171,300.00	43,000.00	214,300.00	60,200.00	20,800.00	117,000.00	15,000.00	152,800.00	423,200.00
Louisiana	200,800.00	30,000.00	230,800.00	76,900.00	20,800.00	116,000.00	5,000.00	141,800.00	466,700.00
New Mexico	134,800.00	22,900.00	157,700.00	26,800.00	20,800.00	53,000.00	20,000.00	93,800.00	286,200.00
Oklahoma	206,400.00	30,300.00	236,700.00	52,800.00	20,800.00	71,000.00	5,000.00	96,800.00	387,600.00
Texas	427,700.00	60,000.00	487,700.00	118,500.00	20,800.00	108,000.00	25,000.00	153,800.00	875,700.00
Discretionary	0.00	0.00	96,400.00	39,700.00	25,000.00	40,400.00	143,600.00	209,000.00	332,500.00
SUBTOTAL:	\$1,141,000.00	\$186,200.00	\$1,423,600.00	\$374,900.00	\$129,000.00	\$505,400.00	\$213,600.00	\$848,000.00	\$2,771,900.00

SUMMARY OF FY 92 COOPERATIVE AGREEMENT ALLOTMENTS

EPA Region/ State	ENFORCEMENT ACTIVITIES		CERTIFICATION ACTIVITIES		PESTICIDE PROGRAM ACTIVITIES			SUBTOTAL FOR PESTICIDE PROGRAMS (WP, GW, ES)	TOTAL FOR ALL PROGRAMS
	(A) ENFORCEMENT (85-15% matching grant)	(B) WORKER PROTECTION ENFORCEMENT	(C) SUBTOTAL FOR ENFORCEMENT	(D) CERTIFICATION PROGRAM (50-50% matching grant)	(E) WORKER PROTECTION PROGRAM	(F) GROUNDWATER PROGRAM GEOGRAPHICAL AREA ALLOCATION (85-15% matching grant)	(G) ENDANGERED SPECIES PROGRAM		
Region VII									
Iowa	299,400.00	39,200.00	338,600.00	114,700.00	20,800.00	205,000.00	5,000.00	230,800.00	684,100.00
Kansas	238,700.00	30,800.00	269,500.00	51,100.00	20,800.00	120,000.00	15,000.00	155,800.00	476,400.00
Missouri	303,000.00	35,800.00	338,800.00	73,900.00	20,800.00	100,000.00	15,000.00	135,800.00	548,500.00
Nebraska	0.00	0.00	195,200.00	119,000.00	20,800.00	121,000.00	15,000.00	156,800.00	471,000.00
Discretionary	0.00	0.00	93,800.00	30,700.00	25,000.00	47,600.00	114,900.00	187,500.00	312,000.00
SUBTOTAL:	\$841,100.00	\$105,800.00	\$1,235,900.00	\$389,400.00	\$108,200.00	\$593,600.00	\$164,900.00	\$866,700.00	\$2,492,000.00
Region VIII									
Tribes	140,500.00	28,100.00	168,600.00	0.00	56,000.00	(2)	0.00	56,000.00	224,600.00
Colorado/Fed.	0.00	0.00	107,100.00	57,000.00	0.00	0.00	0.00	0.00	164,100.00
Colorado/St.	169,700.00	26,200.00	195,900.00	17,000.00	20,800.00	65,000.00	15,000.00	100,800.00	313,700.00
Montana	151,500.00	24,400.00	175,900.00	39,000.00	20,800.00	69,000.00	5,000.00	94,800.00	309,700.00
North Dakota	256,300.00	35,000.00	291,300.00	55,500.00	20,800.00	103,000.00	5,000.00	128,800.00	475,600.00
South Dakota	174,700.00	26,100.00	200,800.00	63,400.00	20,800.00	75,000.00	15,000.00	110,800.00	375,000.00
Utah	141,200.00	23,700.00	164,900.00	35,400.00	20,800.00	51,000.00	20,000.00	91,800.00	292,100.00
Wyoming	0.00	0.00	0.00	30,500.00	20,800.00	52,000.00	5,000.00	77,800.00	108,300.00
Discretionary	0.00	0.00	90,700.00	20,100.00	25,000.00	36,000.00	114,900.00	175,900.00	297,300.00
SUBTOTAL:	\$1,033,900.00	\$163,500.00	\$1,395,200.00	\$317,900.00	\$205,800.00	\$451,000.00	\$179,900.00	\$836,700.00	\$2,560,400.00

****SUMMARY OF FY 92 COOPERATIVE AGREEMENT ALLOTMENTS****

EPA Region/ State	(A) ENFORCEMENT	(B) WORKER PROTECTION ENFORCEMENT	(C) SUBTOTAL FOR ENFORCEMENT	(D) CERTIFICATION PROGRAM	(E) WORKER PROTECTION PROGRAM	(F) GROUNDWATER PROGRAM GEOGRPHICAL AREA ALLOCATION	(G) ENDANGERED SPECIES PROGRAM	(H) SUBTOTAL FOR PESTICIDE PROGRAMS (WP, GW, ES)	(I) TOTAL FOR ALL PROGRAMS
Region IX									
Arizona/ITC (1)	280,000.00	67,200.00	347,200.00	0.00	72,000.00	(2)	0.00	72,000.00	419,200.00
Arizona	156,600.00	23,500.00	180,100.00	54,200.00	20,800.00	52,000.00	20,000.00	92,800.00	327,100.00
California	497,100.00	67,400.00	564,500.00	171,800.00	20,800.00	85,000.00	25,000.00	130,800.00	867,100.00
Hawaii	124,600.00	25,500.00	150,100.00	26,100.00	20,800.00	96,000.00	15,000.00	131,800.00	308,000.00
Nevada	121,100.00	20,700.00	141,800.00	25,700.00	20,800.00	50,000.00	5,000.00	75,800.00	243,300.00
Navahoe Tribe	81,500.00	9,800.00	91,300.00	0.00	8,000.00	(2)	0.00	8,000.00	99,300.00
Pacific Islands	(3)	(3)	(3)	23,000.00	26,000.00	50,000.00	11,000.00	87,000.00	110,000.00
Amer. Samoa	28,500.00	5,100.00	33,600.00	(4)	(4)	(4)	(4)	(4)	33,600.00
Guam	42,600.00	7,700.00	50,300.00	(4)	(4)	(4)	(4)	(4)	50,300.00
CNMI (1)	28,500.00	5,100.00	33,600.00	(4)	(4)	(4)	(4)	(4)	33,600.00
Trust Terr.	22,300.00	4,000.00	26,300.00	(4)	(4)	(4)	(4)	(4)	26,300.00
Discretionary	0.00	0.00	95,600.00	33,500.00	25,000.00	28,800.00	114,900.00	168,700.00	297,800.00
SUBTOTAL:	\$1,332,000.00	\$226,900.00	\$1,558,900.00	\$334,300.00	\$214,200.00	\$361,800.00	\$190,900.00	\$766,900.00	\$2,457,900.00
Region X									
Alaska	112,000.00	20,500.00	132,500.00	24,900.00	20,800.00	50,000.00	5,000.00	75,800.00	234,800.00
Idaho	174,700.00	29,300.00	204,000.00	41,900.00	20,800.00	59,000.00	5,000.00	84,800.00	341,100.00
Oregon	183,000.00	34,300.00	217,300.00	45,200.00	20,800.00	54,000.00	5,000.00	79,800.00	335,800.00
Shoshone-Bannoc	30,000.00	5,400.00	35,400.00	0.00	8,000.00	(2)	0.00	8,000.00	38,000.00
Washington	224,600.00	38,300.00	262,900.00	58,200.00	20,800.00	66,000.00	5,000.00	91,800.00	448,100.00
Discretionary	0.00	0.00	58,800.00	14,500.00	25,000.00	20,000.00	0.00	45,000.00	120,600.00
SUBTOTAL:	\$724,300.00	\$127,800.00	\$910,900.00	\$184,700.00	\$116,200.00	\$249,000.00	\$20,000.00	\$385,200.00	\$1,518,400.00
GRAND TOTAL	\$11,566,500.00	\$1,712,600.00	\$13,279,100.00	\$3,570,000.00	\$1,500,000.00	\$5,000,000.00	\$1,250,000.00	\$7,750,000.00	\$24,599,100.00

****SUMMARY OF FY 92 COOPERATIVE AGREEMENT ALLOTMENTS****

NOTE:

- (1) CNMI=Council of the Northern Mariana Islands; Arizona/IIC=Intertribal Council of Arizona
- (2) See Appendix XXI
- (3) See individual Pacific Island entities for enforcement grant amounts
- (4) A single grant is issued for the Pacific Island entities as a group

FY92 FIPRA CONSOLIDATED COOPERATIVE AGREEMENT

APPENDICES

- I. Standard Application Form-424 and instructions
- II. Application Review Procedures
- III. Responsibilities and Requirements Associated with Application Review Procedures
- IV. Draft Outlines for Mid-Year and End-of-Year Evaluations
- V. Optional EPA State Enforcement Application Review Checklist
- VI. Time Line
- VII. Regional EPA Application Review Checklist
- VIII. Sample Core Enforcement Work Program for FY92
- IX. Example of Partially Completed Application Form Showing 3 Individual Budget Components on ONE Application Form, SF-424
- X. EPA's Public Participation Policy, January 19, 1981, Fed. Reg. 5736
- XI. 40 CFR 31.30
- XII. Drug-Free Work Place Requirements
- XIII. Contents of Annual State Plan Reports
- XIV. Two Outlines for State Use for OCM's Compliance Monitoring Strategy and OPP's Implementation Strategy
- XV. Pesticide Export Requirements
- XVI. NEIC Model QA Project Plan for Pesticide Sampling and Analytical Activities
- XVII. EPA Cross Contamination Guidelines
- XVIII. EPA Form 5700-33H and Guidelines
- XIX. Outline and Model of Priority-Setting Plans

Appendices (continued)

- XX. Office of Compliance Monitoring Pesticide Enforcement Grants State Statistical Data
- XXI. Regional Allocations for Ground Water, Endangered Species, Worker Protection Enforcement Related Activities
- XXII. Background Information on EPA and FTC Authorities Relating to Lawn Care
- XIII. Example of a Lawn Care Violation Log
- XXIV. Funding for Pesticide Program Activities

(Revised January 1989)

APPLICATION FOR FEDERAL ASSISTANCE

All applicants applying for federal funding of Pesticides Compliance Cooperative Agreements must use the Application For Federal Assistance - Standard Form 424 (Revised 4/88)

Also included in this appendix is a partially completed application form showing how the individual components of the consolidated application can be shown separately in Section A-D on Standard Form 424A.

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION Application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	2. DATE SUBMITTED _____	Applicant Identifier _____
<input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	3. DATE RECEIVED BY STATE _____	State Application Identifier _____
	4. DATE RECEIVED BY FEDERAL AGENCY _____	Federal Identifier _____

5. APPLICANT INFORMATION

Legal Name _____	Organizational Unit _____
Address (give city, county, state and ZIP code) _____	Name and telephone number of the person to be contacted on matters involving this application (give area code) _____

6. EMPLOYER IDENTIFICATION NUMBER (EIN) [] [] - [] [] [] [] [] [] [] [] [] []	7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/> <table style="width:100%; font-size: small;"> <tr> <td>A State</td> <td>M Independent School Dist.</td> </tr> <tr> <td>B County</td> <td>I State Controlled Institution of Higher Learning</td> </tr> <tr> <td>C Municipal</td> <td>J Private University</td> </tr> <tr> <td>D Township</td> <td>K Indian Tribe</td> </tr> <tr> <td>E Interstate</td> <td>L Individual</td> </tr> <tr> <td>F Intermunicipal</td> <td>M Profit Organization</td> </tr> <tr> <td>G Special District</td> <td>N Other (Specify) _____</td> </tr> </table>	A State	M Independent School Dist.	B County	I State Controlled Institution of Higher Learning	C Municipal	J Private University	D Township	K Indian Tribe	E Interstate	L Individual	F Intermunicipal	M Profit Organization	G Special District	N Other (Specify) _____
A State	M Independent School Dist.														
B County	I State Controlled Institution of Higher Learning														
C Municipal	J Private University														
D Township	K Indian Tribe														
E Interstate	L Individual														
F Intermunicipal	M Profit Organization														
G Special District	N Other (Specify) _____														
8. TYPE OF APPLICATION <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision enter appropriate letter(s) in boxes: <input type="checkbox"/> <input type="checkbox"/> A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify): _____	9. NAME OF FEDERAL AGENCY _____														

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: [] [] - [] [] [] [] [] [] [] [] [] [] TITLE _____	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: _____
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.) _____	

13. PROPOSED PROJECT	14. CONGRESSIONAL DISTRICTS OF	
Start Date: _____ Ending Date: _____	a Applicant: _____ b Project: _____	

15. ESTIMATED FUNDING: <table style="width:100%; font-size: small;"> <tr> <td>a Federal</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> <tr> <td>b Applicant</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> <tr> <td>c State</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> <tr> <td>d Local</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> <tr> <td>e Other</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> <tr> <td>f Program Income</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> <tr> <td>g TOTAL</td> <td>\$</td> <td>_____</td> <td>.00</td> </tr> </table>	a Federal	\$	_____	.00	b Applicant	\$	_____	.00	c State	\$	_____	.00	d Local	\$	_____	.00	e Other	\$	_____	.00	f Program Income	\$	_____	.00	g TOTAL	\$	_____	.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
a Federal	\$	_____	.00																										
b Applicant	\$	_____	.00																										
c State	\$	_____	.00																										
d Local	\$	_____	.00																										
e Other	\$	_____	.00																										
f Program Income	\$	_____	.00																										
g TOTAL	\$	_____	.00																										
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No																													

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative _____	b Title _____	c Telephone number _____
d Signature of Authorized Representative _____		e Date Signed _____

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities) |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$
l. Program	\$	\$	\$	\$	\$

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS

13. Federal	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
	\$	\$	\$	\$	\$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g)

For *new* applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes to existing grants*, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-l — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

EPA APPLICATION REVIEW PROCEDURES

A. General

In determining the amount of assistance to award to each applicant, the Regional Office will consider the State's/Tribe's annual allotment, the extent to which the applicant's workprogram is consistent with the criteria set forth in this guidance, and the reasonableness of the anticipated cost of the applicant's program relative to the proposed outputs.

The Regional Administrator will review each cooperative agreement application received and should either approve, conditionally approve, or disapprove the application within 60 days of receipt (40 CFR Part 35.141).

B. Application Review Panel

Each participating Region should establish a Cooperative Agreement Review Panel to review and evaluate all pesticides cooperative agreement applications as resources allow. This panel should consist of at least one member from each of the following offices.

- o Regional Program Office
- o Regional Grants Administration Office
- o OCM (Grants and Evaluations Branch)
- o OPP (Certification Branch/Field Operations Division)

Because of travel constraints the OCM and OPP representative will normally be restricted to participating by mail. A copy of each cooperative agreement application should be sent to and received by the OCM grants coordinator and OPP's Certification Branch within one week of the Region's receipt of the application, along with a copy of the Region's initial comments on the application if possible. (The review form, discussed in the next section, should facilitate the Region's review of applications.) If this is not possible, the application itself should be sent for review. OCM will focus its review on the enforcement and associated budget components. OPP will focus its review on the other program and budget components. Headquarters (HQ) is willing to agree to a timeframe by which HQ comments on applications will be provided to a Region.

The Region has the first line and primary responsibility for reviewing all applications and ensuring their adequacy vis-a-vis the grant guidance. If the Region does not receive comments from Headquarters, after checking with HQ to ensure that they do not

have any comments, the Region should proceed in ensuring that the Region's comments are addressed by the state and the grant awarded.

It is the Region's responsibility to ensure that EPA's (both the Region's and Headquarters') comments on applications are addressed prior to signing the agreements. A copy of the signed agreement should also be sent to OCM.

C. Technical and Programmatic Review

A technical and programmatic review will be made by the Cooperative Agreement review Panel to determine the merit of the proposed outputs in the view of the objectives and priorities of the cooperative pesticides program. In reviewing applications, the Regions and Headquarters should use the "Consolidated Pesticides Cooperative Agreement Application Review Form" which is being updated and will be distributed within 60 days. If possible, the Region should send this completed review form, along with the application, to Headquarters.

The Regional Program Office and the Regional Grants Administration Office have the lead for the technical and programmatic review taking into account the factors listed below. OCM's and OPP's role is to help ensure compliance with the national grant guidance requirements. Comments made and problems identified by any member of the Application Review Panel should be addressed and resolved by the Regional Office prior to signing the cooperative agreement application and awarding funds.

The Review Panel will evaluate the pesticide enforcement cooperative agreement applications to determine whether:

- o The application contains all elements outlined in the workprogram and cooperative agreement application requirements sections of this guidance document;
- o The applicant's priority-setting process is adequate;
- o The outputs are appropriate based on the priorities or objectives set by the State/Tribe;
- o The applicant's objectives and expected results are consistent and compatible with EPA priorities and policies;
- o The applicant for enforcement funds has demonstrated a need for a pesticide enforcement program of at least 1/2 workyear of inspectional/enforcement activity;
- o The resources (funds and workyears) requested are reasonable when compared to the projected outputs in the workprogram;
- o It is feasible to achieve such objectives in view of the State's existing problems, program authority, and resources;

- There is a reasonable balance in the enforcement component between the inspectional workyears relative to the administrative, clerical and analytical workyears to be funded. A minimum of 50% of the available workyears in enforcement agreements should be directed to inspectional activities with remaining workyears divided among the other supportive activities; and
 - Each application must include sufficient staffing to perform a timely review of all inspectional files and the development of appropriate enforcement actions when warranted.

D. Guidelines on Time Factors for Inspections and Sample Collections/Analyses

OCM, in consultation with the SFIREG uniform reporting workgroup, has reviewed the Output Time Factors for use as a guide in evaluating pesticides enforcement cooperative agreement applications with regard to inspection and sample analysis activities. (The inspectional time factors are based on the results of a survey, recently conducted, to which 24 states and 1 indian tribe responded. The survey results indicated that the workhours included in the FY 90 guidance were very close to those reported by the survey respondents.) These timefactors are to be used for comparing the number of inspectional and/or analytical workhours to be funded with the number of inspections to be conducted and the number of samples to be collected and/or analyzed.

<u>Activity</u>	<u>Current Work Hours to Complete Activity</u>
Agricultural Use Inspection	20
Agricultural Followup Inspection	20
Nonagricultural Use Inspection	15
Nonagricultural Followup Inspection	20
Experimental Use Inspection	15
Producer Establishment Inspection	15
Marketplace Inspection	05
Import Inspection	10
Export Inspection	10-15
Applicator License and Records Inspection	05
Dealer Records Inspection	05
Sample Collection and Preparation	05
Sample Analysis	
Residue	25
Formulation	11

The time factor values should take into account all inspectional or analytical time spent to complete an activity, including travel time, document preparation, sample shipment, etc. The workhours given should also include the prorated time for administrative activities of inspectors and chemists.

Additional time spent by other than inspectors or Chemists for administrative, case preparation, legal, clerical, and program planning activities time may be charged (under the other appropriate workyears) if the State/Tribe can show that such activities are prerequisites to conducting the program. However, only the inspectional and analytical workhours are utilized in calculating productivity levels.

The Regional Office should compare each State's/Tribe's proposed outputs and the inspectional/analytical workyears requested in the pesticides enforcement cooperative agreement application with the workyears computed by using the output time factor amounts shown above.

The purpose of these computations is to determine if the State's/Tribe's requested workhour levels (or workyears) for inspectional and analytical outputs are consistent with the workhours computed for each activity using the above output time factors. An Output Time Factors Computation Worksheet has been developed to assist the Regions in this comparison. This worksheet is to be completed by the Regional Office and if possible a copy of the worksheet should accompany each application sent to Headquarters for review and comment.

The Regions should only use these time factors as a guide in negotiating and evaluating pesticide enforcement applications. With regard to inspection and sampling activities, the projected number of inspections, samples, and analyses multiplied by the established time factors should approximately equal the number of workhours which each State/Tribe requested to complete the projected outputs under the cooperative agreement. The Agency considers productivity levels between 85% and 115% of the established standard to be in the acceptable range. To ensure equal treatment of all State/Tribes, OCM has identified a normal workyear as consisting of 1800 hours after allowing for leave and holidays.

Deviations from these time factors can be expected due to differences in travel time, local procedures, etc. However, the Regions should not permit workhours grossly in excess of these workhours requested and the amount of workhours computed must be justified, e.g., the need for extensive travel time. If an applicant's commitments are in excess of those indicated by the computations, the Regional Office must assure itself that the

quality of work is not suffering at the expense of the quality of outputs.

E. Administrative Review

The Regional Grants Administration Office will perform an administrative evaluation to determine whether the application meets the requirements of the EPA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments found at 40 CFR Part 31 and regulations for State and Local Assistance found at 40 CFR Part 35.001 through 35.605. At each stage of the evaluation, the applicant may be required to provide further information or to amend the application to satisfy the concerns of the Agency.

EPA HEADQUARTERS AND REGIONAL OFFICE RESPONSIBILITIES**A. Headquarters' Responsibilities**

EPA Headquarters has the primary program and overview responsibility for:

- o Preparing guidance for implementing and managing the consolidated pesticide cooperative agreement program;
- o Developing national compliance monitoring strategies in coordination with new regulatory decisions and actions;
- o Allocation and distribution of cooperative agreement funds to the Regions for disbursement to the States and Tribes;
- o Participation in selected cooperative agreement negotiations and evaluations, as requested by the Regional Offices or as deemed appropriate by Headquarters;
- o Second-line review of selected cooperative agreement applications and evaluation reports submitted in a timely manner;
- o Provision of comments on applications and suggested solutions to problems identified in a timely manner;
- o Overall oversight and evaluation of program;
- o Solicitation of comments from the regions, states and Indian tribes (by working through the regional offices) on any major proposed changes to the cooperative agreements program;
- o Developing guidance documents for quality assurance activities and providing analytical services support, such as NEIC's Check Sample Program and Backup Analysis, Procedures to State and Tribal programs;
- o Ensuring timely enforcement case reviews necessary to meet EPA obligations in the cooperative agreement.

B. Regional Office's Responsibilities

EPA Regional Offices have primary implementation and management responsibility for:

- o Providing day-to day oversight and management of the State/Tribal programs for the rapid identification, solution and escalation of problems to top level managers;
- o Conducting Mid-year and End-of year cooperative agreement evaluations in a timely manner as specified in this guidance document;
- o Followup on recommendations made during evaluations;
- o Followup with applicants which fail to submit check sample analysis results as required; and
- o Review and development of cases referred to EPA.

PROGRAM OVERSIGHT, EVALUATION AND REPORTING

A. Oversight

EPA should oversee assistance agreements both informally and formally. Regions and States/Tribes should maintain a continuous dialogue so that States/Tribes may alert EPA to problems they are experiencing and EPA can monitor State/Tribal progress toward accomplishing outputs. EPA should also periodically conduct a formal evaluation of State/Tribal performance. Oversight should identify the successes and problems States/Tribes have encountered in meeting their commitments. Oversight also entails the joint analysis of identified problems to determine their nature, cause, and appropriate solution, and the escalation of significant findings (both positive and negative) to top managers in the Region and State/Tribe. Significant problems identified in the oversight process should be escalated to higher levels of management in accordance with the Administrator's Policy on Performance Based Assistance, dated May 31, 1985.

Oversight inspections are another valuable method of evaluating the quality of State/Tribal inspection programs. EPA's grant program 'oversight' policy is discussed in various Agency documents which are referenced in detail in the Task Force Report on FIFRA/TSCA State Program Oversight. Oversight inspections, unless State/Tribal program conditions indicate otherwise, are to be joint EPA/State/Tribal inspections where the State/Tribal Inspector usually takes the lead and the EPA person observes the conduct of the inspection. Regional Offices are requested to contact Headquarters prior to initiating separate inspections at facilities or sites previously inspected by State/Tribal personnel.

B. Evaluations

Timely program evaluations by EPA are an essential part of the management and oversight of the cooperative agreement program. The evaluations should provide a basis for measuring the State's/Tribe's progress towards achievement of the approved objectives and projected accomplishments described in the cooperative agreement workprogram. Followup on problems previously identified and recommendations previously made is essential. State/Tribal program evaluations are normally performed by the EPA project officer. However, it is requested and recommended that a higher level manager also participate in the evaluation process in FY 91. If time and travel funding are not available for a manager overseeing the enforcement grant program to participate in all the State/Tribal evaluations in

FY90, the Region should select the program(s) needing the most attention for evaluation by the manager.

An innovative practice used by some of the Regions is to periodically rotate the project officers to conduct evaluations of State/Tribal program(s) with which they have not been closely involved, during the period being evaluated. This may minimize the potential for overlooking areas needing improvement because of familiarity. Another alternative would be to send two project officers to conduct the evaluations, one for continuity and the other for a new perspective. The decision to use such practices is left to Regional management.

1. Frequency of Evaluations

It is important for Regional personnel to meet with the appropriate State/Tribal officials on a semiannual basis to conduct performance evaluations of the following components of the cooperative agreement workprogram(s): 1) enforcement; 2) certification; 3) worker protection program; 4) groundwater program; and 5) endangered species program. However, in keeping with the Administrator's Policy on Performance - Based Assistance, the scope of the mid-year evaluation may be reduced for those States/Tribes demonstrating a sustained level of high performance.

2. Scope of Evaluations

a. End-of-year Evaluations for Enforcement

To help ensure that evaluations of enforcement programs are uniformly conducted, the Region must address each of the specific items in the OCM protocol when conducting end-of-year enforcement evaluations. (This protocol is being updated based on the final guidance and will be circulated for review before being finalized.) This protocol emphasizes the importance of: 1) following up on agreed-upon workprogram activities (including worker protection enforcement-related activities in FY 91); 2) following up on and documenting the status of implementation of recommendations previously made; and 3) identifying problem areas and providing recommendations and associated timeframes for addressing these problems.

b. Mid-year Evaluations for Enforcement

Regional Office discretion should be used in determining the scope of the mid-year evaluation and report. The Regional Office may wish to reduce the scope of the mid-year evaluation for States/Tribes with a mature program demonstrating a sustained level of high performance. However, as a minimum, all FY 91 mid-year evaluations must: 1) discuss the implementation of the worker protection enforcement activities as agreed upon in the FY 91 cooperative agreement workprograms (and discussed on page 16); 2) indicate whether or not there are any significant problems which the State is experiencing in completing any of its work under the cooperative agreement. If there are problems, recommendations and time frames for addressing the problems must be discussed and included as part of the mid year report; and 3) address the status of implementing recommendations made during the previous evaluation.

The minimum content for mid-year evaluations of enforcement programs is also addressed in OCM's protocol.

With regard to enforcement mid-year and end-of-year evaluations, the Regional project officers are strongly encouraged to visit the state laboratory doing work under the cooperative agreement as appropriate and involve the state laboratory representatives in the semi-annual evaluations as appropriate.

c. Evaluations of Certification Programs

Representatives from both the State Lead Agency and the State Cooperative Extension Service should be invited and encouraged to be present during the mid year and end-of--year evaluations of state C&T programs and cooperative agreements. (Circumstances which would not allow this to occur can be discussed on a Region by Region basis.)

A summary of topics to be addressed during the mid year (as appropriate) and end-of-year evaluations of certification programs is included in Appendix VII.

d. Evaluations of Worker Protection, Ground-Water and Endangered Species Program Activities

The mid-year and end-of-year evaluations of the new initiatives should follow the guidelines stipulated in the text of the grant guidance. In addition, the end-of-year evaluation report must include a summary of the budgetary tracking system used for the year for each program component.

3. Evaluation Reports

When problem areas are identified during the mid-year or end of-year evaluation, recommendations for improvements must be made and implemented. The recommendations for addressing problems must be accompanied by time frames for implementation of the recommendation. If a problem/recommendation has not been addressed from a previous evaluation, then a plan must be developed to address the issue(s) and included in the current evaluation report. The plan should be negotiated between the State/Tribe and the Regional Office prior to or as part of the evaluation. The implementation of the plan/recommendations must be discussed in the next evaluation report. (If the problem cannot be resolved within the project period being evaluated, it must be addressed in the following year's workplan.)

It is also recommended that if there has been no effort to address a significant problem or associated recommendation on either the State's/Tribe's or EPA's part, that a Federal program manager and a State/Tribal program manager meet to discuss a remedy and outline a course of action to resolve the matter. OCM should also be informed of such situations with regard to enforcement issues.

State program evaluations are an important part of the management of the cooperative agreement program. Therefore, it is essential that the evaluation findings be communicated at the proper level. It is recommended that the evaluation reports be signed by the Regional Division Director, and mailed to the State Division Director or Department Head. This level of communication will give the program a higher level of visibility, as well as keep the higher levels of management in both EPA and the State informed of the progress of the program.

The State office being evaluated should be given an opportunity to review for accuracy, and to either concur or comment on, all mid-year and end-of-year evaluations before the reports are considered final. This may be accomplished by either: 1) sending the State a finished evaluation report to review or comment on, with the evaluation report becoming final if no comments are made

by the State within 15 working days; or 2) sending the State a draft evaluation report for comment, with a final report being prepared after the State has had 15 working days to comment.

4. Timeframes

Evaluations

Evaluations should be conducted within 30 working days after the end of the second and fourth quarters of the project.

Reports

Evaluation reports must be prepared and mailed to the State/Tribe within 20 working days after the completion of the evaluation.

C. Modification, Suspension or Termination of Agreement

The EPA Uniform Administrative Requirements For Grants and Cooperative Agreements to States and Local Governments, 40 CFR Parts 31.30 and 31.44 provides for the modification, suspension or termination of cooperative agreements when justified. Changes in the agreement are effective only upon the execution of a written amendment. Modifications to the agreement may include, but are not limited to, changes in the budget, project period or date of performance for specific outputs. If the actual accomplishments of the State/Tribe differ significantly from the planned accomplishments during the project period, EPA and the State/Tribe should renegotiate and modify the provisions of the agreement.

If performance by the State/Tribe does not improve after modification of the agreement, steps may be taken by EPA to suspend or terminate the agreement. The award official may terminate a cooperative agreement, in whole or in part, whenever the recipient fails to comply with the conditions of the agreement.

D. Regional Reporting

Headquarters must be kept informed by the Regional Offices of any problem areas or serious deficiencies that develop within a State/Tribal program.

Copies of all final grant applications (at least the enforcement and budget components), grant awards, mid-year evaluations and end-of year evaluations must be forwarded to

OCM's Cooperative Agreement Coordinator to facilitate review of the enforcement components.

E. FIFRA/TSCA Tracking System (FTTS)

The EPA FIFRA/TSCA Tracking System will be used by the Regions to report the States'/Tribes' cooperative agreement projections and accomplishments to Headquarters. It is essential that all pertinent data be entered into FTTS in a timely and correct manner, since the Office of Compliance Monitoring and Office of Pesticide Programs will use the data in FTTS for making reports to higher levels of EPA management, preparing budget requests, answering congressional inquiries, and allotting cooperative agreement funds to applicants.

The Regions should adhere to the following schedule for entering all grant related data into FTTS and for verifying the data's correctness.

<u>Reportable Activity</u>	<u>No Later Than</u>
<u>Enforcement Projections</u>	
Quarterly Projections	December 1
<u>Certification Projections</u>	
Annual Certification Projections	December 1
<u>Enforcement Accomplishments</u>	
First Quarter	March 1
Second Quarter	June 1
Third Quarter	September 1
Fourth Quarter	December 1
<u>Certification Accomplishments</u>	
First and Second Quarter	June 1
Third and Fourth Quarter	December 1
<u>Certified Applicators</u>	
Number of private and commercial applicators holding a valid certification on September 30th.	December 1

PESTICIDE ENFORCEMENT COOPERATIVE AGREEMENT
TO BE COMPLETED BY APPLICANT
STATE APPLICATION CHECKLIST/REVIEW FORM FOR FY 92

State Lead Agency: _____
 Project Period: _____

A. Budget

1. Is the State's/Tribe's share of the "total project costs" at least 15 percent for enforcement? Yes _____ No _____
2. Is there a proposed enforcement budget? Does the proposed budget follow the cost categories and include itemized statements per page 12 of the FY 92 grant guidance?
 Yes _____ No _____ Comments:

B. Narrative Statement

1. Is there a discussion of performance to date?
 Yes _____ No _____ Comments:
2. Has the applicant certified that there are no impediments to carry out the proposed program including:
 - (a) Authority to conduct the proposed program;
 - (b) Authority to accept Federal funds;
 - (c) Designation of lead agency for enforcement;
 Yes _____ No _____ Comments:
3. Are expected benefits to both the State and EPA identified?
 Yes _____ No _____ Comments:

C. Enforcement Component

1. Are workyears to be funded identified by type of activity (inspectional, administrative, clerical, analytical, other) and cost?
 Yes _____ No _____ Comments:
2. Is a minimum of 50 percent of the total workyears directed to inspectional activities?
 Yes _____ No _____ Comments:
3. Are the budgeted inspectional/analytical workyears reasonable in relation to the projected outputs? Complete Output Time Factors Computation Work Sheet attached.
 Yes _____ No _____ Comments:
4. Has the need for a pesticide enforcement program, of at least one half of a workyear, been adequately addressed?
 Yes _____ No _____ Comments:

Workprogram Activities

5. Has the applicant addressed the eight National issue-specific compliance monitoring activities (a-h):

(a) Helping to ensure compliance with pesticide cancellations, suspensions and other major regulatory actions. Inspections and other compliance monitoring activities for this priority area will address:

- (1) Major cancellation actions;
Yes _____ No _____
- (2) All suspensions under FIFRA Section 6;
Yes _____ No _____
- (3) FIFRA section 3(c)(2)(B) suspensions;
Yes _____ No _____
- (4) Other major pesticide regulatory actions (i.e., label improvement programs, etc.);
Yes _____ No _____

(b) Worker protection enforcement:

(1) Notification to prospective constituents;
Yes _____ No _____

(2) Compliance Monitoring Strategy for Worker Protection:

a. Is there a commitment to submit the strategy within 6 mos. of the publication date of the rule? Yes ___ No ___

b. Does the application specifically state that the strategy will include, as a minimum, the following three components:

o Compliance Communication Strategy Yes ___ No ___
o Inter-Agency Component Yes ___ No ___

(This applies to applicants in situations where more than 1 agency has responsibility for enforcement of the worker protection rule.)

o Targeting Scheme Yes ___ No ___

c. Implementation of Compliance Strategy.

Is there a commitment to begin to implement the compliance communication and inter-agency coordination components within 8 months of the publication of the final rule or before? Yes ___ No ___

Is there a commitment to implement the inspection targeting scheme once the effective dates for compliance with the final rule have passed? Yes ___ No ___

- (3) Inspection Activity
- a. Worker protection compliance monitoring as another element of comprehensive inspections.
Yes ___ No ___
 - b. Incident and Complaint Investigations
Yes ___ No ___
 - c. Tracking tips/complaints
Yes ___ No ___
 - d. Use Pilot Checklist (recommended, not required.)
Yes ___ No ___

- (4) Reporting
- a. Evaluation Reports
Yes ___ No ___
 - b. Quarterly Accomplishment Reports
Yes ___ No ___

- (c) Planning enforcement activities for residue removal regs
Yes ___ No ___
- (d) Enforcement activities for groundwater protection
Yes ___ No ___
- (e) Enforcement activities for endangered species
Yes ___ No ___
- (f) Section 6(g) information submittal and pesticide recalls
Yes ___ No ___
- (g) Exports
Yes ___ No ___
- (h) Enforcement activities for new C&T regulations
Yes ___ No ___

Comments:

Priority Setting

6. Has the applicant submitted/referenced a priority-setting plan which addresses the two national enforcement priorities and State/Tribal priority problem areas?
Yes ___ No ___ Comments:

Inspections

7. Has the applicant submitted a completed 5700-33H form for documenting inspection commitments? Yes ___ No ___
Comments:
8. Has the applicant committed to a certain number of producer establishment inspections (to help ensure that, over time, all producer establishments in a given state are inspected)? Yes ___ No ___
9. Has the State agreed to a number of federal facility inspections? Yes ___ No ___

10. Has the applicant agreed to conduct comprehensive inspections, addressing every element of each type of inspection? Yes _____ No _____
11. Does the applicant commit to followup on the National Compliance Monitoring Strategies? Yes ___ No ___
12. Does the applicant commit to following EPA's updated Pesticides Inspection Manual when conducting inspections? Yes _____ No _____

Quality Assurance

13. Are the following quality assurance practices addressed in the application:
- (a) Submittal of Updated Quality Assurance Plan; Yes _____ No _____
 - (b) Use of standard analytical methods; Yes _____ No _____
 - (c) Cross-contamination screening program; Yes _____ No _____
 - (d) NEIC check sample program; Yes _____ No _____
 - (e) Back up Analysis Procedure; Yes _____ No _____
 - (f) Training of Analytical Chemists; Yes _____ No _____
 - (g) Laboratory Reviews; Yes _____ No _____
 - (h) Provisions of Analysis Results; Yes _____ No _____
 - (i) Submission/Retention of Reports; Yes _____ No _____

Comments:

Enforcement Capability

14. Has the State considered using enforcement grant funds toward the development of civil penalty authority? Yes _____ No _____ Comments:
15. For programs with partial or no enforcement capability, has the applicant submitted procedures for forwarding inspection reports with suspected violations to EPA? Yes _____ No _____ Comments:
16. Does the application provide for an annual written agreement between the State and EPA for the selection, referral, and tracking of significant pesticide use cases under FIFRA sections 26 and 27? Yes _____ No _____ Comments:

17. Does the application include or provide as an attachment an up-to-date enforcement response policy (ERP)? Each applicant must have an up-to-date ERP in place and submit it with the application. Yes _____ No _____ Comments:

Does the State agree (in the application) to follow the ERP?
Yes _____ No _____

18. Is there any reference to procedures for resolving cross-jurisdictional issues between States and Tribes? (This is recommended, not required.)
Yes _____ No _____ Comments:

19. (a) Does the applicant have a management system for tracking all inspections, violations, and enforcement actions, and rapid identification of the status of a case?
Yes _____ No _____
- (b) Is there a tracking system for inspections and enforcement actions in followup to "major pesticide regulatory actions"? (Could be part of aforementioned system as long as actions taken in followup to strategies can be identified.)
Yes _____ No _____
- (c) For new applicants, is there a description of the system?
Yes _____ No _____
- (d) Does the workprogram address maintenance of tracking documents and associated files and length of time maintained?
Yes _____ No _____

Reporting

20. Does the application provide for the timely submittal of Quarterly Accomplishment Reports (EPA Form 5700-33H)?
Yes _____ No _____ Comments:

21. For new applicants, is there a description of the accounting filing system?
Yes _____ No _____ Comments:

22. Is there an evaluation plan which includes a schedule for timely completion of mid-year and end-of-year evaluations?
Yes _____ No _____ Comments:

23. Does the application address any unresolved problem(s) identified in the most recent mid-year and end-of-year evaluations? Does the plan for addressing the problem(s) include a schedule for implementation?
Yes _____ No _____ Comments:

Cooperative Agreement Submission and Reporting Timeline

Cooperative agreement application due to Regional Office	90 days prior to project period start date
Copy of draft application sent to Headquarters	2 weeks after receipt of application in Region
All comments due to state/tribe	4 weeks after receipt of application in region
Revised application due in region	4 weeks after receipt of comments in state/tribe
Copy of revised application forwarded to headquarters	2 days after receipt of revision in region
Beginning of project period	First day of federal or state fiscal year, as determined by state/tribe
1 st quarter report to region	30 days following end of quarter
2 nd quarter report to region	30 days following end of quarter
Mid-year evaluation of state/tribal program conducted by region	6 months after beginning of project period
Draft mid-year evaluation to of state/tribe	30 days after completion evaluation date
Comments due from state/tribe to region	30 days after receipt in state/tribe
Final mid-year evaluation sent to state/tribe and headquarters	2 weeks after receipt of comments in region
3 rd quarter report to region	30 days following end of quarter
4 th quarter report to region	30 days following end of quarter

Pesticide Guidance

FY92

End-of-year evaluation of state/
tribal program conducted by region

Within 30 days of
completion of project
period

Draft end-of-year evaluation due
of
to state/tribe

30 days after completion
evaluation date

Comments due from state/tribe
to region

30 days after receipt in
state/tribe

Final end-of-year evaluation sent
to state/tribe and headquarters

2 weeks after receipt of
comments in region

**CONSOLIDATED PESTICIDE COOPERATIVE AGREEMENT
TO BE COMPLETED BY THE REGIONAL OFFICE
APPLICATION REVIEW FORM**

State and State Lead Agency: _____
Project Period: _____

A. Budget - Applicable to All Components

1. Is the state's/tribe's share of the "total project costs" at least 15 percent?

- | | | | | |
|----------------------------|-----|-------|----|-------|
| (a) For enforcement | Yes | _____ | No | _____ |
| (b) For groundwater | Yes | _____ | No | _____ |
| (c) For endangered species | Yes | _____ | No | _____ |
| (d) For worker protection | Yes | _____ | No | _____ |

Comments:

2. Is the state's/tribe's share of the "total project costs" at least 50 percent for certification?

Yes _____ No _____ Comments:

3. Is there a proposed budget for at least three components (enforcement, certification, and pesticide program activities) of a consolidated application? Do the proposed budgets follow cost categories and include itemized statements?

Yes _____ No _____ Comments:

4. Are costs reasonable in relation to projected outputs?

- | | | | | |
|----------------------------|-----|-------|----|-------|
| (a) For enforcement | Yes | _____ | No | _____ |
| (b) For groundwater | Yes | _____ | No | _____ |
| (c) For endangered species | Yes | _____ | No | _____ |
| (d) For worker protection | Yes | _____ | No | _____ |
| (e) For certification | Yes | _____ | No | _____ |

Comments:

B. Narrative Statement - Applicable To All Components

1. Is there a discussion of performance to date?

Yes _____ No _____ Comments:

2. Has the applicant certified that there are no impediments to carry out the proposed program including:

- (a) Authority to conduct the proposed program;
- (b) Authority to accept Federal funds;
- (c) Designation of lead agency?

Yes _____ No _____ Comments:

3. Are expected benefits to both the state and EPA identified?

Yes _____ No _____ Comments:

C. Enforcement Component

1. Identification of Workyears and Funding

	Federal	State	Total
Funding	_____	_____	_____
Workyears*			
Inspectional	_____	_____	_____
Administrative	_____	_____	_____
Clerical	_____	_____	_____
Analytical	_____	_____	_____
Other	_____	_____	_____
Total	_____	_____	_____

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

2. Are work years to be funded identified by type of activity and cost?

Yes _____ No _____ Comments:

3. Is a minimum of 50 percent of the total workyears directed to inspectional activities?

Yes _____ No _____ Comments:

4. Are the budgeted inspectional/analytical workyears reasonable in relation to the projected outputs? (Use appendix XVIII, Output Time Factors Computation Work Sheet.)

Yes _____ No _____ Comments:

5. Has the need for a pesticide enforcement program, of at least one half of a workyear, been adequately discussed?

Yes _____ No _____ Comments:

6. Has the applicant addressed the five national compliance monitoring activities:

(a) Helping to ensure compliance with pesticide cancellations, suspensions and other major regulatory actions. Inspections and other compliance monitoring activities for this priority area will address:

(1) Major pesticide regulatory actions;

Yes _____ No _____

(2) All suspensions under FIFRA Section 6;

Yes _____ No _____

(3) FIFRA section 3(c) (2) (B) suspensions;

Yes _____ No _____

(4) Other major pesticide regulatory actions (i.e., label improvement programs, etc)

Yes _____ No _____

(b) Worker protection enforcement:

(1) Notification to prospective constituents

Yes _____ No _____

(2) Compliance Monitoring Strategy for Worker Protection;

a. Targeting Scheme

Yes _____ No _____

b. Inter-Agency Component

Yes _____ No _____

(This applies to applicants in situations where more than 1 agency has responsibility for enforcement of the worker protection rule.)

c. Compliance Communication Strategy

Yes _____ No _____

d. Is there a commitment to submit strategy within 6 months of the effective date of the rule?

Yes _____ No _____

(3) Inspection Activity

a. Worker protection compliance monitoring as another element of comprehensive inspections.

Yes _____ No _____

b. Incident and Complaint Investigations

Yes _____ No _____

c. Use Pilot Checklist (recommended, not required)

Yes _____ No _____

d. Tracking tips/complaints

Yes _____ No _____

(4) Reporting

a. Evaluation Reports

Yes _____ No _____

b. Quarterly Accomplishment Reports

Yes _____ No _____

(c) Enforcement activities for groundwater protection

Yes _____ No _____

(d) Enforcement activities for endangered species

Yes _____ No _____

- e) Regulation on removal of pesticides from containers.
(Note: It is recommended, that to the extent feasible, states plan for the development of programs to ensure compliance with these regulations.)
Yes _____ No _____
- (f) Notices of suspended/cancelled products and pesticide recalled: Once these requirements are effective, grantees will need to track and monitor the info. where applicable, per page 38 of the guidance.

Comments:

7. Has the applicant submitted/referenced a priority-setting plan which addresses the two national enforcement priorities (helping to ensure compliance with cancellations, suspensions and other major pesticide regulatory actions, and planning for worker protection enforcement) and state/tribal priority problem areas?
Yes _____ No _____ Comments:
8. Has the applicant clearly defined the objectives which support achievement of these priorities? Do projected outputs adequately address the problem areas identified?
Yes _____ No _____ Comments:

Are the following quality assurance practices addressed in the application:

- Quality Assurance Plan;
Yes _____ No _____
- (b) Use of standard analytical methods;
Yes _____ No _____
- (c) Cross-contamination screening program;
Yes _____ No _____
- (d) NEIC check sample program;
Yes _____ No _____
- (e) Back up Analysis Procedure;
Yes _____ No _____
- (f) Training of Analytical Chemists;
Yes _____ No _____
- (g) Laboratory Reviews;
Yes _____ No _____
- (h) Provisions of Analysis Results;
Yes _____ No _____
- (i) Submission/Retention of Reprints;
Yes _____ No _____

Comments:

0. Does the work program provide for standard inspection and sample collection procedures?
Yes _____ No _____ Comments:
- 0A. Has the state agreed to a number of federal facility inspections?
Yes _____ No _____ Comments;
1. For programs with partial or no enforcement capability, has the applicant submitted procedures for forwarding inspection reports with suspected violations to EPA?
Yes _____ No _____ Comments:
2. Does the application provide for an annual written agreement between the state and EPA for the selection, referral, and tracking of significant pesticide use cases under FIFRA sections 26 and 27?
Yes _____ No _____ Comments:
3. Does the application include or provide as an acceptable enforcement response policy? Each applicant must have an up-to-date ERP in place and submit it with the application. A copy must also be provided to HQ.
Yes _____ No _____ Comments:

14. Does the application include sufficient staffing and acceptable procedures for reviewing the quality and sufficiency of evidence gathered (i.e. case development)?
Yes _____ No _____ Comments:
15. Is there any referenece to procedures for resolving cross-jurisdictional issues between states and tribes? (This is recommended, not required.)
16. (a) Does the applicant have a management system for tracking all inspections, violations, and enforcement actions?
Yes _____ No _____
- (b) Is there a tracking system for inspections and enforcement actions in followup to "major pesticide regulatory actions"?
Yes _____ No _____
- (c) For new applicants, is there a description of the system?
Yes _____ No _____
- (d) Does the workprogram address maintenance of tracking documents and associated files and length of time maintained?
Yes _____ No _____ Comments:
17. Does the application include a completed Output Projections form (EPA Form 5700-33H) with inspections and samples projected per quarter and for the fiscal year?
Yes _____ No _____ Comments:
18. Does the application provide for the timely submittal of Quarterly Accomplishment Reports (EPA Form 5700-33H)?
Yes _____ No _____ Comments:
19. For new applicants, is there a description of the accounting filing system?
Yes _____ No _____ Comments:
20. Is there an evaluation plan which includes a schedule for mid-year and end-of-year evaluations?
Yes _____ No _____ Comments:
21. Does the application address any unresolved problem(s) identified in the most recent mid-year and end-of-year evaluations? Does the plan for addressing the problem(s) include a schedule for implementation?
Yes _____ No _____ Comments:

Additional Comments:

Pesticide Program Component Workprogram

Has the applicant addressed the specific pesticide program activities for:

(a) Certification & Training;
Yes_____ No_____ Comments:

(b) Worker Protection;
Yes_____ No_____ Comments:

(c) Ground-Water;
Yes_____ No_____ Comments:

(d) Endangered Species;
Yes_____ No_____ Comments:

(e) Lawn Care;
Yes_____ No_____ Comments:

Has the applicant clearly prioritized these activities and defined the objectives which support their achievement? Do project outputs adequately address the program and/or problem areas defined?

(a) Certification & Training;
Yes_____ No_____ Comments:

(b) Worker Protection;
Yes_____ No_____ Comments:

(c) Ground-Water;
Yes_____ No_____ Comments:

(d) Endangered Species;
Yes_____ No_____ Comments:

(e) Lawn Care;
Yes_____ No_____ Comments:

3. Has the applicant submitted a schedule for the activities outlined in each workprogram?

- (a) Certification & Training;
Yes_____ No_____ Comments:
- (b) Worker Protection;
Yes_____ No_____ Comments:
- (c) Ground-Water;
Yes_____ No_____ Comments:
- (d) Endangered Species;
Yes_____ No_____ Comments:
- (e) Lawn Care;
Yes_____ No_____ Comments:

4. For Certification workprograms, does the application include a completed Output Projections form (EPA Form 5700-33H) with number of applicators to be certified and recertified?

Yes_____ No_____ Comments:

5. Does the application provide for timely submittal of Quarterly Accomplishments reports?

- (a) Certification & Training;
Yes_____ No_____ Comments:
- (b) Worker Protection;
Yes_____ No_____ Comments:
- (c) Ground-Water;
Yes_____ No_____ Comments:
- (d) Endangered Species;
Yes_____ No_____ Comments:
- (e) Lawn Care;
Yes_____ No_____ Comments:

For new applicants, is there a description of the accounting filing system?

- (a) Certification & Training;
Yes _____ No _____ Comments:
- (b) Worker Protection;
Yes _____ No _____ Comments:
- (c) Ground-Water;
Yes _____ No _____ Comments:
- (d) Endangered Species;
Yes _____ No _____ Comments:
- (e) Lawn Care;
Yes _____ No _____ Comments:

Is there an evaluation plan which includes a schedule for mid-year and end-of-year evaluations?

- (a) Certification & Training;
Yes _____ No _____ Comments:
- (b) Worker Protection;
Yes _____ No _____ Comments:
- (c) Ground-Water;
Yes _____ No _____ Comments:
- (d) Endangered Species;
Yes _____ No _____ Comments:
- (e) Lawn Care;
Yes _____ No _____ Comments:

General

Was the application received by the Regional Office at least 60 days prior to the beginning of the proposed budget period?

Yes _____ No _____ Comments:

Have costs been incurred before the date of award?

Yes _____ No _____ Comments:

- 3. Has a copy of the application been sent to and received by the OCM Grants and Evaluation Branch and the OPP Certification Branch within one week of the Region's receipt of the application?
Yes _____ No _____ Comments:

- 4. Has the Application Review Panel made comments and identified, addressed, and resolved problems prior to the signing of the cooperative agreement and award of funds?
Yes _____ No _____ Comments:

- 5. Is a certification for a drug-free work place included in the application?
Yes _____ No _____ Comments:

FY92 Cooperative Agreement Application

SAMPLE FY92 CORE ENFORCEMENT WORK PROGRAM

The standard grant application form (SF-424) should be completed and submitted, along with the required certification for a drug-free work place. Background information on completing the application form is included on pages 10-16 of the FY92 pesticide cooperative agreement guidance.

The following is the core enforcement work program to be addressed in the narrative which would accompany and be a part of the standard grant application package. (In a few places, you will also read "notes to the Regions and States" which are meant to provide additional information, but obviously are not meant to be included in the grant application narrative.) The following core enforcement work program is based on the FY 92 cooperative agreement guidance.

Narrative Statement

1. Background

- Brief discussion of performance to date under existing award (as required under 40 CFR Part 35.140)

The State of _____ has participated in a Pesticide Cooperative Agreement with the Environmental Protection Agency since _____. (and so forth)

2. Ability to Implement Program

- As outlined in the grant guidance, each applicant must certify that there are no impediments to carrying out the proposed program(s), as outlined in the grant guidance.

3. Objectives of the Project

4. Benefits of the Project to the Applicant and EPA

5. Work program for Enforcement

A. Issue-Specific Compliance Monitoring Activities

1. Cancellations, Suspensions and Other Major Regulatory Actions

The State of (insert name) will conduct cancellation/suspension 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 will address: 1) major cancellation actions; 2) all suspensions under FIFRA Section 6; 3) FIFRA Section 3(c)(2)(B) suspensions; and 4) other major pesticide regulatory actions (i.e. label improvement programs, etc.)

The State will track the inspections, violations found and enforcement actions taken in follow-up to cancellations and suspensions. Narrative reports will be prepared on the inspections and enforcement actions taken as specified in the applicable compliance monitoring strategies. EPA form 5700-33H will be used to document compliance monitoring of cancellations and suspensions as a component of the States comprehensive inspections.

2. Worker Protection Enforcement Activities

a. Notification to Prospective Constituents

Between the publication date of the Final Rule and effective dates for compliance, (insert Agency name) will use the opportunity of inspections conducted under the cooperative agreement to notify prospective constituents of the provisions of the final rule and to ensure compliance with current worker protection requirements. This will be in addition to other methods for notification used by the state (to be outlined in the compliance communication strategy described below).

b. Compliance Monitoring Strategy

The State of (insert name) will submit to Region (#) a Compliance Monitoring Strategy for worker protection, with the components discussed below, within six months of the publication of the final rule.

The State's strategy will then be reviewed and commented on by the EPA Regional Office within one month of receipt. (The Region's review should focus on whether the State's strategy is consistent with the national strategy and whether the proposed strategy is appropriate, given the State's particular situation.) The (insert Agency name)

will then address the Region's comments, if any, within one month of receipt and forward the revised strategy to the Regional Office.

(Note to Regions/States: If a State/Tribe cannot submit their strategy within 6 months of the publication date of the rule, the Regional Office and State should reach agreement on a new date for submittal. In the meantime, the State shall follow the National Compliance Monitoring Strategy. The Regional office shall then request, in writing, concurrence from OCM's Grants and Evaluation Branch on the new date. (Such requests are expected to be the exception rather than the rule.)

As a minimum, the compliance monitoring strategy will include a compliance communication strategy, a description of interagency coordination, and a targeting scheme as distinct components, as discussed below.

1) Compliance Communication Strategy

The compliance communication strategy for worker protection will describe the actions which the (insert State Agency name) will take using enforcement funds to communicate the enforceable provisions and effective dates of the worker protection rule.

The State will identify in the Compliance Communication Strategy the specific sectors of the regulated community that will be effected, explaining how and when the (insert State Agency name) plans to inform each sector of the requirements of the revised rules. The (insert Agency name) will also discuss with the Region the extent and quality of the information gathered in this area, based on the information resources available.

(Insert Agency name) will inform the regulated community of its responsibility to comply with the Worker Protection Rule. In addition to inspections, the approaches and actions to be taken to communicate the enforceable provisions of the final rule and to be supported with enforcement funds will be described in the compliance communication strategy.

2) Inter-Agency Coordination

(Note: An "interagency coordination" component must only be included in the compliance monitoring strategy if the grantee is in a situation where more than one agency has jurisdiction and responsibility for enforcing the worker protection standards. If this is the case, it is important to address this topic specifically within the enforcement context since it may be the case in some states that worker protection enforcement responsibilities are shared, but program responsibilities are not shared, or vice versa.)

In (insert State name), the following agencies may have jurisdiction and responsibility for enforcing the worker protection standards for pesticides and labeling requirements: (Insert state agency names)

The (insert name of State agency) is the lead agency for enforcement and will develop a mechanism for coordination with the other agencies involved. The (insert state agency) will clarify in writing this mechanism and specific roles and responsibilities of each agency. As soon as the final revisions to the worker protection regulations are published, (insert State agency name) will begin discussions with other appropriate agencies.

The Inter-Agency component of the compliance monitoring strategy will include:

- a) A clarification of the specific roles and responsibilities of each agency which has jurisdiction and responsibility for enforcing the worker protection standards in the State;
- b) A description of the mechanism for coordinating with the other agency/agencies involved;
- c) A copy of any sub-grant package negotiated and approved.

3) Targeting Scheme to Ensure Compliance with the Worker Protection Rule

(Insert State agency name) will develop and submit a scheme specifically for targeting inspections to ensure compliance with the worker protection rule.

Targeting will not be implemented until the effective dates for compliance have passed. The dates will be specified in the Final Rule.

These inspections will be comprehensive, targeted specifically for when and where activities regulated by the worker protection rule are most likely to take place.

c. Implementation of Compliance Monitoring Strategy

Within eight months of the publication date of the final Revised Worker Protection Standards, the State will begin to implement the compliance communication strategy and inter-agency coordination components of the State's Compliance Monitoring Strategy. (This eight month time frame takes into account submittal of the strategy, review by EPA and the aforementioned time for making changes, if any, to the strategy.)

(Note to Regions and States: This time period applies in all cases unless Headquarters concurrence on a revised agreement has been granted per the process described on page 41 of the grant guidance.)

Once the effective dates for compliance with the Final Rule have passed, the targeting scheme will be implemented.

d. Inspectional Activity

(1) Conducting Inspections

Once the compliance dates for the revised worker protection rule have passed, the (insert State agency name) pesticide inspection activities will include monitoring for compliance with the new worker protection labeling requirements. Monitoring for compliance with worker protection requirements shall be another element of comprehensive inspections.

(2) Incident and Complaint Investigations

(Insert name of State) will also conduct investigations in response to incident and complaint reports.

(3) Tracking

EPA will track Section 26 and 27 referrals; (insert state agency name) will track tips and complaints not referred by EPA.

e. Training

The States will send appropriate personnel to available EPA-sponsored training sessions on the new Worker Protection Rule, provided that the State Lead Agency can obtain approval for employees to travel out-of-state. (Note to Regions and States: The number and type of personnel to be sent should be discussed with the Region. If the State or Tribe needs to supplement Federal training with their own training, the development of this training should be coordinated and discussed with the Regions.)

f. Reporting

The State will specifically report on the implementation of their compliance monitoring strategy and the other worker protection enforcement activities described in this section. Two reporting mechanisms will be used to document the State's worker protection compliance monitoring activity.

(1) Evaluation Reports

The Regions will document (name of State) worker protection compliance efforts as part of the mid-year and end-of-year evaluation reports.

(2) Quarterly Accomplishments

The second mechanism will be through the quarterly reporting mechanism. Following the effective dates for compliance, the State's inspections performed under the cooperative agreement will include monitoring for compliance with the worker protection rule. If monitoring for worker protection requirements was not included as part of every remaining type of inspection, the grantee will explain why in the narrative section of the quarterly report.

3. Planning Enforcement Activities for Residue Removal Regulations

Under Section 19 (f) of the amended FIFRA, by December 24, 1991 (the end of the first quarter of FY 92), EPA must promulgate regulations that prescribe procedures and standards for removing pesticides from containers before disposal. Effective December 24, 1992, a State may not exercise primary enforcement responsibility under Section 26, or certify an applicator under Section 11, unless the Administrator determines that the State is carrying out an adequate enforcement program to ensure compliance with the aforementioned regulations.

In preparation for this deadline, the grantee will plan for the State enforcement activities which will ensure compliance with these regulations. To this end, by the end of FY 92, the grantee will, as a minimum, outline the specific proposed activities which will be conducted to ensure compliance with the residue removal regulations.

4. Enforcement Activities for Ground-Water Protection

a) In FY 92, (insert State agency name) will continue to monitor compliance with and enforce labeling as part of their use, producing establishment, marketplace, and dealer inspections.

In targeting use inspections, the State will take into account areas of high risk for groundwater contamination, along with how these areas overlap with locations of pesticide use.

b) The (name of grantee) will plan for identify, and describe enforcement authorities, capabilities, and activities, which will be used to assure compliance with the provisions of the State's groundwater management plan. A clear statement of the roles of different agencies if more than one agency within the State is potentially involved with enforcement activities for protection of ground water from pesticide contamination will be included.

This identification and description will occur according to the schedule agreed upon with the Regional Office. (Note to Region and State: Insert information on the schedule.)

c) (Name of grantee) will consider the enforcement authorities available under other Federal/State statutes,

when it comes to contamination of ground water or drinking water supplies, and coordinate enforcement activities with EPA and other State agencies, as appropriate, to make full use of other statutes where applicable.

(Optional: In relation to the above, it is recommended (but not required) that the State Lead Agency (SLA) develop for their own use an "enforcement authorities chart" which indicates the enforcement authorities of each of the State agencies associated with enforcement for pesticide contamination of ground water or drinking water supplies. This chart would also contain the name of the State agency contact and his/her phone number. The State inspectors and managers could use this as one tool in developing the best enforcement approach with regard to preventing or follow-up to ground water contamination.)

d. The State will implement the aforementioned enforcement activities.

e. (Note: If applicable within the State, FY 92 funds may be used to develop any Memoranda of Understanding with other agencies to coordinate specific enforcement responsibilities and actions.)

f. (Note: If States/Tribes need to develop enforcement authorities and/or prohibitions which are more stringent than those currently in place for the protection of ground water from pesticides, then a portion of cooperative agreement funds, as agreed upon with the Regional Office, can be used for development of such enforcement authorities. The development should occur according to a schedule agreed upon with the Regional Office.)

5. Enforcement Activities for Endangered Species Protection

a) Enforcement of the use limitations to be imposed to protect listed species will be carried out under the provisions of FIFRA addressing misbranding and misuse. Products whose use requires limitations to protect listed species and which do not carry the necessary information on the product labeling, may be identified through routine inspections of manufacturing facilities and pesticide distributors and dealers or through information received regarding suspected misbranding. Products found to be misbranded (i.e., do not carry the required label

language to protect listed species) may be subject to enforcement action. In the field, pesticide misuse will be identified similarly through routine inspection and information provided regarding alleged misuse of a pesticide product.

In targeting use inspections, (insert State agency name) will take into account areas inhabited by endangered species, along with how these areas overlap with locations of pesticide use.

b) Once the final Endangered Species Protection Program is published by the Agency, the State will plan for and implement appropriate enforcement measures. The (insert name of State Agency) will comply with the National Compliance Monitoring Strategy for the Endangered Species Protection Program to be issued in FY 1992.

6. Section 6(g) Information Submittal and Pesticide Recalls

Section 6 (g): Under FIFRA Section 6 (g), EPA may require all persons who produce, sell, distribute, or commercially use pesticides to notify EPA and State/Tribal officials concerning the quantities and location of suspended or canceled pesticides in their possession.

The State of _____ will help enforce the information submittal requirements. The State of _____ will consider the information which they receive on quantities and locations of suspended or canceled pesticides in targeting future inspections.

Pesticide Recalls: EPA may also require registrants and distributors to recall pesticide products which have been both suspended and canceled. Once these recall requirements are effective, the State of will enforce where applicable.

7. Exports

In FY 92, the State will conduct pesticide export inspections, as indicated on the inspection projections reporting form in attachment 2.

8. Certification and Training

The State of _____ will enforce the revised final certification and training regulations to be issued in FY 92.

B. Priority-Setting

Attached is a copy of the priority-setting plan for (insert name of State Agency).

(Note to Regions and States: New applicants, including both States and Tribes, need to submit a priority-setting plan with their cooperative agreement application; the plan should be based on the best available data. Applications for continuing programs need to: 1) reference their existing priority-setting plan; 2) indicate any changes in the plan and include a copy of their plan, if it has been amended or changed; and 3) list the priorities for the year being addressed, taking into account the national priorities.)

C. Inspection and Sample Collection Activities

The outputs, which the (name of State agency) proposes to accomplish during the agreement period are outlined in the inspection projection reporting form, EPA form 5700-33H, in attachment 2.

Categories of Inspections: Inspection will be conducted in accordance with the procedures set forth in the updated Pesticides Inspectors Manual. The categories of inspections and investigations to be conducted include:

- * agricultural use;
- * non-agricultural use;
- * experimental use;
- * producer establishments;
- * market place;
- * imports;
- * exports;
- * certified applicator records;
- * restricted use pesticide dealer.

Federal facility and lawn care inspections will be a subset of these.

Producer Establishment Inspections: A number of routine producer establishment inspections will be completed so that all producer establishments are inspected over time on a routine basis.

Federal Facility Inspections: With regard to federal facility inspections, as stated in the EPA Federal Facility Compliance Strategy, November 1988, "... with the exception of very limited presidential exemptions ... federal agencies must generally comply with all provisions of federal environmental

statutes and regulations as well as all applicable state requirements ...". The State has negotiated with their Regional Office and committed to conducting an agreed upon number of federal facility inspections. The State will do (#) of these inspections. These inspections will be subsets of the categories of inspections routinely conducted and outlined above.

Comprehensive Inspections: It is expected that the State will conduct comprehensive inspections, addressing every element of each type of inspection.

Strategies: The State will follow requirements related to inspections which are included in National Compliance Monitoring Strategies.

Narrative reports will continue to be prepared on the inspections and enforcement actions taken as specified in the applicable compliance monitoring strategies.

EPA form 5700-33H: EPA form 5700-33H will be completed and include projections for the categories of inspections listed on the form.

Documentation of Inspections: Inspections will be conducted in accordance with the procedures set forth in the updated EPA Pesticides Inspection Manual.

Among other things we will ensure proper documentation of inspections (affidavits, maps, photos, etc.).

Inspection Reports: Copies of all inspectional reports will be retained by the State/Tribe for a reasonable period of time, but at least until any associated enforcement cases are resolved and closed. These reports will be available for examination by EPA or be forwarded to the EPA Regional Office.

(Note: Applicants with partial or no enforcement capability must develop procedures for forwarding inspection reports to EPA for enforcement determination and action. These procedures must be submitted for review with the cooperative agreement application and must be approved.)

D. Quality Assurance

1. Quality Assurance Project Plan

The State of _____ hereby verifies that an updated approved quality assurance project plan is in place for FY 92 and is attached.

(Note to Regions and States: For continuing cooperative agreements, applicants conducting sampling/analytical activities under the agreement must have in place a current approved QA Project Plan. If a Quality Assurance Project Plan submitted in previous years continues to reflect the sampling and analytical activities proposed for the current year, reference to the approved plan on file in the EPA Regional Office will suffice. Any significant changes in content (including signatories), however, requires submittal of updated pages or the entire plan as appropriated with their cooperative agreement application.

2. Analytical Methods

Pesticide formulation samples collected for determination of product compliance shall be analyzed by the (insert State agency name) laboratory, using the EPA Manual of Chemical Methods for Pesticides and Devices, Association of Official Analytical Chemists (AOAC) analytical manual (14th Ed.), the Collaborative International Pesticide Analytical Council Manual (CIPAC), or other standard analytical methods. All potentially volatile samples shall be verified by procedures spelled out in the NEIC Pesticide Products Procedures Manual or as otherwise specified in the Quality Assurance Project Plan.

Pesticide residue samples in support of misuse investigations shall also be analyzed by the applicant's designated laboratory, using available FDA, EPA, USGS or other accepted methods available in the scientific literature or by the pesticide industry. All reported results will be accompanied by appropriate quality control parameters so as to allow evaluation of precision, accuracy, freedom from interferences and confirmation of pesticide (or metabolite) identity.

3. Cross Contamination Screening

(Insert name of state agency) shall establish and utilize a cross contamination screening program for pesticide formulations in accordance with the EPA Cross Contamination Guidelines.

4. Check Sample Program

(Insert name of state agency) shall participate in the EPA's National Enforcement Investigations Center (NEIC) Check Sample Program. The (state agency) will submit a report indicating the methodology used and the results of the analysis to EPA.

If the State fails to obtain the correct results, EPA and (name of State agency) will reach agreement on appropriate follow-up activities.

5. Back up Analysis Procedure

The (insert name of State agency) may request back-up analyses from NEIC or other NEIC recommended laboratories, if necessary or requested by the Region.

6. Training of Analytical Chemists

EPA will provide training of state inspectors and analytical chemist, as necessary. Using cooperative agreement or other funds, the State will avail itself of EPA workshops, seminars and meetings on proper sampling, analytical procedures, instrumentation, methodology and quality assurance.

7. Laboratory Reviews

(Insert state agency name) shall allow EPA representatives to conduct on-site laboratory visits to review State laboratory analytical capability and procedures, and to discuss areas needing improvement.

8. Provisions of Analysis Results

The (insert name of state agency) shall send a copy of the results of any sample analysis made under the authority of FIFRA to that person from whom the sample was collected.

9. Submission/Retention of Reports

Copies of all analytical reports, associated raw data and other necessary records for samples collected shall be retained by the State and be available for examination by EPA, or be forwarded to the EPA Regional Office.

The analytical reports must be retained by the applicant or the EPA Regional Office until the associated enforcement cases are resolved and closed out.

E. Formal Referrals

The State will conduct activities under FIFRA Section 26 and 27. Section 27(a) of FIFRA requires EPA to refer to the States any information the Agency receives indicating a significant violation of pesticide use laws. The priority areas for referral for FY 92 have been identified in writing and are provided in attachment 3.

All pesticide use cases, identified as significant, will be referred to the State by EPA in writing, and will be formally tracked as set forth in the Final Interpretive Rule.

The State will commence appropriate enforcement action for cases, so tracked, within 30 days after completion of the investigation. This period may be extended, after negotiation, if required by the procedural characteristics of the State regulatory structure or the complexity of the case.

If the State has not reported on the investigative status within 30 days of the date of referral, EPA will contact the State to learn the results of the investigation and the State's intended enforcement response to any violations detected. An investigation should be considered adequate if the State has: (1) followed proper sampling and other evidence gathering techniques; (2) responded expeditiously to the referral; and (3) documented all inculpatory or exculpatory events or information.

If the Region determines that the State's intended enforcement response to the violation is inappropriate, EPA will first attempt to negotiate an appropriate State enforcement response. If the State is unwilling or unable to alter its original enforcement response, EPA may bring its own enforcement action after notice to the State. That notice will summarize the facts relating to the State's enforcement response, discuss reasons for EPA's determination that the enforcement action is inadequate and state that EPA will initiate its own enforcement action. The Region will not initiate an enforcement action sooner than thirty (30) days after the State was notified.

F. Enforcement Response, Case Development and Tracking Activities

1. Enforcement Response Policy

The up-to-date FY 92 enforcement response policy (ERP) is provided in attachment 4 and will be followed during the project period of this cooperative agreement.

In determining enforcement penalties and/or in negotiating settlement agreements, the State of _____ will consider potential pollution prevention activities which a violator could undertake in exchange for an appropriate reduction in the enforcement penalty where applicable.

2. Case Development

The review of all inspection reports for the detection of possible violations and the initiation of appropriate enforcement action, is an important part of every comprehensive pesticide enforcement program. (Insert state agency name) will review the quality and adequacy of evidence gathered during the course of all investigatory activities performed under the cooperative agreement.

(Note to Regions and States: Each cooperative agreement should include sufficient resources, for this activity, to ensure an adequate level of case development and enforcement. Violations of the applicant's and Federal laws are discussed below.)

a) Violations of Applicant's Law Only

The State will review the quality and sufficiency of evidence gathered in the course of all investigative activities performed under the cooperative agreement. If the evidence reveals a violation of only the State's pesticide laws/codes, the State will pursue an appropriate remedy provided by State Law.

b) Violations of Federal Law Only

Where evidence reveals a possible violation of Federal law only, the State will forward the information to the EPA Regional Office within 30 days after completion of the investigation. All cases forwarded to EPA will include all evidence, inspection reports and/or forms, a brief narrative of the case, and a recommended enforcement response.

The State will prepare and make available to EPA, when requested, testimony and other evidence pursuant to the procedures adopted by EPA. The State will provide witnesses for informal settlement conferences, public hearings, and appearances in a court of law, as the EPA requests.

c) Violations of Both the Applicant's and Federal Law

If evidence reveals a violation of both State and Federal law, the State may bring appropriate enforcement action under State/Tribal law or refer the case to EPA for action under FIFRA.

For all pesticide cases, for which the State determines that the most appropriate enforcement action is not available under State law, the State may refer such cases to EPA for enforcement action under FIFRA.

3. Cross Jurisdictional Situations

(Note: This is discussed on page 61 of the FY 92 grant guidance.)

For a successful cooperative pesticide enforcement program, there should be cooperation between the Tribe(s) and the State(s) in which a Tribe is located. Because many of the distributors and applicators of pesticides on Tribal lands are not located on the reservation, it is important that Tribe(s) and State(s) involved be agreeable to developing procedures for the cooperative enforcement of problems involving cross-jurisdictional situations. (These procedures are provided in attachment 5.) OR (These procedures will be developed during FY 92 and submitted to the Regional Office.)

G. Tracking

The (insert State agency name) will establish and utilize a management system for tracking all inspections, violations found, and enforcement actions initiated. The tracking system will, at a minimum, include the following elements:

- Date of inspection
- Reason for inspection (routine, complaint)
- Name of person or firm inspected
- Violation found
- Summary of past compliance history
- Enforcement action taken
- Date of enforcement actions
- Disposition of action

(Note to Regions and States: The tracking system must constitute a system for allowing the rapid identification of the status of a case and an information resource for informing citizens of the ultimate disposition of their complaints.

Maintenance of the tracking documents and associated files and the length of time that such files will be maintained must be addressed in the cooperative agreement work program. New applications must submit a description of the tracking system with their cooperative agreement application and the system must be evident within three months of the start of the project period.)

Under the aforementioned tracking system or separate system, the State will document and track the inspections, violations found and enforcement actions taken in follow-up to cancellations and suspensions of pesticides. Reports will be prepared on the inspections and enforcement actions taken after the suspensions and cancellations as specified in the applicable compliance monitoring strategies.

H. Reporting

The (insert State agency name) will use EPA Form 5700-33H (in attachment 2) for reporting the required comprehensive inspection and sample collection accomplishments under the FIFRA Enforcement Cooperative Agreement. A narrative report may need to accompany the reporting form to discuss any pertinent State enforcement activities not addressed on the form, any program highlights and/or any program problem areas.

Completed compliance monitoring reporting forms will be submitted quarterly. These reports showing inspectional activities and enforcement actions accomplished shall be submitted by the State to the EPA Regional Office within 30 calendar days following the completion of each Federal fiscal year quarter. Quarterly reports will be submitted by January 30, April 30, July 30 and October 30 of each year.

Reports will be prepared on inspections and enforcement actions taken after "major pesticide regulatory actions" as specified in the applicable compliance monitoring strategy.

I. Accounting Records and Filing Systems

(Insert State agency name) will maintain accounting records for funds awarded for each component under each agreement (including receipts, State/Tribal matching contributions, and expenditures) in accordance with all applicable EPA grant regulations and generally accepted accounting principles.

(Note to Regions and States: 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.)

J. Evaluation Plan

(Note to Regions and States: The cooperative agreement should include an evaluation plan mutually acceptable to EPA and the State. As a minimum, the plan should include a schedule for

conducting timely mid-year and end-of-year on-site evaluations.)

K. Unresolved Problems

(Note to Regions and States: The cooperative agreement work program must address any unresolved problem areas identified in the most recent end-of-year evaluation and the mid-year evaluations for the current project period and indicate how the State and/or EPA will address the problem(s). The plan for addressing the problem(s) must include a schedule/time frame for implementing the plan.)

L. EPA Support to States/Tribes

(Note to Regions and States: The cooperative agreement should describe the types of support (inspector training, NEIC laboratory analysis training, technical assistance, contractor assistance, expert witnesses for state enforcement proceedings, etc.) that the grantee expects EPA to provide and is or will be available to assist the State in meeting its commitments.

The cooperative agreement should describe any negotiated agreement between the State and EPA for the handling of referrals and requests for information from the State. The agreement should include any time frames that are mutually agreeable to the State and EPA.)

BUDGET INFORMATION — Non-Construction Programs

U.S. GAO

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. Enforcement	66.700	\$	\$	\$ 200,000	\$ 35,295	\$ 235,295
2. Certification				35,000	35,000	70,000
3. Pesticides Program Activities				60,000	10,590	70,590
4.						
5. TOTALS		\$	\$	\$ 295,000	\$ 80,885	\$ 375,885

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM FUNCTION OR ACTIVITY				Total (5)
	(1) Enforcement	(2) Certification	(3) Program Act.	(4)	
a. Personnel	\$ 100,000	\$ 45,000	\$ 48,000	\$	\$ 193,000
b. Fringe Benefits	25,000	11,250	12,000		48,250
c. Travel	10,000	5,000	2,000		17,000
d. Equipment	15,000				15,000
e. Supplies	20,000	3,000	4,000		27,000
f. Contractual	30,000				30,000
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a-6h)	200,000	64,250	66,000		330,250
j. Indirect Charges	35,295	5,750	4,590		45,635
k. TOTALS (sum of 6i and 6j)	\$ 235,295	\$ 70,000	\$ 70,590	\$	\$ 375,885
l. Program Income	\$	\$	\$	\$	\$

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
9. Enforcement	\$ 35,295	\$	\$	\$ 35,295
10. Applicator Certification	35,000			35,000
11. Pesticide Program Activities	10,590			10,590
12. TOTALS (sum of lines 9 and 11)	\$ 80,885	\$	\$	\$ 80,885

SECTION D - FORECASTED CASH NEEDS

13. Federal	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
	\$ 295,000	\$ 73,750	\$ 73,750	\$ 73,750	\$ 73,750
14. Nonfederal	80,885	20,221	20,221	20,221	20,221
15. TOTAL (sum of lines 13 and 14)	\$ 375,885	\$ 93,971	\$ 93,971	\$ 93,971	\$ 93,971

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FISCAL PERIODS (Year)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

federal register

January 19, 1981

Part XXXII

Environmental Protection Agency

**Responsiveness Summary and Preamble
on Public Participation Policy**

**ENVIRONMENTAL PROTECTION
AGENCY**

(AS-FRL-1988-8)

**Responsiveness Summary and
Preamble on Public Participation
Policy**
AGENCY: Environmental Protection
Agency.

ACTION: Policy

SUMMARY: This Policy is designed to provide guidance and direction to public officials who manage and conduct EPA programs on reasonable and effective means of involving the public in program decisions. The Policy applies to programs under the Clean Air Act (Pub. L. 95-65), Quiet Communities Act (Pub. L. 95-609), Resource Conservation and Recovery Act (Pub. L. 94-580), Toxic Substances Control Act (Pub. L. 94-468), Federal Insecticide, Fungicide and Rodenticide Act (Pub. L. 95-398), Safe Drinking Water Act (Pub. L. 95-190), and the Clean Water Act (Pub. L. 95-217).

The Policy establishes the objectives of public participation in EPA programs, outlines essential elements that must be incorporated in any public participation effort, discusses a number of public participation mechanisms with ground rules for their effective use, and assigns responsibility for planning, managing, funding, and carrying out public participation activities to EPA managers. The intent of the Policy is to ensure that managers plan in advance needed public involvement in their programs, that they consult with the public on issues where public comment can be truly helpful, that they use methods of consultation that will be effective both for program purposes and for the members of the public who take part, and finally that they are able to apply what they have learned from the public in their final program decisions.

The Policy provides a uniform set of guidelines and requirements applicable to all EPA programs, thus assuring a consistent base level of effort. The Policy applies to all EPA activities as well as to State and local activities funded or delegated by EPA. EPA will develop work plans as part of the annual budget development cycle, and amend program regulations as needed to incorporate the Policy. Affected programs are listed in the Appendix to the Policy.

DATE: This Policy is effective on January 19, 1981.

FOR FURTHER INFORMATION CONTACT: Sharon P. Frauda, Special Assistant for Public Participation, Office of the Administrator (A-100), Environmental

Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone 202/245-3088.

SUPPLEMENTARY INFORMATION: The Policy which takes effect with this publication is the result of long and careful consideration on the part of EPA, State and local agencies, and the diverse public that is actively concerned with EPA programs. EPA already enjoys a substantial amount of involvement from an active and interested public. Indeed, to that public goes substantial credit for progress made in cleaning up environmental pollution over the last ten years. There has been recognition, however, both inside and outside the Agency, that new steps need to be taken to ensure that members of the public affected by EPA programs are given an earlier and better opportunity to be heard in EPA decisionmaking.

EPA has received a significant volume of thoughtful criticism of its performance in implementing its legally mandated public participation activities and its more general responsibility to involve the public in governmental decisions. The desire of the public to have a stronger role in shaping government programs which affect their lives, businesses, and communities, and also the growing need for governmental units at all levels to participate in the programs of other governmental entities has stimulated this criticism. Government decision-makers have become increasingly aware of the capability of the public to make constructive use of opportunities for involvement. This new awareness has been accompanied by increased practical experience in using a variety of techniques to facilitate public involvement.

For these reasons, EPA has recognized the need to improve public involvement in governmental decisions by clarifying the rights and responsibilities of potential participants and those responsible for administering public participation programs. This will lead to better decisions, more satisfactory opportunities for the public to pursue their goals through government, and greater public confidence in government because decisions will be made with participation by interested and affected members of the public.

Both EPA and members of the public have more demands on their scarce time and resources than can be filled, and need to use them where the results can be most effective. This Policy's ~~primary~~ ~~objectives~~ ~~and~~ ~~emphasis~~ results will benefit the entire Agency, and will give the public new confirmation that EPA intends to be as

responsive as possible to public questions, concerns, and preferences.

This Policy is the result of analysis and reforms instituted at the Administrator's direction by the Agency Task Force on Public Participation. The Policy was initially proposed in the Federal Register on April 30, 1980. In order to ensure that the proposed Policy received attention from the various sectors of the public active in EPA's programs, the Agency mailed copies of the proposal to a nationwide mailing list that included business and industry, labor organizations, professional and trade associations, news media, consumer and women's organizations, environmental and public interest groups, Black, Hispanic, and Native American organizations, scientific, public health, legal and planning societies, and State agencies.

Additionally, each of EPA's ten regional offices received copies of the Policy for distribution to their constituent lists at the regional, State and local levels. A number of regional office wrote and distributed summaries of the proposed Policy, as well as held meetings to give members of the public opportunity to raise questions and express their views. Public meetings were held in Boston, Chicago, Columbus, Minneapolis, Denver, Seattle, Portland, Boise, Anchorage, and Washington. As a result of these outreach efforts, close to 500 members of the public took part in discussions and offered comment on the proposal.

The following analysis of the comments received, in terms of the affiliation of the person commenting, provides insight on the expectations and needs of various sectors of the public.

Written comments were received from people in forty-two States, with the largest number of comments coming from States where EPA's regional offices had also stimulated public meetings, namely Massachusetts, Connecticut, Minnesota, Ohio and Washington. Written comments were in almost every case substantive and extensive, often running many pages in length. In almost all cases, the people who wrote had been involved with EPA programs either as public participants or program managers, and their comments reflected this reservoir of practical experience.

The largest section of the public who commented were public interest groups, including environmental, consumer, and local civic groups. They provided 30% of the comments received and were closely followed by economic interests, including industries, business, and trade associations with 27%. Additionally, 15% of comment came from State agencies, 10% from citizens-at-large, 10% from

local officials, 6% from other federal agencies, and 2% from academic institutions.

Over 420 issues were addressed, and of these, the ones that drew the greatest amount of discussion were the following: the composition of advisory groups; whether to provide financial assistance to the participating public, and under what criteria; whether to apply the Policy to State agencies carrying out EPA programs; and the content and use of Responsiveness Summaries.

Eighty-five percent of those who commented supported a final Policy as strong or stronger than the one the Agency proposed in late April, and this support came from all sectors of the public. In the case of State agencies, for example, only 7 of the 44 who commented were negative about EPA's emphasis on public participation or wanted to see it weakened. The other 37 agencies all wanted a Policy and wanted it even stronger than EPA proposed. Economic interests expressed opinions on both sides of the issue, but 20% wanted it stronger and 30% supported the Policy as proposed.

Those who opposed the proposed Policy said that EPA should not be in the business of stimulating participation. People who are really concerned, they said, will come forth and participate on their own. This assumes, however, that people on their own will know that environmental decisions are about to be made, that these decisions affect them, and that they will have enough background information to be able to contribute to what is usually a technical and complex discussion.

The Agency agrees that public participation must not be a contrived exercise, nor should it be undertaken with the purpose of manipulating the public into agreement with a governmental position. EPA recognized its responsibility to give affected sectors of the public a fair opportunity to know of forthcoming governmental decisions and to be heard when those decisions are made. Clear requirements will make public involvement more cost-effective, both for EPA management and for the various sectors of the public.

It is clear from widespread support for an effective Policy that EPA's emphasis on public participation struck a responsive chord in all sectors of the public. The public's thoughtfully reasoned statements for simplifying or strengthening aspects of the proposed Policy have convinced us of the merit of a number of changes. EPA recognizes the commitment it is now making to more open and effective consultation with the public. This Policy will provide

a strong and practical framework to guide our interactions in the months and years ahead.

Summary of Response to Public Comment

The following sections respond to major points raised in comments made by the public.

1. Objectives of EPA's Policy: There was support from all sectors for the objectives stated in the proposed Policy, but a number of people called for additions as well. These include the role of the public in identifying and selecting among alternatives, the importance of early and continuing involvement, the significant opportunity that public participation affords for identifying and reducing conflicts, and the need to create equal access to the regulatory process. Commentors also pointed out that objectives need to be comprehensive since they provide the yardstick for evaluation. All of these suggestions have merit, and EPA has added them to the final Policy.

2. Application of the Policy to EPA Programs Under State Administration: Most of the laws administered by EPA designate certain programs which can be administered by a State, instead of by EPA. If the State program meets statutory and regulatory criteria, the proposed Policy required EPA to provide for public participation in the process of deciding to approve such State programs. It also provided that, after approval, the State would assume responsibility for meeting the public participation requirements.

In the preamble to the proposed Policy, EPA drew attention to this matter, and specifically asked for comment on whether the Agency should apply the Policy to EPA programs when conducted by States. A major proportion of commenters from all categories preferred the option as proposed, on the grounds that participation is needed and beneficial to program decisions regardless of who administers the program. A much smaller number of commenters favored permitting States to achieve "substantially equivalent results" to EPA's Policy; however, none responded to EPA's request for "specific suggestions for wording and evaluation criteria" since "substantially equivalent provisions have a history of being easy to propose but difficult to demonstrate." After reading all the comments, EPA concludes that the Policy, as proposed, has sufficient flexibility within a context of practical requirements that it will be beneficial to State program administration.

Two years ago, when EPA proposed its regulation for public participation in

Clean Water, Drinking Water and Solid Waste programs (40 CFR Part 23), the question of applying the requirements to States was intensely controversial. Now, with more than a year of experience in those programs, the worst apprehensions have not materialized and public participation has begun to prove its constructive role. Most State agencies, therefore, were not troubled by the proposal. In view of the comments received and the discussion above, EPA finds no need to alter this aspect of the Policy.

3. Consistency with Part 23 Regulations for Public Participation in Water and Waste Management Programs: In proposing the Policy, EPA made a conscious effort to ensure compatibility between its provisions and those of the earlier Part 23 regulation for programs under the Clean Water Act, Safe Drinking Water Act, and Resource Conservation and Recovery Act. Two additions that EPA is now making to the Policy will further remove the differences between the two documents and bring the Policy into closer alignment with Part 23. One change is the requirement that EPA review and require further efforts as needed to achieve the balanced membership requirement for advisory groups. The other change is that EPA may require corrective action on the part of State program grantees to ensure compliance with the Policy. While differences in wording remain between the two documents, EPA holds that 40 CFR Part 23 fulfills the intent and requirements of the Policy in the procedural areas (Section D. of Policy) of common subject matter. If differences remain between Part 23 and the Policy, Part 23 will control. The sections of the Policy on work plans, assistance to the public, and authority and responsibility augment the requirements contained in 40 CFR Part 23, and apply to all programs of the Agency.

4. How to Identify the Public Who Should Participate: Many of those who commented on the Identification section of the Policy liked our emphasis on developing a contact list of interested or affected members of the public at the outset of a participation opportunity. Several pointed out, however, that contact lists need frequent updating, especially on lengthy projects. This change we are incorporating. A number of those who commented on this section requested that the Policy indicate the use of a contact list, and we have revised the Policy to do so.

5. Ways to Inform and Reach the Public: The majority of comments asked for amplification of the Outreach

section. Commenters sent many valuable suggestions, many of which the final Policy incorporates. Some general areas of concern with which we agree, and have responded to in the final Policy, include the following: (1) public access to information is critical to successful public participation programs; (2) information must be translated from "technical" language into language understandable to the lay public; (3) outreach activities should be emphasized as ongoing activities so the public can be kept up to date on matters of concern; and (4) the uninterested but impacted public's views need to be solicited in some manner.

Specific comments addressed each of the major sections of Outreach. Under *Methods*, commenters suggested further use of a variety of techniques, many of which we have added to the final version. Under *Content*, it was suggested that materials be prepared in clear, concise language to inform the public of triggering events which initiate a proposed action, and provide details on supporting research analysis and methodology. These suggestions, along with the availability of Environmental Impact Statements, were included in the final Policy. Under *Notification*, the major concerns were that notices should inform the public about the initiation of a decision-making process and that we should describe the type of media notice required. In the *Depositories* section, commenters suggested public and university libraries as appropriate locations, and that consideration ought to be given to accessibility, travel time, parking, and availability during off-work hours. We agreed with these suggestions and included them in the final Policy.

6. Public Notification of Financial Assistance Awards: We received complaints from the public that often they never hear about EPA funded projects that provide participation opportunities in programs of State, substate, and local governments. They suggested that we incorporate some type of requirement that notice be given either at the time EPA receives applications, or after award acceptance. After careful consideration, and with a conscious effort to keep the Policy consistent with 40 CFR Part 25 regulations, we have added a section under *Timing* that the recipient give public notice within 45 days of award acceptance.

7. Methods to Improve Communication Between EPA and the Public: Many commenters were dissatisfied with the *Dialogue and Hearing* section. They felt we placed too much emphasis on describing hearing

requirements, and did not give enough attention to other methods of ensuring communication between EPA and the public. We responded to these concerns by amplifying the *Dialogue* section to include these suggestions and listing other methods of soliciting and using public input. These methods include review groups, workshops, conferences, personal correspondence and conversations, meetings, and citizen panels.

8. Suggestions for Improvement of Hearing Format: All sectors of the public responding felt that hearing procedures needed to move away from rigid rituals and be more attuned to listening and responding to the public's views. We agree that public hearings can be more successful if they are conducted in a non-intimidating manner, and if the public has been informed of the issues and has access to pertinent information prior to the hearing. Those who commented on the *Content of Notice* section stressed the importance of early and clear discussion of the issues and alternatives the public is asked to comment upon. Under *Conduct of Hearing*, many commenters asked for more informality and opportunity for questions and answers in the hearing. People also commented that hearings are often located too far from the affected area. We have revised the Policy to incorporate these ideas.

9. 45-Day Notice Prior to Hearings: Although some commenters felt that a 45-day notice prior to the date of a hearing was a needless delay of time and would slow down the process, others felt that 45 days was much too short a time to expect individuals or groups to prepare adequately for hearings, and some said that a 60 or 90-day notice would be more appropriate for proper preparation. Approximately 30% of the respondents favored a 30-day or less notice period, with the remaining 70% favoring a 45-day or longer period. However, the bulk of the comments favored keeping the hearing notice requirement at 45 days. The major reasons for the 45-day notice period include: (1) there is little control over mail deliveries, and often the interested public receives information too late to prepare effectively for hearings; (2) many groups meet once a month and need time to meet and discuss the notice to decide on a course of action; (3) travel time over long distances is often involved to acquire and review material; and (4) the review material is often complex and requires time for research.

Additionally, we received comments concerning the discretion given to Assistant Administrators and Regional

Administrators to waive the 45-day requirement to 30 days or less in emergency situations, or if the issues are not complex or controversial. Some commenters objected to the waiver saying it gives the Assistant Administrators and Regional Administrators too much discretionary power, and feared they may use the waiver more often than necessary. We feel some flexibility must be maintained here, and that the Assistant Administrators and Regional Administrators would be able to make exceptions they feel are warranted. However, we have stated that those objecting to a waiver may appeal to the Administrator of EPA.

10. Composition of Advisory Groups: One of the subjects most widely discussed in the proposed Policy has been the composition of advisory groups. Almost all who commented on this subject believed EPA was fair and used good judgment to prescribe a balance of backgrounds among advisory group members; however, a great many commenters believed certain categories sympathetic to their own viewpoints should be given added weight, or others of contrasting views should be prohibited.

Overall, commenters favored EPA's proposed balance of categories two-to-one, and we intend to retain this provision, with two important additions: tribal officials have been added as another category of public officials, and we have made clear that elected public officials should not be from the decision-making body the group is advising. Several people wanted "citizens with economic interests" and "organizations with economic interests" as two separate categories, but we do not agree with this proposal. We prefer to leave the citizen-at-large category unencumbered so appointing officials can have room to select a variety of individuals with potentially worthwhile contributions.

11. Proof of Effort to Achieve Advisory Group Composition: A number of those who commented were concerned that the balanced membership of advisory groups could be manipulated if there is not some degree of oversight by EPA. They also pointed out that the 40 CFR Part 25 regulation has a section calling for demonstration of "proof of effort," and this section has given valuable oversight to agencies with advisory groups. We agree that federal guidance may be valuable in this area and consequently have added a section that requires advice, assistance, review, and approval by EPA.

12. Use of Advisory Group Recommendations: A number of people

experienced with advisory groups reported their frustration with instances when the group felt their recommendations were being suppressed by the agencies they advised. Since a major purpose of this Policy is to improve openness on the part of governmental agencies, we have added a short section to the Policy which makes it clear that advisory group recommendations should be publicly available.

13. The Frequency and Use of Responsiveness Summaries: The great majority of those who commented on the subject of Responsiveness Summaries supported EPA's requirement, and thought these summaries would provide an important addition to decision-making. A few people pointed out, however, that our emphasis should not be on documenting public views as much as it should be on using them. We agree with these comments and have added some language to reflect this emphasis. Additionally, there was a certain amount of misunderstanding that Responsiveness Summaries would be required after every hearing or meeting. This is not our intent, but rather it is that Responsiveness Summaries be prepared at "key decision points." These will be identified in public participation work plans, as well as in program regulations where they are being revised to incorporate provisions of this Policy.

14. How Much Feedback Should Be Provided to the Public on the Results of its Participation? EPA's proposal that feedback be provided received strong support from all sectors of the public. A number of commenters wanted to see feedback provided within a time limit, such as 30 days, though others recognized the burden that such acknowledgments would place on the Agency's staff. Throughout the comments on this section was the desire on the part of participants to know substantively why their suggestions were or were not accepted. EPA does not have the staff resources to be able to commit itself to interim replies of a substantive nature, especially when the number of comments on many issues run into the thousands. We do, however, recognize a serious commitment to providing feedback and thus are revising the policy to state that all "participants in a particular activity (shall) receive feedback," not just "have access" to it as stated in our earlier proposal.

15. The Use of Work Plans: In EPA's initial proposal, public participation work plans were contemplated for two reasons: first, good public participation needs to be carefully planned, and

second, the resource outlays needed for public participation should be built into programs operating budgets. Many members of the public, as well as State and substate officials who commented on the Policy, supported EPA's emphasis upon work plans. In fact, several said work plans should be discussed earlier in the Policy, a suggestion we have taken. Additionally, we have added some clarifying and strengthening language on the content of work plans and the timing of their preparation. Work plans will be developed at both the program and project levels, and EPA will provide guidance on the content of these documents.

16. The Use of Public Funds to Assist the Participating Public: To a great extent the debate over financial assistance to members of the public or public organizations focused on the use of such funds in regulatory or adjudicatory proceedings. The debate was rendered moot by Congress in its action on EPA's 1981 appropriations which prohibited use of EPA funds for that purpose. The final Policy reflects the removal of this controversial aspect. Other types of public participation funding (e.g. travel expenses for witnesses at public hearings on hazardous waste disposal siting) proved uncontroversial and occasioned little comment. It is the Agency's intention to continue to fund such non-regulatory, non-adjudicatory participation.

17. The Responsibility of EPA Officials for Implementing the Policy: Many people who commented on the Policy liked the Agency's proposal which outlined the authority and responsibility of various Agency officials for ensuring the Policy's implementation. Several pointed out, however, that the language was confusing and duplicative. Therefore we have rewritten that section with separate duties identified for Regional Administrators, Assistant Administrators, the Director of the Office of Public Awareness, and the Administrator. These sections should clarify the previous obligations.

18. Ensuring Compliance with the Policy: A large proportion of commenters wanted reassurance that this Policy is more than a collection of good intentions and that EPA will stand behind its provisions and enforce them. They were particularly concerned with State and substate assistance recipients and urged EPA to develop enforcement sanctions. While we hope that sanctions will not be necessary, we have amended the Policy with a section on sanctions that gives greater emphasis to Policy enforcement.

19. Relationship Between Public Participation Policy and Environmental Impact Statement (EIS) Process: Several people noted that the proposed Policy was silent on how the Policy fits with the Agency's EIS procedures. EIS's are undertaken primarily for grants for wastewater treatment plants, new source National Pollutant Discharge Elimination System (NPDES) permits, and certain major regulations. Many of the goals of this public participation Policy and EPA's EIS programs are similar. The requirements of the new Policy will serve to reinforce, and in some cases, supplement existing EIS procedures. In revising the Policy, we have added a number of references to EIS's to emphasize the relationship.

20. Overall Evaluation of Effectiveness: Several commenters from Federal or State government agencies, as well as several citizens with years of experience as active participants, drew attention to the importance of evaluating the Policy. They said this should be done both to oversee how well its provisions are being followed and to identify, where possible, the results of improved public involvement on Agency decisions and program implementation.

EPA is committed to evaluating this Policy within three years from the date of publication. This will be done under the direction of the Administrator's Special Assistant for Public Participation. This evaluation will include such matters as effectiveness of requirements, enforceability, resource expenditures, alternative public participation methods, public reaction and reporting requirements.

Conclusions

EPA has made a number of additions and improvements to the proposed Policy on the basis of what it learned from the public during the comment period. Indeed, the revised Policy itself is a good example of how public involvement augments the Agency's work. The overwhelming proportion of statements came from people with long experience in public policy. All reflected a similar outlook: they like EPA, want to make the system work better. Among many interesting statements, a few examples indicate the challenge of the public's expectations.

A planning board chairman from a small New England town spoke of the realization that the public has come to feel toward the work of regulators. From his experience in marshalling talent to address local problems, he suggested that EPA consider recruiting broad-based citizen task forces or advisory groups to develop all the Agency's regulations and other major

policy items. They should be given a deadline, and only if they failed to produce, should EPA step in and do the work. "That would be real participation," he said.

A major national chemical manufacturer opened its statement by saying the Policy is not needed, since the company believes it duplicates existing procedures. The company continued, however, to urge substantial reform of EPA practices in order to give the public a much earlier opportunity for participation before the bureaucratic momentum becomes too great to accept any changes. They also advocated genuine responsiveness to the public, not just a "superficial consideration of comments."

A citizen group that has been working for years to reduce adverse environmental consequences from two oil refineries cited a series of disappointing interactions with EPA: delays in obtaining requested materials for review prior to hearings; difficulties in seeing pertinent materials even when they visited State offices; the high costs of reproducing documents; and a feeling that government agencies were giving substantial amounts of time and assistance to industrial applicants, but were not even willing to answer the questions of opponents, let alone assist them more substantially. The group also had the impression that EPA had its mind made up at the time of a public hearing, and the citizens felt their own efforts were wasted.

Statements such as these reveal the frustration that many members of the public have experienced when trying to work with the Agency, and they also point to the motivation and high hopes that the public continues to hold about participating in environmental protection issues. Public participation lies at the heart of the Agency's credibility with the public. It affords the best tested recipe for citizens to influence the governmental decisions that affect their lives and pocketbooks. This Policy takes an important step in defining when EPA will undertake public participation, and in saying that when we do it, we intend to do it right.

Members of the public who wish to obtain the background Compilation of Issues with their disposition and List of Commenters on this Policy may do so by contacting: Sharon F. Francis, Special Assistant for Public Participation, Office of the Administrator (A-100), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone 202/245-3006.

Dated: January 12, 1981.

Douglas M. Costle,
Administrator.

Final EPA Policy on Public Participation

This Policy addresses participation by the public in decision-making, rulemaking, and program implementation by the Environmental Protection Agency (EPA), and other governmental entities carrying out EPA programs. The term "the public" as it is used here, means the people as a whole, the general population. There are a number of identifiable "segments of the public" who may have a particular interest or who may be affected one way or another by a given program or decision. In addition to private citizens, "the public" includes, among others, representatives of consumer, environmental, and minority groups; the business and industrial communities; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; universities, educational, and governmental associations; and public officials, both elected and appointed.

"Public participation" is that part of the agency's decision-making process that provides opportunity and encouragement for the public to express their views to the agency, and assures that the agency will give due consideration to public concerns, values, and preferences when decisions are made.

A. Scope

The requirements and procedures, contained in this Policy apply to the Environmental Protection Agency and other governmental entities carrying out EPA programs (referred to herein as "agency"). The activities covered by this Policy are:

EPA rulemaking, when regulations are classified as significant, (under terms of Executive Order 12044);

The administration of permit programs as delineated in applicable permit program regulations;

Program activities supported by EPA financial assistance (grants and cooperative agreements) to State and substate governments;

—The process leading to a determination of approval of State administration of a program in lieu of Federal administration;

—Major policy decisions, as determined by the Administrator, appropriate Assistant Administrator, Regional Administrator, or Deputy Assistant Administrator, in view of

EPA's responsibility to involve the public in important decisions.

When covered activities are governed by EPA regulations or program guidance, the provisions of the Policy shall be included at appropriate points in these documents. Before those changes are made, the provisions of the existing regulations or program guidance shall govern.

B. Purpose

The purpose of this Policy is to strengthen EPA's commitment to public participation and establish uniform procedures for participation by the public in EPA's decision-making process. A strong policy and consistent procedures will make it easier for the public to become involved and affect the outcome of the agency's decisions.

This in turn will assist EPA in carrying out its mission, by giving a better understanding of the public's viewpoints, concerns, and preferences. It should also make the agency's decisions more acceptable to those who are most concerned and affected by them.

Agency officials will provide for, encourage, and assist participation by the public. Officials should strive to communicate with and listen to all sectors of the public. Where appropriate, this will require them to give extra encouragement and assistance to some sectors, such as minorities, that may have fewer opportunities or resources.

The Policy identifies those actions which are required and others that are discretionary, on the part of agency managers. The Policy assumes, however, that agency employees will strive to do more than the minimum required, and is not intended to create barriers to more substantial or more significant participation. The Policy recognizes the agency's need to set priorities for its use of resources, and emphasizes participation by the public in decisions where options are available and alternatives must be weighed, or where substantial agreement is needed from the public if a program is to be carried out.

Public participation must begin early in the decision-making process and continue throughout the process as necessary. The agency must set forth options and alternatives beforehand, and seek the public's opinion on them. Merely conferring with the public after a decision is made does not achieve this purpose.

Agency officials must avoid advocacy and precommitment to any particular alternative prior to decision-making. The role of agency officials is to plan and

conduct public participation activities that provide equal opportunity for all individuals and groups to be heard. Officials should actively seek to facilitate resolution of issues among disagreeing interests whenever possible.

Decision-makers are aware that issues which are not resolved to the satisfaction of the concerned public may ultimately face time-consuming review. If the objectives of EPA's public participation program are achieved, delays to accommodate litigation should be reduced.

C. Objectives

In establishing a policy on public participation, EPA has the following objectives:

—To use all feasible means to create early and continuing opportunity for public participation in agency decisions;

—To promote the public's involvement in implementing environmental protection laws;

—To make sure that the public understands official programs and the implications of potential alternative courses of action;

—To solicit assistance from the public in identifying alternatives to be studied, and in selecting among alternatives considered;

—To keep the public informed about significant issues and changes to proposed programs or projects as they arise;

—To create an equal and open access for the interested and affected parties to the regulatory process;

—To make sure that the government understands public goals and concerns, and is responsive to them;

—To demonstrate that the agency consults with interested or affected segments of the public and takes public viewpoints into consideration when decisions are made;

—To anticipate conflicts and encourage early discussions of differences among affected parties;

—To foster a spirit of mutual trust, confidence, and openness between public agencies and the public.

D. General Procedures for All Programs

Each Assistant Administrator, Office Director, or Regional Administrator shall determine forthcoming decisions or activities to which this Policy should be applied, and take the steps needed to assure that adequate public participation resources are developed and implemented.

To ensure effective public participation in any decision or activity, the agency must carry out five basic functions: Identification, Outreach, Dialogue, Assistance, and Feedback.

1. *Identification.* It is necessary to identify groups or members of the public who may be interested in, or affected by, a forthcoming action. This may be done by a variety of means: developing a contact list of persons and organizations who may have expressed an interest in, or may by the nature of their purposes or activities be affected by or have an interest in a forthcoming activity; requesting from others in the agency or from key public groups, the names of interested and affected individuals to include using questionnaires or surveys to find out levels of awareness; or by other means. If EPA is required to file an Environmental Impact Statement (EIS), the scoping process can be used to identify interested parties.

The responsible official(s) shall develop a contact list for each program or project, and add to the list whenever members of the public request it. The list should be updated frequently, and it will be most useful if subdivided by category of interest or geographic area.

The contact list shall be used to send announcements of participation opportunities, notices of meetings, hearings, field trips and other events, notices of available reports and documents, and for identifying members of the public who may be considered for advisory group membership and other activities.

2. *Outreach.* The public can contribute effectively to agency programs only if it is provided with accurate, understandable, pertinent and timely information on issues and decisions. The agency shall make sure that adequate, timely information concerning a forthcoming action or decision reaches the public. The agency shall provide policy, program, and technical information at the earliest practical time, and at places easily accessible to interested and affected persons and organizations, so they can make informed and constructive use or become involved in decision-making. Information and outreach programs shall be developed so that all levels of government and the public have an opportunity to become familiar with the issues and the technical data from which they emerge. Informal outreach materials shall highlight significant issues that will be the subject of decisions making. Special efforts shall be made to summarize complex technical materials for the public.

a. *Methods.* The objective of the agency's public outreach program is to insure that the public understands the significance of the technical data so that rational public choices can be made. Outreach programs require the use of

appropriate communication tools, and should be tailored to start at the public's level of familiarity with the subject.

The following, among other approaches, may be used for this purpose:

(1) publications, fact sheets, technical summaries, bibliographies;

(2) questionnaires, surveys, interviews;

(3) public service announcements, and news releases;

(4) educational activities carried out by public organizations.

b. *Content.* Outreach materials must include background information (e.g. statutory basis, rationale, or the triggering event of the action); a targetable of proposed actions; summaries of lengthy documents or technical material where relevant; a delineation of issues; alternative courses of action or tentative determinations which the agency may have made, whether an EIS is, or will be, available; specific encouragement to stimulate active participation by the public; and the name of an individual to contact for further information.

Whenever possible, the social, economic and environmental consequences of proposed decisions and alternatives should be clearly stated in outreach material. Technical evidence and research methodology should be explained. Summaries of technical documents should be footnoted to refer to the original data. Fact sheets, news releases, summaries, and similar publications may be used to provide nature of availability of materials and to facilitate public understanding of more complex documents, but should not be substitutes for public access to the complete documents.

c. *Verification.* The agency must notify all parties on the contact list and the members of opportunities to participate and provide appropriate information, as described in the first paragraph of Section 2.b. above. Printed legal notices are often required by program regulations, but do not substitute for the broader notice of the media and contact list required by this section.

d. *Timing.* Notifications (above) must take place well enough in advance of the agency's action to permit the public to respond. Generally, it should take place not less than 30 days before the proposed action, or 45 days in the case of public hearings (exceptions in the case of public hearings are discussed under Dialogue below).

Where complex issues or lengthy documents are presented for public comment, the comment period should allow enough time for interested parties to conduct their review. This period

generally should be no less than 60 days. Where participation opportunities are to be provided in programs of State, substate, and local governments supported by EPA financial assistance, notice shall be given by the recipient to the public within 45 days after award acceptance.

e. Fees for Copying. Whenever possible, the agency should provide copies of relevant documents, free of charge. Free copies may be reserved for private citizens and public interest organizations with limited funds. Any charges must be consistent with requirements under the Freedom of Information Act as set forth in 40 CFR Part 2.

f. Depositories. The agency shall provide one or more central collections of documents, reports, studies, plans, etc. relating to controversial issues or significant decisions in a location or locations convenient to the public. Depository arrangements should be made when possible with public libraries and university libraries. Consideration must be given to accessibility, travel time, parking, transit, and to availability during off-work hours. Copying facilities, at reasonable charges, should be available at depositories.

3. Dialogue. There must be dialogue between officials responsible for the forthcoming action or decision and the interested and affected members of the public. This involves exchange of views and open exploration of issues, alternatives, and consequences.

Public consultation must be preceded by timely distribution of information and must occur sufficiently in advance of decision-making to make sure that the public's options are not foreclosed, and to permit response to public views prior to agency action. Opportunities for dialogue shall be provided at times and places which, to the maximum extent feasible, facilitate attendance or participation by the public. Whenever possible, public meetings should be held during non-work hours, such as evenings or weekends, and at locations accessible to public transportation.

Dialogue may take a variety of forms, depending upon the issues to be addressed and the public whose involvement is sought. Public hearings are the most familiar forum for dialogue and often are legally required, but their use should not serve as the only forum for citizen input. When used, hearings should be at the end of a process that has given the public earlier opportunity for becoming informed and involved. Often other techniques may serve a broader purpose:

- *Review groups or ad hoc committees* may confer on the development of a policy or written materials;

- *Workshops* may be used to discuss the consequences of various alternatives, or to negotiate differences among diverse parties;

- *Conferences* provide an important way to develop consensus for changing a program or the momentum to undertake new directions;

- *Task forces* can give concentrated and experienced attention to an issue;

- *Personal conversations and personal correspondence* give the individualized attention that some issues require;

- *Meetings* offer a good opportunity for diverse individuals and groups to express their questions or preferences;

- *A series of meetings* may be the best way to address a long and complex agenda of topics;

- *Toll-free lines* can aid dialogue, especially when many questions can be anticipated or time is short;

- *A hearing panel* composed of persons from representative public groups may be used in non-adjudicatory hearings to listen to presentations and review the hearing summary.

This list is not exhaustive, but it indicates the importance for program managers in being flexible and choosing the right techniques for the right occasions.

a. Requirements for public hearings.

(1) **Timing of Notices.** Notices must be well publicized and mailed to all interested and affected parties on the contact list (see 1. above) and to the media at least 45 days prior to the date of the hearing. However, when the Assistant Administrator or Regional Administrator find that no review of substantial documents is necessary for effective participation and there are no complex or controversial matters to be addressed, the notice requirement may be reduced to no less than 30 days in advance of the hearing. Additionally, in permit programs, notice requirements will be governed by permit regulations and will be no less than 30 days. Notice for EIS's are covered by EIS regulation which calls for a 45-day review period, with an optional 15-day extension. Notice of the EIS hearing is generally contained in the Draft EIS. Hearings on EIS's are usually held before the end of the EIS review period, but no earlier than 30 days after the EIS notice. Assistant Administrators or Regional Administrators may further reduce or waive the requirement for advance notice of a hearing in emergency situations where there is imminent danger to public health and safety, or in

situations where there is a legally mandated timetable. Assistant Administrators may also reduce this requirement if they determine that all affected parties would benefit from a shorter time period.

Members of the public who object to a waiver may appeal to the Administrator, stating their reasons in detail.

(2) **Content of Notice.** The notice must identify the matters to be discussed at the hearing and must include or be accompanied by: (a) a discussion of alternatives the public is being asked to comment upon and the agency's tentative conclusions on major issues (if any); (b) information on the availability of an EIS and bibliography of other relevant materials (if appropriate); (c) procedures and contacts for obtaining further information; and (d) information which the agency particularly solicits from the public.

(3) **Provision of Information.** All reports, EIS's, and other documents and data relevant to the discussions at public hearings must be available to the public on request after the notice, as soon as they become available to agency staff. Background information should be provided no later than 30 days prior to the hearing.

(4) **Conduct of Hearing.** The agency conducting the hearing must inform the audience of the issues involved in the decision to be made, the considerations the agency will take into account under law and regulations, the agency's tentative conclusions (if any), and the information which the agency particularly solicits from the public. Whenever possible, the hearing room should be set up informally. The agenda should allocate time for presentations, questions and answers, as well as formal commentary on the record. When needed, a pre-hearing meeting to discuss the issues should be held. Procedures must not inhibit free expression of views. When the subject of a hearing addresses conditions in a specific geographic area, the hearing itself should be held in that general area.

(5) **Record of Hearing.** The hearing record must be left open for at least ten days to receive additional comment, including any from those unable to attend in person, and may be kept open longer, at the discretion of the hearing officer. The agency must prepare a transcript or record of the hearing itself and add additional comments to the complete record of the proceeding. This must be available for public inspection and copying at cost at convenient locations. Alternatively, copies shall be provided free. If tapes are used, they should be available for use and copying on conventional equipment. When a

preambles and final regulations must be provided to all who commented.

E. Work Plans

A work plan is a written document used for planning a public participation program. It may be an element of regulatory development plans or program plans. Each work plan should include the following elements: objectives, schedules, techniques, audiences and resources requirements. Work plans should be completed on both a program and project level or for each activity identified under Scope of the Policy.

Public participation work plans, undertaken by EPA or by applicants for EPA financial assistance, shall set forth, at a minimum:

1. Key decisions subject to public participation;
2. Staff contacts and budget resources to be allocated to public participation;
3. Segments of the public targeted for involvement;
4. Proposed schedule for public participation activities to impact program decisions;
5. Mechanisms to apply the five basic functions—Identification, Outreach, Dialogue, Assimilation, and Feedback—outlined in Section D of this Policy.

Reasonable costs of public participation incurred by assisted agencies, including advisory group expenses, and identified in an approved public participation work plan, will be eligible for financial assistance, subject to statutory or regulatory limitations.

Assistant Administrators and Regional Administrators will ensure that program work plans are developed in a timely manner for use in the annual budget planning process. Work plans will be reviewed by the Special Assistant for Public Participation, who will work with program and regional managers to ensure that work plans adequately carry out this Policy. Work plans may be used as public information documents.

F. Assistance to the Public

EPA recognizes that responsible participation by the various elements of the public in some of the highly technical and complex issues addressed by the agency requires substantial commitments of time, study, research analysis, and discussion. While the Agency needs the perspectives and ideas that citizens bring, it cannot always expect the public to contribute its efforts on a voluntary basis.

Assistant Administrators, Office Directors, and Regional Administrators can provide funds to outside organizations and individuals for public

participation activities which they as EPA managers deem appropriate and essential for achieving program goals, and which clearly do not involve rulemaking or adjudicative activities.

Participation Funding Criteria—Any financial assistance awarded by the Agency for non-regulatory or non-adjudicatory participation should be based on the following criteria:

- (1) whether the activity proposed will further the objectives of this Policy;
- (2) whether the activity proposed will result in the participation of interests not adequately represented;
- (3) whether the applicant does not otherwise have adequate resources to participate; and
- (4) whether the applicant is qualified to accomplish the work.

These are the primary tests for public participation financial assistance. From among those who meet these tests, the Agency will make special efforts to provide assistance to groups who may have had fewer opportunities or insufficient resources to participate.

G. Authority and Responsibility

Public participation has an integral part in the accomplishment of any program. It should routinely be included in decision-making and not be treated as an independent function. Managers shall assure that personnel are properly trained, and that funding needs are incorporated in their specific budgets.

Responsibility and accountability for the adequacy of public participation programs belongs primarily to the Regional Administrators and the Assistant Administrators, under the overall direction of the Administrator.

1. *The Administrator* maintains overall direction and responsibility for the Agency's public participation activities. Specifically, the Administrator, aided by the Special Assistant for Public Participation, will:

- (a) establish policy direction and guidance for all EPA public participation programs;
- (b) review public participation program work plans, including resource allocations;
- (c) coordinate public participation funding to outside groups to ensure the most economical expenditures;
- (d) provide technical advice and assistance as appropriate;
- (e) develop guidance and training needed to ensure that program personnel are equipped to implement the Policy;
- (f) provide incentives to agency personnel to ensure commitment and competence; and
- (g) evaluate at least annually the adequacy of public participation

activities conducted under this Policy, and the appropriateness and results of public participation expenditures.

2. *Assistant Administrators* have the following responsibilities:

- (a) identify and address those activities where application of this Policy is required;
- (b) identify and address those forthcoming major policy decisions where the Policy should be applied;
- (c) ensure that program work plans are developed annually to provide for adequate public participation in the above decisions and activities;
- (d) implement approved work plans for public information and public participation activities;
- (e) ensure that, as regulations for the programs cited in the Appendix of the Policy are amended, they incorporate the Policy's provisions;
- (f) evaluate the appropriateness of public participation expenditures and activities under their jurisdiction, revising and improving them as necessary;
- (g) encourage coordination of public participation activities;
- (h) provide guidance and assistance to support regional office activities;
- (i) seek public participation in decisions to modify or develop major national policies, at their discretion;
- (j) consider funding authorized pilot and/or innovative demonstration projects;
- (k) consider measures to ensure Policy implementation in appropriate managers' performance standards;
- (l) provide financial assistance, as appropriate and available, for authorized public participation activities at the national level.

3. *Regional Administrators* have the following responsibilities:

- (a) identify and address those EPA and EPA-assisted activities where application of this Policy is required;
- (b) identify and address those forthcoming EPA and EPA-assisted major policy decisions where the Policy should be applied;
- (c) ensure that work plans are developed annually by their programs and recipients to provide for adequate public participation in the above decisions and activities;
- (d) implement approved work plans for public information and public participation activities;
- (e) ensure that public participation is included by applicants in the development of program funding applications to EPA, and in other decisions as identified by this Policy;
- (f) provide guidance and technical assistance to recipients on the conduct of public participation activities;

- (g) evaluate annually public participation activities of State, substate, or local entities reviewing and improving them as necessary;
- (h) encourage coordination of public participation activities;
- (i) support and assist the public participation activities of Headquarters;
- (j) ensure that Regional staff are trained, and resources allocated for public participation programs;
- (k) incorporate measures to ensure Policy implementation in managers' performance standards;
- (l) provide small grants to representative public groups for needed public participation work;
- (m) evaluate the appropriateness of public participation expenditures and activities, reviewing and improving them as necessary.

4. The Director, Office of Public Awareness has an important role in the development and support of Agency public participation activities. The Director will:

- (a) assist Headquarters and regional programs in identifying interested and affected members of the public in compiling printed contact lists;
- (b) support Headquarters and regional programs in development and distribution of outreach materials to inform and educate the public about environmental programs and issues, and participate as appropriate;
- (c) develop annual public awareness/participation support plans to complement public participation work plans and identify resource requirements.

11. Compliance

Assistant Administrators, Office Directors, and Regional Administrators are responsible for making certain that for the activities under their jurisdiction, all those concerned comply with the public participation requirements set forth in this Policy.

Regional Administrators will ensure compliance with public participation requirements in appropriate State and substate programs supported by EPA financial assistance. This will be done during the annual review of the States' program(s) which is required by grant provisions, and during any other program audit or review.

If the Regional Administrator is not satisfied that this Policy is being carried out, he or she should defer grant award until these conditions can be met where that course is legally permissible. A Regional Administrator may grant a waiver from specific requirements in this Policy upon a showing by the agency that proposed actions will result in substantially greater public

participation than would be provided by the Policy.

The Administrator of EPA has final authority and responsibility for ensuring compliance. Citizens with information concerning apparent failures to comply with these public participation requirements should first notify the appropriate Regional Administrator or Assistant Administrator, and then if necessary, the Administrator. The Regional Administrator, Assistant Administrator, or Administrator will make certain that instances of alleged noncompliance are promptly investigated and that corrective action is taken where necessary.

Appendix A—List of Existing, Ongoing, Program Grants, Obligations, or Permits to State and Substate Governments

The Public Participation Policy will be incorporated in program regulations that cover financial assistance or delegations of authority to States or substate governments or approval of State or programs. Where consolidated awards exist under these provisions, they also will be covered. Programs under the Clean Water Act, Safe Drinking Water Act, and the Resource Conservation Recovery Act are already covered by this Policy insofar as they have been amended, or will be amended, to incorporate the CWA, PWA, SDWA, and RCRA provisions that refer to existing programs now covered by the Policy and have to be amended to incorporate its provisions. Where program regulations are not yet written, the Policy shall be incorporated.

Clean Air Act (Pub. L. 94-204)

Air Pollution Control Program Grants

Sec. 105—Grants to State and local air pollution control agencies for support of air pollution planning and control programs (Collection of Federal Grants Assistance No. 05-005)

Sec. 105—Grants to monitor air quality agencies and responsibilities to develop implementation plans for sources to air quality maintenance regions (When funded)

When Mass Transports Use Tax from Oil Spill Grants (DUT)

Sec. 178—Grants to organizations of local elected officials with transportation or air quality maintenance responsibilities for air quality maintenance planning (CWA No. 05-005)

Sec. 178—Grants to State agencies for developing and maintaining air quality monitoring systems and systems design and emissions testing and control programs (When funded)

Quiet Communities Act (Pub. L. 96-603)

Quiet Communities—State and Local Capacity Building Assistance

Sec. 104—Grants to State and substate governments and regional planning agencies for planning, developing, or evaluating and demonstrating techniques for quiet communities (CWA No. 05-005)

Toxic Substances Control Act (Pub. L. 96-510)

State Toxic Substances Control Projects

Sec. 20—Grants to State for establishing and operating programs to complete EPA efforts in preventing or eliminating risks to health or environment from chemicals (CWA No. 05-005)

Federal Insecticide, Fungicide and Rodenticide Act (Pub. L. 95-366)

Pesticides Enforcement Program Grants

Sec. 207—Funding to States/Indian tribes through cooperative agreements for enforcement and applicator training and certification (CWA No. 05-005)

Resource Conservation and Recovery Act (Pub. L. 96-510)

Sec. 207—Grants to States for treatment, storage and disposal of hazardous waste

Sec. 207—Obligation of security to stabilize and control hazardous waste programs

Sec. 207—State Planning Conditions Solid and Hazardous Waste Management Program Support Grants

Sec. 207—Approval for State, local, and regional security to implement State or Regional Solid Waste Plans and be eligible for Federal assistance (CWA No. 05-005)

Sec. 207—Grants to State and substate agencies for solid waste management, resource recovery and conservation, and hazardous waste management (CWA No. 05-005)

Sec. 207—Grants to States for rural areas solid waste management facilities (CWA No. 05-005)

Solid Waste Management Demonstration Grants

Sec. 207—Grants to State, municipal, interstate or intermunicipal agency for resource recovery systems or improved solid waste disposal facilities (CWA No. 05-005)

Sec. 207—Grants or contracts for State, interstate agency, intermunicipal and other agencies for training personnel in resource recovery related to solid waste management and resource recovery (CWA No. 05-005)

Safe Drinking Water Act (Pub. L. 95-190)

Sec. 142.57—Increase of priority for underground water control programs State Public Water System Supervision Program Grants

Sec. 142.57—Grants to States for public water system supervision (CWA No. 05-005)

Sec. 142.57—Grants to States for public water system supervision (CWA No. 05-005)

Clean Water Act (Pub. L. 95-91)

Construction Grants for Wastewater Treatment Works

Sec. 202—Grants to State, municipality or intermunicipal agencies for construction of

wastewater treatment works (CFDA #88.018)

Water Pollution Control—State and Interstate Program Grants

Sec. 108—Grants to State and interstate agencies for water pollution control administration. (CFDA #88.018)

Water Pollution Control—State and Area-wide Water Quality Management Planning Agency

Sec. 208(g)—Delegation of management of construction grants programs to State designated agency(ies). (CFDA #88.018)

Sec. 208—Grants for State and area-wide waste treatment management planning. (CFDA #88.018)

Water Pollution Control—Lake Restoration Demonstration Grants

Sec. 316—Clean Lakes Program

Sec. 402(f)—Issuance of permits under National Pollutant Discharge Elimination System

Sec. 404—Issuance of permits for disposal of dredge and fill materials

Pub. L. 96-582, Sections 2008 & 2009

Pub. L. 95-182, Sections 1421-1422

Pub. L. 95-217, Section 402

Pub. L. 95-217, Section 404

Pub. L. 95-88, Section 144

Proposed consolidated permit regulations covering Hazardous Waste Program under RCRA, LDC Program under SDWA, NPOES and Section 404 of the Clean Water Act and the PSD Program under the Clean Air Act

79 Fed. Reg. 1125 (Feb. 1, 1981), 840 (2)

88.0000 0000 0000-0000

allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) *Addition.* When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) *Cost sharing or matching.* When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

§ 31.26 Non-Federal audit.

(a) *Basic rule.* Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501-7) and Federal agency implementing regulations. The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

(b) *Subgrantees.* State or local governments, as those terms are defined for purposes of the Single Audit Act, that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a subgrantee shall:

(1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organiza-

tions" have met the audit requirement. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of Federal funds;

(2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, Circular A-110, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;

(3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;

(4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

(5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

(c) *Auditor selection.* In arranging for audit services, § 31.36 shall be followed.

CHANGES, PROPERTY, AND SUBAWARDS

§ 31.30 Changes.

(a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.

(b) *Relation to cost principles.* The applicable cost principles (see § 31.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even

If paragraphs (c) through (f) of this section do not.

(c) *Budget changes.* (1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:

(i) Any revision which would result in the need for additional funding.

(ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.

(iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).

(2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.

(3) *Combined construction and nonconstruction projects.* When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from nonconstruction to construction or vice versa.

(d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:

(1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).

(2) Need to extend the period of availability of funds.

(3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.

(4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of § 31.36 but does not apply to the procurement of equipment, supplies, and general support services.

(e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.

(f) *Requesting prior approval.* (1) A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.

(2) A request for a prior approval under the applicable Federal cost principles (see § 31.22) may be made by letter.

(3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

§ 31.31 Real property.

(a) *Title.* Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) *Use.* Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.

had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(b) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (3)(a) of this certification; and

(c) Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default. Where the prospective lower-tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

[53 FR 19196, 19204, May 26, 1988, as amended at 53 FR 19197, May 28, 1988]

APPENDIX C TO PART 32—CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

Instructions for Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the

grantee's work places that will for violation of (b) Establish awareness pro about—

(1) The drug-free workplace;

(2) The grantee's drug-free workplace;

(3) Any available rehabilitation and

(4) The penalties upon employees occurring in the

(c) Making it a condition of employment for employees to be employed by the grantee be

(d) Notify employees of the requirement to

(e) Notify employees of the condition of

(1) Abide by; and

(2) Notify the grantee of any conviction or her conviction

(3) Notify the grantee of any conviction no later than

(4) Notify the grantee of any conviction

(5) Notify the grantee of any conviction

(6) Notify the grantee of any conviction

(7) Notify the grantee of any conviction

(8) Notify the grantee of any conviction

(9) Notify the grantee of any conviction

(10) Notify the grantee of any conviction

(11) Notify the grantee of any conviction

(12) Notify the grantee of any conviction

(13) Notify the grantee of any conviction

(14) Notify the grantee of any conviction

(15) Notify the grantee of any conviction

(16) Notify the grantee of any conviction

Environmental Protection Agency

grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance program; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21701, May 25, 1990]

EFFECTIVE DATE NOTE At 55 FR 21690, 21701, May 25, 1990, Appendix C to part 32 was revised, effective July 24, 1990. For the convenience of the user, the superseded text follows.

Appendix C to Part 32—CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

Instructions for Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance was placed when the agency determined to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

Certification Regarding Drug-Free Workplace Requirements

Alternate I

A. The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Alternate II

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

(54 FR 4962, Jan. 31, 1989)

PART 33—PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Sec.

- 33.001 Applicability and scope of this part
33.006 Definitions.

Subpart A—Procurement System Evaluation

- 33.108 Applicability and scope of this subpart.
33.110 Applicant and recipient certification.
33.115 Procurement system review.

Subpart B—Procurement Requirements

- 33.208 Applicability and scope of this subpart.
33.210 Recipient responsibility.
33.211 Recipient reporting requirements.
33.220 Limitation on subagreement award.
33.225 Violations.
33.230 Competition.
33.235 Profit.
33.240 Small, minority, women's, and labor surplus area businesses.
33.245 Privity of subagreement.
33.250 Documentation.
33.255 Specifications.
33.260 Intergovernmental agreements.
33.265 Bonding and insurance.
33.270 Code of conduct.
33.275 Federal cost principles.
33.280 Payment to consultants.
33.285 Prohibited types of subagreements.
33.290 Cost and price considerations.
33.295 Subagreements awarded by a contractor.

SMALL PURCHASES

- 33.305 Small purchase procurement.
33.310 Small purchase procedures.
33.315 Requirements for competition.

FORMAL ADVERTISING

- 33.405 Formal advertising procurement method.
33.410 Public notice and solicitation of bids.
33.415 Time for preparing bids.
33.420 Adequate bidding documents.
33.425 Public opening of bids.

33.430 Award to eligible bidder.

COMP.

- 33.506 Competition method.
33.510 Public notice.
33.515 Evaluation.
33.520 Negotiation.
33.525 Option negotiation or for architect fees.

NONCOMP.

33.606 Noncompetition in

Subp.

33.606 Noncompetition in
Subpart D—Req Higher Education organizations

- 33.606 Applicability part.
33.610 Nonapplicability clauses.
33.615 Nonapplicability.
33.620 Additional provisions.

Subp.

Subpart F—

- 33.1005 Applicability part.
33.1010 Requirements clauses.
33.1015 Subagreement.
33.1016 Labor standards.
33.1019 Patent clause.
33.1020 Violation.
33.1021 Energy.
33.1030 Model:

Subp.

- 33.1105 Applicability part.
33.1110 Recipient.
33.1115 Protest.
33.1120 Limitation.
33.1125 Filing requirements.
33.1130 Review.
33.1140 Deferral.
33.1145 Award:

APPENDIX A—F
FOR RECIPIENT
THAT PROC
RECIPIENTS
MAY CERTIFY

Annual State Certification Plan Report

The States are required under 40 CFR Part 171.7(d) to submit an annual report at a time to be specified by the State. The State may choose to have an annual State Plan report period that corresponds to their cooperative agreement budget period.

The States may consider using completed EPA Forms 5700-33H (9-90) as part of their State Plan reports because the outputs reported on Form 5700-33H (9-90) are the same as the first three items below required in State Plan annual reports. This can be done only when the State chooses to have an annual State Plan report period that corresponds to their cooperative agreement budget period.

The annual report on State Plans must include:

- a) The total number of applicators, private and commercial, by category currently certified.
- b) The number of applicators, private and commercial, by category, certified during the last reporting period.
- c) The number of applicators, private and commercial by category, recertified during the last reporting period.
- d) Any changes in commercial applicator subcategories.
- e) A summary of enforcement activities related to use of restricted use pesticides during the last reporting period.
- f) Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting periods.
- g) Any significant proposed changes in required standards of competency.
- h) Any other proposed changes from the State plan that would significantly affect the State certification program. (For example, any changes in recertification periods by category should be reported.)

FORMAT FOR WORKER PROTECTION IMPLEMENTATION STRATEGY AND COMPLIANCE MONITORING STRATEGY

As part of the worker protection activities in FY 91, states/tribes are required by the grant guidance to develop an overall implementation strategy, which will address both program and enforcement activities. A distinct part of this document will be the compliance monitoring strategy. The format for this document should be as follows:

Implementation Strategy

- A. Outreach/Communications
- B. Training/Education
- C. Establishment of Cooperative Relationships with other Agencies where applicable
- D. Compliance Monitoring Strategy
 - 1. Compliance communication strategy
 - 2. Interagency coordination for enforcement (applies only in cases where more than one agency has jurisdiction and responsibility for enforcing worker protection standards)
 - 3. Targeting scheme

There may be some overlap in some States between the two documents with regard to communications. If a grantee is concerned about the distinction between the "outreach/communication" section of the Implementation Plan required by OPP, and the compliance communication strategy, keep the following point in mind. The compliance communication strategy shall focus on the types of communication activities to be supported with enforcement funds. If no such activities will be supported with enforcement funds, then this section of the compliance monitoring strategy should simply state so and refer to the outreach section of the Implementation Plan. Otherwise, this section should describe the actions to be taken in FY 92 to communicate the enforceable provisions. If the state wishes to integrate the two documents, rather than complete two separate documents, the following alternative format may be followed. This is only a change in format, not a change in content. If the alternative format is followed, the state should take particular care to distinguish program elements from enforcement elements, keeping in mind that both OCM and OPP must be able to show what types of activities are being funded by enforcement versus program monies. The state may end up funding the same activity with both enforcement and program monies, but it is the state's responsibility to clarify this in the implementation strategy.

**Worker Protection Program Implementation/Compliance
Monitoring Strategy**

1. **Communications/Outreach**
 - a. **Program elements**
 - b. **Compliance elements**
2. **Interagency Coordination**
 - a. **Program elements**
 - b. **Compliance elements**
3. **Training (program element)**
4. **Inspection Targeting Scheme (Compliance element)**

federal register

**Monday
July 28, 1980**

Part VI

Environmental Protection Agency

**Statement of Policy on the Labeling
Requirements for Exported Pesticides,
Devices, and Pesticide Active Ingredients
and the Procedures for Exporting
Unregistered Pesticides**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, and 180

(FRL 1546-6)

Statement of Policy on the Labeling Requirements for Exported Pesticides, Devices, and Pesticide Active Ingredients and the Procedures for Exporting Unregistered Pesticides

AGENCY: Office of Enforcement, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of policy statement.

SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act) was amended by the Federal Pesticide Act of 1978 on September 30, 1978. Section 17(a) of the Act was modified so that pesticides, devices, and active ingredients used in producing pesticides which are manufactured for export must now bear certain minimal labeling, and the producers of such products are now subject to the requirements of both FIFRA sections 7 (establishment registration) and 8 (books and records). In addition, unless a pesticide is registered under section 3 or is being sold under section 6(a)(1) it cannot be lawfully exported unless, prior to export, (1) the foreign purchaser has signed a statement acknowledging that the purchaser understands that the pesticide is unregistered and therefore cannot be sold in the United States, and (2) a copy of that statement has been transmitted to EPA for transmittal to the appropriate officials of the importing country. This foreign purchaser acknowledgement statement must be acquired by the exporter and transmitted to EPA for the first shipment of each unregistered pesticide to a particular purchaser for each importing country, annually.

This notice informs the public of the scope of the new labeling requirements and of the procedures that an exporter of unregistered pesticides must follow to acquire acknowledgement statements which will be transmitted by the U.S. Government to the government of the importing country.

EFFECTIVE DATE: Labeling. Labeling requirements for exported pesticides, devices, and pesticide active ingredients became effective March 29, 1979, Federal Pesticide Act of 1978, Pub. L. 95-396, 92 Stat. 833). Therefore, exported products which fall within the purview of this notice must now bear labels which comply with the statutory requirements of FIFRA section 17(a)(1).

Purchaser Acknowledgement Statements. After thirty days from the date of this notice, exporters of unregistered pesticides will be in violation of FIFRA if the foreign purchaser acknowledgement statements have not been acquired before shipment and transmitted to EPA in accordance with this policy.

FOR FURTHER INFORMATION CONTACT: John J. Neylan III, Office of Enforcement, Pesticides and Toxic Substances Enforcement Division (EN-342), EPA, 401 M Street, S.W., Washington, D.C. 20460 (202) 735-1212.

SUPPLEMENTARY INFORMATION: On Wednesday, July 18, 1979, EPA's Office of Enforcement published a proposed statement of policy on the labeling requirements for exported pesticides, devices, and pesticide active ingredients and the procedures for exporting unregistered pesticides. (44 FR 41805). That proposed policy statement explained in some detail what information would be required to appear on the labels or labeling of pesticides, devices, or pesticide active ingredients destined for export in order to be considered in compliance with the law. It also described the procedures for acquiring from a foreign purchaser of unregistered pesticides a statement in which the purchaser acknowledges the registration status of the pesticide. Both of these requirements became effective 180 days after the date of enactment of the Federal Pesticide Act of 1978 (March 29, 1979).

The July 18 notice invited the public to comment on the proposed policy before September 17, 1979. Twenty-three comments were received. Following a summary of the major modifications to the policy statement made as a result of the comments.

(1) A more detailed explanation was included of which products will be considered as not registered for use in the United States, for purposes of this policy statement.

(2) The policy statement explains in greater detail what labeling is expected to appear on exported pesticides, devices, and pesticide active ingredients.

Appendix A contains summaries of the comments made to the July 18, 1979 policy statement and the Agency's response to them.

Accordingly, the Office of Enforcement's general statement of policy on the labeling requirements for exported pesticides, devices, and pesticide active ingredients and the

procedures for exporting unregistered pesticide are set forth below.

Dated: July 10, 1980.

Jeffrey G. Miller,
Acting Assistant Administrator for Enforcement.

E Summary of Policy

Pesticides, devices, and active ingredients used in producing pesticides which are manufactured for export must now bear labeling which will serve to both identify the product and the producer and to protect persons who come in contact with the product. Certain of the label items must be written in both the English language and in the language of the importing country. These bilingual labeling requirements apply to the product's ingredient statement and its warning and precautionary statements. Exporters of pesticides which are not registered for use in the United States (in accordance with this policy) must obtain a statement from the foreign purchaser of the pesticide in which the purchaser acknowledges the registration status of the product. The pesticide must also bear labeling to indicate that it is not registered in the United States. For purposes of this policy an unregistered pesticide is one which (1) contains an active ingredient not found in a federally registered product; or (2) bears labeling for a use which is currently subject to denial or cancellation of registration; or (3) is not similar in composition and use pattern to a federally registered product.

The acknowledgement statement must (1) identify the purchaser, the exporter, the product's identity and the product's destination; (2) be obtained for the first shipment of a particular pesticide to a particular purchaser for each importing country, annually; (3) be obtained before exportation takes place; and (4) be transmitted to EPA within seven (7) days of receipt by the exporter.

II. Labeling Requirements

Section 17(a) of FIFRA has been amended to provide as follows:

(1) Pesticides and Devices Intended for Export—~~notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act—~~

(1) when prepared or packaged according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), 2(q)(1)(A), (C), (D), (E), (F), and (H), 2(q)(2)(A), (B), (C)(1) and (H), and (D), 7, and 8 of this Act

¹ Pub. L. 95-396, 92 Stat. 833, September 30, 1978, Section 18(b).

Energy exported pesticide, device, and active ingredient used in producing a pesticide must bear a label or labeling in English or in the language of the importing country, which meets the requirements of FIFRA section 17(a)(1).

In addition, certain information which will satisfy FIFRA sections 2(q)(1)(E), (G), and (H) and 2 (q)(2)(A) and (D) must also appear on the label or labeling so as to provide bilingual (in other words, in English and in the language of the importing country) information to anyone who handles or comes in contact with these products. Any language in which official government business is conducted in the country or which is the predominantly spoken language of the country, is acceptable as the second language on the label.

Paragraph to Section 2(q)(1), etc.
exported pesticides, devices, and active ingredients used in producing pesticides must bear labels or labeling which:

- (a) have EPA Establishment Numbering;
- (b) have ingredient statements;
- (c) have the name and address of the producer or registrant;
- (d) have statements of net weight or measure;
- (e) if highly toxic, bear shall and crossbones and statements of practical treatment in case of poisoning;
- (f) include warning and caution statements.

(g) do not make false representations;
(h) are not in violation of other Federal laws;
(i) in the case of unregistered pesticides, bear the statement "Not Registered for Use in the United States of America." All such required statements must be conspicuous and readable.

To satisfy FIFRA section 2(q)(1)(E), the labeling provisions set forth below must appear in the English language and in the language of the importing country. This section specifies that required statements must be represented . . . in such terms as to render it likely to be read and understood by the ordinary individual Therefore, the following information must appear biligualy on exported product labeling:

- (a) the warning and caution statements;
 - (b) the ingredient statement;
 - (c) where required, the word "poison" and the statement of practical treatment;
 - (d) the statement "Not Registered for Use in the United States of America."
- The following may provide more specific guidance on particular elements which must appear on the label or labeling of each exported product: EPA Establishment Number. The Establishment Number may appear

anywhere on the label or immediate container in accordance with the establishment registration labeling requirements set forth in 40 CFR § 162.10(f).

b. **Precautionary Statements.** Warning or caution statements must be bilingual and must be adequate for the protection of persons handling the pesticide, particularly with respect to general toxicological hazards and environmental, physical, or chemical hazards. Warnings, the bilingual language is obviously inappropriate to protect residents of the importing country. (for example, where a label calls for a gas mask, warning the specification of the U.S. Bureau of Mines) an equivalent caution may be substituted.

c. **Unregistered Products.** Labels of pesticides which were not registered under FIFRA (See Product Subject to the Requirement for an Acknowledgment Statement below) must prominently display the following statement: "Not Registered for Use in the United States of America." This statement must appear biligualy.

d. **Ingredient Statement.** The ingredient statement must appear biligualy unless the ingredients are easily identifiable despite their being listed in a foreign language.

e. **Use Classification Statement.** The statement of use classification (Restricted Use Pesticide or General Use Pesticide) must appear on the labeling of the pesticide; however, summary statements regarding the terms of the restriction, e.g., "For retail sale to and application only by Certified Applicators . . ." are not required. f. **Identity of Parties.** Name and address of the producer, registrant, or person produced for must appear in the labeling.

g. **Net Weight.** The net weight must appear on the labeling in either conventional English units or metric units.

h. **Highly Toxic Pesticides.** If the pesticide is highly toxic, the shall and crossbones, the word "Poison", and a statement of practical treatment must appear on the labeling. The word "Poison" and the statement of practical treatment shall be bilingual. The shall and crossbones may be in red or black. For guidance on what pesticides are highly toxic, see 40 CFR § 162.10(f)(1).

The Agency is concerned that labeling required by FIFRA not conflict with labeling requirements of the importing country. Such a situation might arise, for example, where pesticides are being exported to a foreign country with strict labeling and registration laws such as this country has. To avoid such potential conflicts, yet still meet the statutory

requirements of FIFRA, exporters may use supplemental labeling. Pesticides, devices, and active ingredients used in producing pesticides may, therefore, bear a label with the appropriate information required by FIFRA section 17(a)(1) or may be accompanied by supplemental labeling in instances where FIFRA required labeling is in contravention of foreign labeling requirements. Supplemental labeling may be attached to or accompany the pesticide container, including containers.

III. Foreign Purchaser Acknowledgment Statement

Section 17 of FIFRA has been further amended to provide as follows:

(a) Pesticides and Devices Intended for Export.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act—

(1) in the case of any pesticide other than a pesticide regulated under section 3 or sold under section 4(e)(1) of this Act, if prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that each pesticide is not registered for use in the United States and cannot be sold in the United States under the Act. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.

This notice also delineates what pesticide products are affected by this provision and procedures EPA believes would satisfy the purposes of section 17(a)(2).

IV. Products Subject to the Requirements for an Acknowledgment Statement

Many pesticides which are produced in the United States solely for export contain active ingredients that are also registered as components of pesticides used within the United States. However, the export formulations in many cases contain slightly different percentages of active ingredients and are labeled differently. Several factors dictate these minor modifications in formulation and labeling, such as different systems of measurement, pests to be controlled which are different from those for which the same or a similar pesticide product is used in the United States, and requirements for labeling in a language other than English.

The Agency believes that Congress did not intend the requirement for obtaining an acknowledgment statement which is applicable to "unregistered" pesticides to apply to products which are minor variations on formulations registered in the United States and which contain only active

ingredients which are registered in the United States. Rather, it is the Agency's view that the export amendments were meant to apply in cases in which either (1) an adverse decision concerning the use of the pesticide in the United States has been made, or (2) no decision has been made concerning use of the pesticide. The requirement for obtaining an acknowledgement statement from a foreign purchaser will apply to pesticide products in which:

(a) The pesticide active ingredient has been judged to pose "unreasonable adverse effects" to man or the environment, and the registrations of products with that active ingredient have been cancelled or denied or

(b) Either, (1) no assessment or no conclusive assessment of the hazard resulting from use of the pesticide has been made by EPA (while the pesticide may have been used under limited experimental or emergency conditions), (2) the pesticide has never been registered under section 3 because registration for the pesticide active ingredient has not been sought or has not yet been granted, or (3) the pesticide is being exported for a use which is substantially different from any currently registered use of that pesticide (e.g., a pesticide which is registered in this country for use as a termiticide is exported bearing directions for use on food crops).

Consequently, the Agency interprets section 17(a)(2) to apply to:

(a) All pesticide products which contain an active ingredient that is not found in a federally registered product;

(b) All pesticide products bearing labeling for a use which is currently subject to denial or cancellation of registration (section 17(e)(2) will also apply to uses not considered by the Administrator during a cancellation or denial determination); and

(c) All pesticide products which are not similar in composition and use pattern to a federally registered product.

To be considered similar in composition and use pattern, a pesticide product must contain only the same ingredient or combination of active ingredients and must have the same category of toxicity as a federally registered product. Also, the use pattern must be similar to the use pattern of the federally registered pesticide to which it is being compared. Registrations involving changes in use patterns such as changes from non-food to food use, outdoor to indoor use, terrestrial to aquatic use, or non-domestic to domestic use, are not considered to qualify as similar use patterns. Pesticide uses which were never reviewed during a cancellation or denial of registration

determination (such as a pesticide use on a crop which is not grown in the United States) also do not qualify as a similar use.

Pesticide products which are subject to the requirements of section 17(a)(2) must also bear the label statement, "Not Registered for Use in the United States of America" stipulated by section 2(g)(1)(H) of this Act.

A pesticide product which has been registered under Section 24(e) of FIFRA will be considered as registered for purposes of this policy. A pesticide product which may be legally used only under an experimental use permit (Section 5) or an emergency exemption (Section 18) will not be considered as federally registered. Nor will a pesticide product whose distribution and use are legal in intrastate commerce because the producer has filed an application for federal registration in accordance with the procedures found in 40 CFR § 162.17. Technical grade and manufacturing use pesticides which are not federally registered will be considered as registered for purposes of this policy, if they qualify as being similar in composition to a registered formulation use pesticide. (i.e., if the products have the same active ingredients and category of acute toxicity).

V. Procedures

Section 17(a)(2) requires that before a pesticide which is not registered for use in the United States can be exported, the foreign purchaser of the pesticide must acknowledge in writing that he understands the registration status of the pesticide and that the pesticide cannot be sold in the United States. An exporter of unregistered pesticides must have received the required acknowledgement statement before the product is released for shipment. The Agency feels that requiring exporters to have in hand the purchaser acknowledgement statement before exportation takes place is the only way to assure that foreign purchasers comply with these new FIFRA export requirements. The Agency recognizes that this requirement may cause some delay in the shipment of pesticides. However, any such delays will be visited only upon exporters of unregistered pesticides, and then only for the first shipment to a foreign purchaser, in a particular country, annually. The information required on the acknowledgement statement, along with a certification signed by the exporter, must be transmitted to the Environmental Protection Agency within seven days of receipt by the exporter, or by the date of export, whichever occurs first. The certification must state that

the shipment did not take place before the exporter had the signed acknowledgement statement in hand.

The Agency will consider the receipt of purchaser acknowledgement statements by local company representatives in foreign countries to be receipt by the exporter. Nevertheless, the information required by the acknowledgement statement must still be transmitted to EPA within seven days of receipt, or by the date of export, whichever occurs first.

Acknowledgement statements may be acquired at any time in advance of shipment. For example, an exporter that ships to the same foreign purchaser year after year may acquire at the beginning of a year all of the acknowledgement statements which are anticipated to be needed.

The Agency will transmit the acknowledgement statements to appropriate foreign officials through the Department of State. Statements will be transmitted promptly after receipt.

The Agency believes that the purpose of the purchaser acknowledgement statement is to advise foreign governments that pesticides which have been judged by the United States to be hazardous to human health or the environment, or pesticides for which no hazard assessment has been made, are being exported by U.S. producers to their country. Foreign governments may then use such information as they desire, perhaps, for example, in evaluating the risk of continued use of the pesticide in that country versus the benefits that pesticide provides. The Agency does not consider that the acknowledgement statement is primarily intended to serve as pre-shipment notification to foreign governments in order that they may intercept shipments of such pesticides. Nevertheless, because of the Agency's concern that acknowledgement statements reach foreign governments in a timely manner, the information contained in the acknowledgement statement will be forwarded to foreign governments promptly upon receipt by EPA.

As an information mechanism, the purchaser acknowledgement statement serves the purpose of alerting the foreign government that a certain pesticide is entering its country. The Agency believes that the first notice fulfills this purpose; repetitive notices would be of only marginal value, and in cases of a high volume of exports to a foreign country, might result in a flood of paper. After considering the administrative burdens placed on exporters, EPA, and foreign governments and the value of repetitive notices, the Agency has concluded that each exporter should

complete and have signed a purchaser acknowledgment statement for the first shipment of a particular product to a particular purchaser for each importing country, exceptly. A shipment of the same product to a different purchaser or to the same purchaser for shipment to a different importing country would also trigger the requirement for obtaining a signed acknowledgment statement from the foreign purchaser. A second shipment, during the same calendar year, importing the same product to the same purchaser in the same importing country would not trigger this requirement. Any change in the variables—different purchaser, different product, different importing country—will result in the need for obtaining a new purchaser acknowledgment statement.

In summary, the procedures that an exporter of unregistered pesticides must follow in obtaining and transmitting foreign purchaser acknowledgment statements are:

- (a) The exporter must provide the foreign purchaser with instructions about the required information on an acknowledgment statement and inform the foreign purchaser that shipment of the pesticide cannot be undertaken unless the exporter has received from the foreign purchaser a properly completed, signed, and dated acknowledgment statement.

- (b) The exporter must secure, prior to shipment, an acknowledgment statement which contains the information outlined in the *Required Information* section of this notice. Such a statement must be secured for the first pesticide product by a foreign purchaser destined for a particular country.

- (c) The exporter must forward the information required on the acknowledgment statement, along with the certification that exportation did not take place until a signed acknowledgment statement was received, within seven (7) days of receipt, or by the date of exportation, whichever occurs first, to the following address: Environmental Protection Agency, Pesticides and Toxic Substances, Enforcement Division (EN-362), 401 M Street SW., Washington, D.C. 20460.

Attachment: Export Acknowledgment Statement.

VI. Required Information

As previously stated, a foreign purchaser of a pesticide which is not registered for use in the United States must sign a statement acknowledging his understanding that the product is unregistered and cannot be sold in this

country. The Agency does not intend to prescribe a format for this acknowledgment statement. However, the statement must include the following information:

- (a) Name and address of the exporter;
- (b) Name and address of the foreign purchaser;
- (c) Name of the product and the active ingredient and an indication that the purchaser understands that the product is not registered for use in the United States.

If different than purchaser's address:
(a) Signature of the foreign purchaser;
(b) Date of the foreign purchaser's signature.

VII. Confidentiality

Persons submitting the information specified in Part VI may assert a claim of business confidentiality by marking this information as "FIFRA Confidential Business Information." Information so marked will not be disclosed, with the exception of disclosure to the foreign government, except in accordance with the procedures set forth in 40 CFR Part 2.7 USC 136h, and this policy statement. If such claim is not asserted, EPA may disclose the information to the public without providing notice of disclosure or an opportunity to object.

Notwithstanding any claim of confidentiality, the acknowledgment statement will be forwarded to the appropriate foreign government in its entirety as required by section 17.

VIII. Relationship to Other Statutory Requirements

Producers of pesticides, device, and active ingredients used in producing pesticides which are intended for export are subject to the establishment registration procedures, including the report requirements, as well as the record keeping requirements of FIFRA. The Agency has proposed amendments to the regulations which are promulgated under the authority of those parts of the Act (sections 7 and 8) to bring them into conformity with the newly amended FIFRA. These regulations are found at 40 CFR Part 167 and Part 168, respectively. Pesticides, device, and pesticide active ingredients for export are not considered to be in violation of FIFRA when produced according to the directions of the foreign purchaser, when properly labeled and, in the case of unregistered pesticides, when the foreign purchaser has signed a statement in which he acknowledges that he understands the registration status of the pesticide and the exporter

has forwarded the statement to EPA. Exported pesticide, device, and active ingredients used in producing pesticides which do not bear labels or labeling in compliance with FIFRA section 17(a)(1) will be considered to be misbranded. Exporters of such products will be subject to civil or criminal liabilities for violation of FIFRA sections 12(a)(1) (D) or (E)—misbranding. Exporters of unregistered pesticides will be subject to civil or criminal liabilities for violation of FIFRA section 12(a)(1)(A)—selling or distributing a pesticide which is not registered—if they fail to secure, prior to export, a properly completed, signed, and dated acknowledgment statement from the foreign purchaser of the pesticide. Falsification of the required certification may subject an exporter to sanctions under 18 U.S.C. 1001.

Appendix A—Significant Comments and Responses

General Comments

Comment No. 1. Applicability of Rulemaking Procedures. Two commenters stated that the Agency should have implemented the export provisions of FIFRA through the procedures established by the Administrative Procedures Act for the promulgation of "rebuttable" rules. The Agency disagrees. As mentioned previously, these requirements for export labeling and purchaser acknowledgment statements were statutorily effective March 29, 1979, 180 days from enactment of the Federal Pesticide Act of 1978. The law lists the type of information required on an exported pesticide's labeling and the legislative history makes it clear that purchaser acknowledgment statements are to be transmitted to foreign governments in the same manner that cancellation notices are furnished. The Agency's position, therefore, is that there is no need for rulemaking but rather there is a need for a general statement of policy on such matters as (a) what would constitute minimally acceptable labeling, (b) how such labeling could be attached or accompany shipment, and (c) how foreign purchaser acknowledgment statements are to be transmitted to foreign governments.

Comment No. 2. Use of Suspended and Cancelled Pesticides List. Another commenter suggested that foreign countries can be adequately informed of the hazards of U.S. manufactured pesticides through an expansion of the Suspended and Cancelled Pesticides List. This is not the intended function of the Suspended and Cancelled Pesticides List. That List constitutes only a guide

for Government officials; it is not the final authority on the status of a given pesticide. It is the intent of Congress that the procedures that are followed for notifying foreign governments of the suspension or cancellation of pesticides be those which are also used to inform them that an unregistered pesticide will be entering their country. Therefore, the channel of communication described in this policy is derived from the procedures already used to notify foreign governments of major suspension or cancellation actions.

Comment No. 3. Scope of the FIFRA Section 17 Requirements. A number of commenters addressed the definitions contained in this policy statement of an unregistered pesticide. The Agency agrees that clarification on this point is necessary. It is not EPA's intent to limit export of a chemical if it is properly labeled and the exporter complies with the procedures for obtaining and transmitting to EPA a properly executed acknowledgement statement. A more detailed explanation of which products will be regarded as unregistered for the purposes of this policy has been given. One commenter objected to including products with denied or cancelled uses and products with different composition or use patterns with products which contained no registered active ingredient. In drafting this policy statement, EPA adopted a broad interpretation of the registration status of a pesticide.

The Agency could have required exporters of all pesticide products that were not registered under section 3 to acquire an acknowledgement statement from the foreign purchaser. The effect of this would be that an acknowledgement statement would have been required for the overwhelming majority of exported pesticides since most exports differ slightly in formulation or directions for use from the U.S. registered product, or the labels are written in a foreign language. The EPA clearly stated in the proposed policy statement that in its view Congress did not intend that exported products with minor variations from EPA registered pesticides be subject to the export notification procedures. However, products with cancelled uses or with substantial differences in composition or use patterns cannot be considered products with minor variations. The Agency must, therefore, reject this comment.

Comment No. 4. Status of Certain Unregistered Pesticides. One commenter suggested that experimental use products be treated as registered products; another commenter thought that products with temporary tolerances

should be considered as if they were registered. Since registration data for such products are not complete, it has consistently been Agency policy to treat experimental use products and products with temporary tolerances as unregistered products. Products which bear registrations under section 24(c) of FIFRA will, however, be treated as registered products. Products undergoing Rebuttable Presumption Against Registration will be considered in accordance with their registration status at the time of export. It was suggested by one commenter that those pesticides which were registered by a foreign country should not be subject to the requirement for an acknowledgement statement. In order to adequately enforce a policy which took this approach, the EPA would have to evaluate the internal registration procedures conducted by other countries and to regulate exports based upon the policies of the importing country. Thus, EPA policy would be different for similar shipments going to different countries. The Agency rejects this comment. Not only would it be administratively difficult to operate such an export program, but such a policy fails to recognize the point of having the acknowledgement statement to inform foreign governments of the U.S. registration status of a pesticide.

Comment No. 5. Non-Commercial Exportation. Another commenter requested clarification on the application of the notice provision to pesticides which are exported without a commercial transaction. There are two possible categories of products to which this comment might apply. The first would be small amounts of pesticide exported for research purposes only; the second would be large shipments exported to a foreign establishment of the domestic company which manufactures it. Research quantities are subject to the labeling rules of this policy but not to the acknowledgement statement requirement. Large shipments transferred from a domestic facility to a foreign facility of the same company will be treated in accordance with their U.S. registration status. That is, if the product is registered (in accordance with the use of that term in this policy), no acknowledgement statement is required; if the product is not registered, an acknowledgement statement will be required.

Comment No. 6. Technical and Multiple Use Chemicals. Some commenters asked for clarification of the impact of this policy upon formulated and technical grade products and multi-use products. Formulated and

technical grade products which are subject to FIFRA are subject to this policy. The label on the exported product must comply with section 17 of FIFRA. A multi-use product for which no pesticide claims are made and which is not an active ingredient in any pesticide product in the United States is not subject to this policy, even if it is subsequently processed into a pesticide in another country.

Labeling Comments

Comment No. 7. Use of Bilingual Labeling. A number of commenters stated that the law did not require bilingual labeling. The law states that an exported pesticide, device, or pesticide active ingredient must bear labeling in conformance with FIFRA section 2(q)(1)(E). The FIFRA states in section 2(q)(1)(E) that a pesticide is misbranded if:

Any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon . . . in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. (Emphasis added.)

The EPA interprets this passage to apply to ordinary individuals in the importing country as well as in the United States. Thus, the bilingual requirements are meant to communicate some basic information about the product to as many handlers of the pesticide as possible. International symbols, suggested by one commenter, could not adequately communicate all the required label elements, although they may be used in addition to the required wording. Commenters asked for guidance regarding EPA's enforcement of the bilingual requirement in two specific instances: when the importing country has several official dialects, or when English is an official government language. Any language in which official government business is commonly conducted in the country, or which is the predominately spoken language of the country, is acceptable as the second language on the label. If English is one of these languages, then a bilingual label is optional, except as may be required by the importing country. One commenter asked if a translation of the U.S. label would be satisfactory. Such a label would be acceptable if the necessary elements appeared both in English and in the foreign language.

Comment No. 8. Foreign Labeling Requirements. Several commenters asked about the application of this policy to labels which comply with the laws of the importing country. It is not

the intention of this policy to supersede the labeling requirements of foreign governments. However, FIFRA now requires that exported pesticides, devices, and pesticide active ingredients bear certain minimal labeling. If the labeling which currently appears on exported pesticides does not meet the minimum FIFRA requirements, even though it may meet the foreign country's requirements, additional labeling must be added to satisfy U.S. law.

Comment No. 9. Supplemental Labeling. Several commenters suggested that supplemental labeling be liberally allowed. The Agency intends to be as flexible as possible in this respect. Exporters will be permitted to use a variety of types of labeling to comply with the FIFRA export requirements. The Agency's principal interest will be to ascertain that products to which this policy applies bear labels or labeling which, taken together, conform to the FIFRA section 17(a)(1) requirements.

Comment No. 10. Establishment Numbers. One commenter requested the option of substituting another code for the EPA Establishment Number on the label. The Act clearly requires that an Establishment Number appear on the label. The Agency must reject this suggestion since permitting other means of identifying the production establishment would negate the usefulness of such numbers.

Comment No. 11. Restricted Use Pesticides. Several commenters requested guidance on label requirements for exported restricted use pesticides. If the product is a restricted use pesticide, then the statement "Restricted Use Pesticide" must appear on the label or labeling. The supplementary statement of the terms and conditions of restriction is not required.

Acknowledgment Statement

Comment No. 12. Prior Possession of Acknowledgement Statements. A number of commenters questioned the requirement that the acknowledgement statements be in the exporter's possession before shipment of the pesticides can take place. Other commenters stated that in their opinion foreign importers, through oversight or bureaucratic inefficiency, will not comply with the acknowledgement statement requirement. In the proposed policy statement, the Agency clearly recognized the problem of non-compliance by foreign importers. For this precise reason, EPA must reject the contention that acknowledgement statements should not be required to be in the exporter's control before shipment can take place. A more liberal

interpretation of what constitutes receipt of the acknowledgement statements has been provided in the final policy statement to facilitate compliance. One commenter suggested that a signed acknowledgement in the hands of a local company representative be considered a receipt by the exporter. The Agency agrees that this would be acceptable so long as the information required on the acknowledgement statement is sent to EPA within the stated time period. If a company anticipates several orders in a year, the acknowledgement statements may be obtained in advance of the actual order. One commenter stated that the requirement that acknowledgement statements be sent to EPA within seven days of receipt by the exporter was too restrictive. This commenter suggested that transmittal of the acknowledgement statement should be tied to the date of shipment. The Agency disagrees. Where possible, acknowledgement statements will be sent to foreign governments as far in advance of shipment as possible. This will provide the government some time to review the information received. The Agency feels more timely notification will occur if transmittal of the acknowledgement statement is tied to date of receipt.

Comment No. 13. Certifications. Some commenters objected to filing, along with the acknowledgement statement, a certification that the order was not shipped before the acknowledgement statement was received. The Agency believes that a certification statement is necessary. While some monitoring of compliance will be through inspection of required books and records, a certification requirement will serve to remind exporters that shipment must wait until the acknowledgement statement has been received.

Comment No. 14. Destination of Shipment. One commenter suggested that there was no need to include in the acknowledgement statement the destination of the export shipment, if different than the purchaser's address. This comment is rejected because without this information the Agency would be unable to determine if the labeling complied with the bilingual requirements nor would it know the proper place to send the acknowledgement statement.

Comment No. 15. Annual Reporting. Several commenters stated that the requirement that a new acknowledgement statement be acquired each year that a particular product is exported is overly burdensome. They point out that the law requires an acknowledgement statement

only once per country, not once per country, per year. The Agency must reject this comment. Although FIFRA is not clear on this point, the law seems to indicate that an acknowledgement statement should be acquired for each export shipment of an unregistered pesticide. It is the Agency's position that imposing such a requirement would be a burden for all parties concerned—exporters, importers, and the U.S. Government, as well as foreign governments—beyond any regulatory purpose it may serve. The requirement to send an acknowledgement statement once per year, which is similar to that being considered under the Toxic Substances Control Act, is not overly burdensome, and yet accomplishes the purpose of regular notification to foreign governments.

Comment No. 16. Notification of Foreign Governments. Several commenters questioned the procedure for notifying foreign governments. It was suggested that either the foreign purchaser or the exporter should directly notify the foreign government. The EPA rejects this proposal. First, it would be difficult, if not impossible, for the Agency to monitor compliance under such a procedure. Second, as previously explained, the procedure for transmitting acknowledgement statements parallels that of the notification of foreign governments of suspended or cancelled registrations. It is the understanding of the Agency that such a procedure, namely government-to-government contact, was the intent of Congress.

Comment No. 17. Problems with Importing Countries. Two commenters suggested that the policy be different for socialist or communist countries. These commenters cited their experience exporting pesticides to these countries where the "importer" is an agency of the government. These import agencies are said by the commenters to be staffed by very conservative bureaucrats who are reluctant to sign unusual requests. As has been discussed earlier, it is not the intent of this Agency to write a different export policy for different countries. However, should numerous problems arise with any particular country, the Agency will work with industry and the Department of State to solve them.

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BILLING CODE 6580-01-26

(January 1989)

Model Quality Assurance Project Plan For State Pesticide Laboratories

All cooperative agreements involving environmentally related measurements or data generation are required by the EPA Grant Regulation (40 CFR Part 31.45) to develop and implement quality assurance practices consisting of policies, procedures, specifications, standards and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out-of-control conditions or malfunctions.

To assist states participating in the pesticide enforcement grant program with this requirement, OCM has developed the attached model project plan specifically for state pesticide laboratories. The format and content of this model conform to the requirement set forth in the Quality Assurance Management Staff (QAMS) guidance and has been reviewed by the QAMS. The model may be modified to suit the needs of each state.

In addition, the State may wish to utilize the two documents referenced below which are available from the Regional quality assurance officer.

- Guidelines and Specifications for Preparing Quality Assurance Project Plans (QAMS - 004/80, September 20, 1980)
- Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans (QAMS - 005/80, December 29, 1980)

QUALITY ASSURANCE (QA) PROJECT PLAN FOR
THE STATE OF
PESTICIDE ENFORCEMENT PROGRAM

DRAFT

Approval for Implementation by the State

Project Manager

Name: _____

Title: _____

Signature: _____ Date: _____

State Quality Assurance Officer (Laboratory)

Name: _____

Title: _____

Signature: _____ Date: _____

State Quality Assurance Coordinator (Field)

Name: _____

Title: _____

Signature: _____ Date: _____

Approval by the Region

Project Officer

Name: _____

Title: _____

Signature: _____ Date: _____

Regional QA Officer

Name: _____

Title: _____

Signature: _____ Date: _____

Figure 1

EXAMPLE ORGANIZATIONAL CHART

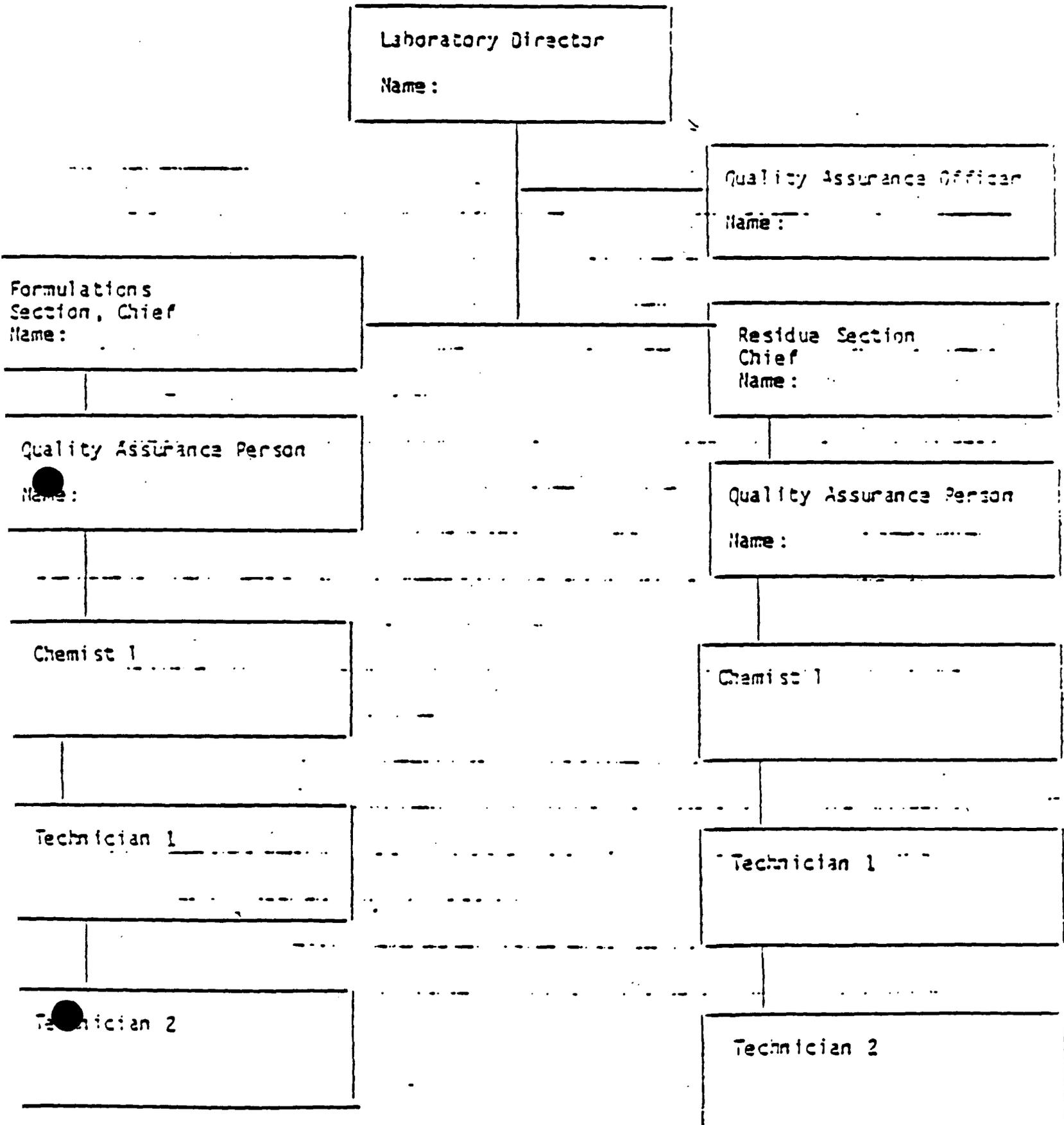
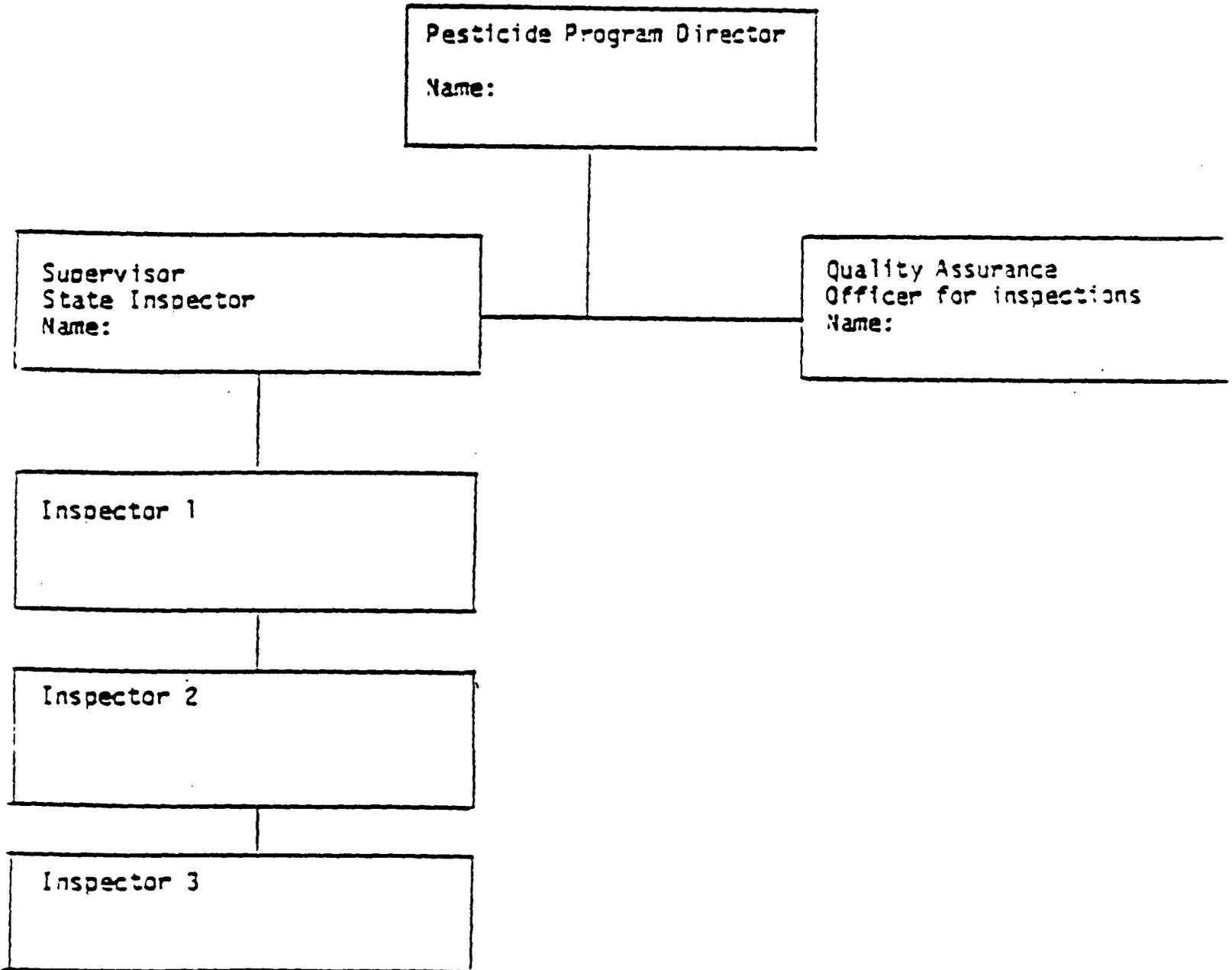


Figure 2

EXAMPLE ORGANIZATIONAL CHART



Section No. 6Revision No. 0399

Date: _____

Page 1 of 1

Quality Assurance Objectives for Measurement Data in Terms of Precision, Accuracy, Completeness, Representativeness and Comparability

The objective of data collection in terms of precision, accuracy, completeness, representativeness and comparability, as applicable, is to produce data that is reliable, scientifically sound, defensible and reflective of state-of-the-art methodology. Ultimately each analytical result or set of results generated in support of the pesticide enforcement program should be able to be defended in any legal action, whether administrative, civil or criminal in nature.

The degree and form of data collection and confirmation will vary according to whether the sample(s) in question are residue (i.e. environmental) related to misuse investigations or formulation (product or tank-mix) in nature. Residue samples will generally involve the detection and measurement of known or unknown pesticides at unspecified and unpredictable levels. Formulation samples require specific assay procedures to verify compliance with a predetermined or known label declaration for the pesticide product in question: those products in probable violation will be indicated after the first analysis. Thus quality control measures for formulation analyses will concentrate on those identified potentially violative samples.

In general, a pesticide investigation will consist of a small number of localized and/or unique samples that do not lend themselves towards the establishment of ongoing quality control data as recommended for long range monitoring programs, thus it will be the objective and policy of the laboratory to provide adequate quality control and adherence to established standard operating procedures such that each sample or group of samples will stand on their own merits with respect to the establishment of reliable data quality.

Sampling Procedures

Sampling procedures will follow prescribed procedures set forth in:

- 1) NEIC Pesticide Sampling Guide (1)
- 2) EPA Pesticides Inspection Manual (2)
- 3) Other established state, federal or association guide, as applicable e.g. (3)

In all cases, pesticide samples will only be taken as needed to establish compliance or violation of existing state or federal laws. Professional judgement will be exercised in the field to obtain adequate numbers of and types of samples to establish or confirm pesticide misapplication, product quality, or poor disposal practices. Professional judgement and guidelines, as listed above, will also be employed to assure the obtaining of representative samples that are free from induced cross-contamination. Likewise, all samples will be properly documented, packaged (preserved, if necessary), maintained under custody and transferred to the laboratory in a fully defensible manner. It will be incumbent upon the inspectional staff to seek assistance as required from senior laboratory staff when new situations, new pesticides or unique circumstances are encountered in the field. Likewise, it is incumbent upon the Quality Assurance Officer or Laboratory Director to notify the appropriate inspectional staff when problems are encountered with quality of incoming pesticide samples that could affect the reliability and defensibility of analytical results.

- 1) NEIC Pesticide Sampling Guide, John Ellison, 1981. Available from U.S. E.P.A., National Enforcement Investigations Center, Box 25227, Denver, CO 80225
- 2) EPA Pesticides Inspection Manual (latest edition), Available from U.S. E.P.A., OPTS, PTSED (EN-342), 401 M St. SW, Washington D.C. 20460

3. Minimum Quality Assurance Requirements for the Collection and Analysis of Pesticide Formulation Samples, Document Control #R8-QAO-82-MR-03, Revision 1, March 1992.

It is incumbent upon the inspectional staff to transfer the samples as quickly as possible to the laboratory. Pesticide residue samples may have a short holding time depending on the pesticide. The inspectors must see to it that the laboratory can meet holding time requirements as established by the laboratory in their Quality Assurance manual. Hold^{ing} time begins when the sample is taken.

Sample Custody

Sample custody consists of two components, documentation and actual physical custody of the official sample, and two distinct phases, i.e. custody in the field and custody in the laboratory.

The following principles will apply to all handling of samples from the point of collection through the placing of a sample in permanent abeyance (when all contemplated or real legal action is complete). The sample is considered in "custody" if:

- 1) It is in one's actual physical possession or view.
- 2) It is in one's physical possession and sealed so as not to be tampered with, i.e. under lock and restricted key or under official seal.
- 3) It is retained in a secured area with restricted access.
- 4) It is placed in a container and secured with an official seal(s) evidence tape such that the sample can not be reached without breaking the seal(s).

In the laboratory, all custody procedures will conform to those specified in the NEIC Pesticide Products Procedures Manual and Standard Operating Procedures. Residue (environmental) samples in general will follow those procedures specified for formulation samples except that appropriate preservation procedures will also be followed, i.e. freezing, refrigeration or extraction, etc. To the degree possible, analytical standards, standard and sample working solution and primary standards (i.e. potassium acid phthalate, etc.) will also be maintained under custody procedures.

Field custody problems identified by laboratory personnel will be immediately relayed by the Laboratory Director back to the appropriate program representative for corrective action and/or resampling.

Calibration Procedures and Frequency

Each major piece of equipment utilized routinely in the pesticides analytical program is maintained, calibrated, serviced and monitored as follows:

Depending on the specific instrument and associated operating parameters (detector, column, cells, etc.), calibration and overall system reliability will be based on the sensitivity, reproducibility and resolution of analytical standards of the pesticides being analyzed. Independent audit procedures will also be utilized when available for periodic use or when malfunction is suspected; such procedures are provided in the instrument operation manuals, the NEIC Pesticide Product Laboratory Procedures Manual, and the EPA Analytical Quality Control for Pesticides Manual. Standards used to prepare calibration and audit solutions are received from EPA/Beltsville, EPA/RTP, NBS or other reliable source. In some cases (e.g. holmium oxide for uv/vis spectrophotometer), audit materials are obtained from instrument manufacturers.

Corrective action will be taken, before any further official analyses are undertaken, whenever instrument malfunction, improper sensitivity resolution and/or reproducibility is indicated.

All instruments will be maintained as specified in the three references described above, and adequate spare parts will be kept on hand to assure minimal down-time, particularly fuses, connectors, pens, septa, spare cells, syringes, o-rings and recorder paper.

All servicing, preventive maintenance, major modifications, and audit data will be maintained in individual logbooks for each instrument to provide a documented historical record of proper operation and overall reliability.

Particular care will be paid to maintenance and operation of analytical balances, as accurate sample and standard weighings form the basis for all reliable quantitative measurements. Balances will be professionally cleaned, serviced and calibrated at least once yearly and verified for accuracy at least quarterly by analytical staff using class "S" weights. All calibration data and servicing are recorded in dedicated logbooks.

Analytical Procedures

Analytical procedures or methodology, to the degree possible, will adhere to official (collaborated) or standard (professionally accepted) methods for both residue and formulation analyses, particularly when verifying compliance with regulatory, tolerance or action levels. It is recognized that in-house procedures often provide a higher level sample throughput or efficiency, however, all such routinely used procedures will be verified for reliability through establishment of precision/accuracy data and comparability with more established procedures.

To the degree possible, potential violations, i.e., verification of misuse and product non-compliance will rely on confirmation using methodology from the following established sources:

Residues:

1. Pesticide Analytical Manual, Food and Drug Administration
Vols 1-4, U.S. Department of Health, Education, and Welfare
Published 8/1/77 and updated periodically.
2. Official Methods of Analysis of the Association of Official Analytical Chemists, 13th Edition, 1980. Published by the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044. Updated annually.
3. Manual of Analytical Methods for the Analysis of Pesticide Residues in Human and Environmental Samples, (latest edition)
J. F. Thompson, Editor, U.S. Environmental Protection Agency,
Health Effects Research Laboratory, Environmental Toxicology Division
Research Triangle Park, North Carolina.

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Specific Routine Procedures to be Used to Assess Data Precision, Accuracy and Completeness of Specific Measurement Parameters

Routine procedures used to assess quality of data are specified in the Standard Operating Procedures which individually address formulation and residue testing. To the degree possible, these procedures will be followed to assess reliability and data quality of all results related to official pesticide analyses:

In general, with respect to formulation analysis, precision is established through duplicate analysis for all potentially violative and non-uniform samples. Duplicates are analyzed by the original analyst using a differently prepared standards, if applicable. Accuracy is established through confirmation analysis by a second analysis, use of official/standard methodology and verification of calculations. If necessary, two or more individual methods are employed to confirm accuracy. If necessary, when established methods are not available, a spiked sample recovery is also performed. Laboratory blanks, periodic analysis of check samples and participation in collaborative studies also will be used to evaluate overall accuracy of results.

For the residue analysis program, duplicates will be used to establish precision, spiked sample recoveries will be used to establish accuracy (based on non-incurred residues); and blanks will be analyzed to assure non-interferences from solvents, reagents and containers. Analysis of check samples, participation in collaborative studies, system evaluations and review of data will also be used to verify on-going accuracy of generated results. Confirmation of pesticide residue identity will be performed either through a non-equivocal instrumental technique such as mass-spectrometry or infrared, or by a three point matching system using retention values, fraction-matching and/or specific detector(s).

When pesticide/matrix types are encountered more than an average of 5 samples per month and established methodology is not available, the reliability of the method used will be established through the analysis of at least four samples spiked at 10x the detection limit for the pesticide/matrix of interest. This

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Records data will then be used to evaluate and generate from the analysis of similar official families.

For situations not conforming to the Standard Operating Procedures or as given above, the guidance provided in the 202 Quality Control for Pesticides Manual will be followed to the degree possible.

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Performance and Systems Audits

The Laboratory is fully committed to participating in the analysis of available and appropriate performance samples and lending itself to any necessary on-site system audits by qualified representatives of EPA. The Laboratory is also committed to using the results of such performance and systems audits to improve the reliability, defensibility, capability and efficiency of the Laboratory operations to the degree possible.

Systems audits will be performed by qualified representatives of EPA, generally from the National Enforcement Investigations Center (NEIC) and/or the Regional Office. The audit will be conducted upon joint consent of the EPA Region and the State, and a report of all findings and recommendations will be made promptly to the State. The systems audit will be restricted to the pesticide analytical program only, and be limited to those areas immediately impacting overall quality assurance and specific program grant requirements.

The Laboratory will participate in pesticide performance audits as available. Formulation check samples are provided by NEIC at a current rate of four per year. The Laboratory will also participate in the AAPCO Check Sample Program for Pesticide Formulations, which are provided at the rate of six per year. Unsatisfactory results will be fully evaluated and such samples reanalyzed at the earliest convenience, if necessary. Pesticide residue check samples are currently restricted to water matrices only. One set of water check samples will be analyzed per year as agreed upon between EPA and the State Laboratory Director. In the event of poor performance, the data will be reevaluated and a second set analyzed, if necessary, within the current year. Other pesticide check samples for pertinent matrices will also be analyzed periodically as they become available.

Internal Quality Control Checks

Quality control is considered an integral aspect of analyses performed in conjunction with the pesticide enforcement program. Quality control data generated for each sample, or batch of samples will be used to provide an overall assessment of (1) precision, (2) accuracy, (3) quality of containers, solvents and reagents, and (4) an overall reliability of the method.

Basically required quality control measures will procedurally differ depending on whether residue or formulation samples are being evaluated (see Section 5). Specific measures are spelled out in the Standard Operating Procedures, but, in short, encompass an analysis of a representative number of duplicates (precision), spike sample recoveries (accuracy), blanks (to assure non-interferences from containers, solvents and reagents) and standard reference materials, if available and appropriate (also for accuracy). Quality control procedures for formulation analyses will differ in that accuracy data will be generated by utilization of several methods (if available and appropriate) and through a check analysis by a second experienced analyst for potentially violative samples.

4. Analytical Methods for Pesticides, Plant Growth Regulators, and Food Additives, Vol I-XI, Gunter Zweig, Ed, Vol VI-XI edited by J. Sherma, Academic Press Inc., 111 Fifth Avenue, New York, NY 10003.

5. Methods for Pesticides in Water
Federal Register, 44, No. 233, Dec. 3, 1979.

Minimum Quality Assurance requirements for collection and analysis of pesticide residue and formulation samples are detailed in the following documents:

1. Minimum Quality Assurance Requirements for Trace Organic Analysis, Document Control #R8-QAO-92-MR-04, Revision 1, March 1982.

2. Minimum Quality Assurance Requirements for the Collection and Analysis of Pesticide Formulation Samples, Document Control #R8-QAO-82-MR-08, Revision, March 1982.

Formulations:

1. Official Methods of Analysis of the Association of Official Analytical Chemists, 13th Edition, 1980. Published by the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044. Updated annually.

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Data Reduction, Validation and Reporting

Data reduction will be provided on a sample by sample (or case by case) basis as necessary for possible enforcement action. Data is collected from various instruments or manual techniques and reduced to quantitative results through comparison of response with standards of known purity, titrants of known normality or some other well known or referenced basis of comparison. Questionable data, whether arising from the quality of the sample, quality of the method, lack of validation, time constraints or other factors will be clearly identified and qualified. Samples where the pesticide(s) of interest are not detected will be reported as such along with a realistic detection limit.

Validation of data will be as described in the Standard Operating Procedures, generally consisting of review of procedures and calculations by the analyst, an analysis by a second analyst (if appropriate), analysis by a second method (if appropriate) and final review by the laboratory supervisor or other designated senior chemist. Quality control procedures as described elsewhere will also be utilized to the extent possible to validate data generated for official samples. The Quality Assurance Officer will conduct periodic in-depth audits to assure proper operation of the validation system.

Reporting will be accomplished according to the format provided in the Standard Operating Procedures according to memo format or other form(s) as required for necessary compliance action. In general, in addition to specific results, method(s) of analysis, quality control results and any pertinent observations about the sample(s) or their analysis will also be provided. It will be the function of the Compliance Office to furnish results back to inspected parties, if necessary.

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These data will then be used to evaluate each parameter from the analysis of similar official samples.

For situations not conforming to the Standard Operating Procedures or as given above, the guidance provided in the ATP Quality Control for Pesticides Manual will be followed to the degree possible.

Corrective Action

Corrective action will be taken whenever data is determined not to be acceptable, either through comparison with pre-established quality control data, as a result of scientific evaluation by the supervisor, senior analyst(s) or quality assurance officer, or through an apparent conflict of results with a second analyst or laboratory.

Corrective action will in general follow the steps in order provided below, as the first listed are the most likeliest source(s) of error:

- 1) Review of raw data and calculations
- 2) Review of procedures - was the method followed?
- 3) Review of method - is it applicable?
- 4) Review of instrument operation, calibration and maintenance

As a result of the above review further positive corrective action may be identified and will be pursued as necessary:

- 1) Reanalysis of the sample(s) in question
- 2) Acquisition of correct or better instrumentation
- 3) Additional training of staff
- 4) Hiring of additional staff with necessary skills

Persistent problems will be dealt with through a thorough review of all analytical data (including quality control measurements), increased level of check sample and reference material analyses and requests from outside for analytical assistance and systems evaluations.

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Quality Assurance Reports to Management

A quality assurance report will be generated by _____ and sent to the laboratory management once every _____. It will contain a summary of data accuracy, precision and completeness for the reporting period. Results of all system and performance audits during the reporting period will also be included. Significant QA problems and recommended solutions will be included.

Contaminant Screening Guidelines - 1990 RevisionI. Purpose

Pursuant to Section 23(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, the U.S. Environmental Protection Agency has implemented a pesticide enforcement grant-in-aid program to State lead agencies (SLAs) whose responsibility it is to enforce state laws. Included in the annual guidance and as a condition in most grant agreements is the requirement that the state pesticide enforcement laboratory establish and maintain a screening program to detect cross-contaminants in officially collected pesticide formulation samples. The intent of this document is to provide guidelines to participating states as to the overall need, required level of effort and recommended methodology for carrying out such a screening program.

II. Objectives

- 1) To ensure that pesticide products and tank-mixes that have a high potential for contact with man, domestic animals, the food supply are routinely screened to minimize undesirable effects and incidents by detection of cross-contaminants.

- 2) To assure a high degree of quality control at the manufacturing, formulating, packaging and user levels of the pesticide production/sales/use chain.
- 3) To provide guidance to federal, state and other concerned laboratory personnel with respect to the necessary scope of the cross-contaminant screening program and to provide some basis for evaluating specific cross-contaminants that are detected.

III. Background

A basic concern to FIFRA, as amended, is to ensure that pesticides registered for use within the United States perform their prescribed functions without causing unintended deleterious effects on man or the environment. Numerous provisions within FIFRA and its regulations have been created to allow for these safeguards. One provision is Section 12(a)(1)(E) of FIFRA which states that it is considered an unlawful act to sell any pesticide that is adulterated or misbranded.

Although not specifically addressed in the FIFRA regulations or included as standard labeling instructions, failure to adequately clean mixing and/or application equipment could result in pesticide carryover to subsequent application(s). Depending upon the original pesticide(s) and the specific subsequent application(s), there could potentially be a violation of FIFRA Section

12(a)(2)(G) in that the contaminant may be applied for a non-registered use, thus, possibly causing harm to man or the environment.

IV. Discussion and Definition of Contamination

For the purposes of these guidelines, contamination does not normally include impurities that arise as by-products from the manufacturing process(es). However, such impurities should be verified and reported when the determined quantity substantially exceeds 2x the quantity in typical technical material, or the known actified limit, if the latter has been established, particularly when such a finding is related to an incident investigation.

Contamination of pesticide products and use dilutions may arise from activities such as failure to clean production equipment, reuse of inadequately cleaned containers, production and/or formulation mix-ups, and failure to properly clean application equipment between uses.

Based on practical considerations, i.e., time, cost and resource limitations, the following guidelines should be used for determining whether to further verify and report the presence of a suspected contaminant:

- 1) Wettable powders and emulsifiable concentrates
(major active ingredient(s) present at 20% or
greater)

Report verified contaminants present at >0.05% for all highly toxic (Category I), pesticides and those pesticides that have been suspended, cancelled or severely restricted in use. Verify and report contaminants >0.25% for all other pesticides.

- 2) All other products with major active ingredient(s) less than 20%.

Report verified contaminants present at >0.01% for all highly toxic (Category I) pesticides and those pesticides that have been suspended, cancelled or severely restricted in use. Verify and report contaminants >0.05% for all other pesticides.

- 3) Any verified contaminant(s) discovered in a product suspected of causing human injury or death, crop residues or damage, domestic animal injury or death, or other environmental harm should be verified and reported regardless of the level.

V. Requirements

A. Pesticide formulations and related materials to Screen:

- 1) At least 25% of those pesticide formulations and tank-mixes intended for use on agricultural commodities that will be used for human or animal consumption, or at least one per batch from each producer or applicator.
- 2) Those pesticide formulations used in the home and for home gardening.
- 3) Those pesticides and tank-mixes used to control pests on vertebrates, including domestic animals, fowl and man.
- 4) Those pesticides used in food processing facilities and institutions.
- 5) Those products and tank-mixes involved in or related to human or animal injury, plant damage, illegal residue or other documented environmental damage.

Other pesticide products need not be routinely screened unless specifically requested to do so.

B. Contaminant Detection and Confirmation

Thin-layer chromatography (TLC) is recommended as the primary procedure for the screening of pesticide products (formulations) and tank-mixes for cross-contamination; the procedure is adequately sensitive, efficient, economical and relatively easy to perform. If TLC is not feasible, gas chromatography (GC) with the use of special detectors [Hall electroconductivity (HECD) for chlorinated hydrocarbons and flame-photometric (FPO) or nitrogen-phosphorus (NPO) for organophosphates] may also be used if specific methodology is developed, validated and documented.

Confirmation of identity and quantitative determination will generally be performed by gas or high-performance liquid chromatography, as appropriate. A second TLC solvent system can also be used for confirmation; the referenced TLC procedures specify alternate mobile phase solvents. At least three independent chromatographic retention values should be used to confirm identity if infra-red spectroscopy or mass spectrometry is not available or applicable. Quantitative determinations should be made in true duplicate (independent standard solutions) on at least one subsample.

TLC method references are provided as follows:

- 1.) Chlorinated hydrocarbon detection-AOAC-13; 6.027
or as modified for use with pre-coated plates-
(NEIC-TLC-1)
- 2) Organophosphate and carbamate determination-
EPA-TLC-1)

Copies of the above methods are available from the Pesticides and Toxic Substances Branch of the National Enforcement Investigations Center (NEIC). Training, in screening techniques either through workshops or on-the-job is also provided by NEIC.

C. Report of Analysis

The results of contaminant screening and the identity and percentage of each contaminant, if found, should be reported along with primary assay results.

(Revised February 1991)

Guidelines for Using EPA Form 5700-33H

Reporting Requirements for the Pesticides Enforcement Component Output Projections and Quarterly Accomplishment Report

EPA form 5700-33H must be used by states/tribes participating in the FIFRA cooperative agreement program for reporting output projections and accomplishments in the enforcement program. There are three pages to form 5700-33H: Output Projections and Quarterly Accomplishment Report on two pages for compliance activities and annual projections and quarterly accomplishments for certification and training activities. The Quarterly Accomplishment Report should be accompanied by a narrative portion as described in these guidelines.

To insure uniform reporting, these guidelines and definitions must be followed when completing this form.

A. Reporting Categories

The EPA Form 5700-33H provides the state/tribe two categories for reporting pesticide enforcement activities: (1) Cooperative Agreement Only and (2) state activities only. States/tribes are encouraged to include all of their pesticide enforcement activities under the cooperative agreement program. If a state/tribe decides to include only a portion of its program in the cooperative agreement (at least 15 percent of the total costs), this form provides the state/tribe the opportunity to report activities outside of the cooperative agreement by checking the "State Activities Only" block on a separate copy of the form.

1. Cooperative Agreement Only

"Cooperative Agreement Only" includes all activities conducted under the cooperative agreement.

2. State Activities Only

"State Activities Only" includes all activities conducted outside of the cooperative agreement program. Reporting of these activities is voluntary. EPA encourages states/tribes with pesticide enforcement activities outside of the cooperative agreement

program to report these activities on a separate copy of the form with the "State Activities Only" block checked. This will give EPA and other concerned parties a complete picture of all pesticide compliance activities being conducted by the state/tribe.

B. Output Projections

The Output Projections side of the form must be completed for all four quarters and submitted with the cooperative agreement application. These numbers represent the state's/tribe's quarterly commitments under the cooperative agreement.

As stated in the FY92 guidance, the states will negotiate with their Regional office and commit to conducting an agreed-upon number of federal facility inspections. These would fall under the other categories of inspections listed on the reporting form, but would be conducted at federal facilities. The number of inspections to be conducted at federal facilities must be negotiated and included in cooperative agreement applications.

States/tribes are not required to make projections for activities to be conducted outside of the cooperative agreement program.

C. Quarterly Accomplishments

States/tribes are required to report all pesticide inspectional and enforcement accomplishments performed under the cooperative agreement program on EPA Form 5700-33H, with the block "Cooperative Agreement Only" checked.

The Quarterly Accomplishments side of the form must be completed for each quarter. The accomplishments to be reported include inspections conducted, samples collected, and enforcement actions taken. Quarterly reports must be submitted to the Regional Office by the state/tribes within thirty calendar days following the completion of each Federal fiscal-year quarter. Quarterly reports are due by January 30, April 30, July 30, and October 30 of each year.

The following are uniform reporting requirements for reporting accomplishments:

- o Inspections should only be reported if an appropriate inspection report is completed.
- o Inspections should be reported during the quarter that they are completed.
- o The initial reason for the inspection determines the appropriate inspection category for reporting.

- o If more than one type of inspection (of the eleven standard inspection categories) is conducted for the same visit, and each inspection is completely documented, then each inspection can be counted as a separate inspection.
- o All state/tribal enforcement actions resulting from inspections conducted under the cooperative agreement are to be reported on Form 5700-33H. This includes enforcement actions for both Federal and state/tribal violations.
- o Enforcement actions should be reported for the quarter in which they are issued, regardless of when the inspection was conducted.
- o Enforcement actions are to be reported under the inspection category heading for the initial inspection which led to the enforcement action.
- o Enforcement actions which are not the result of inspections in the field are to be reported in the narrative portion of the report.

See section E. Inspection Category Definitions for additional uniform reporting requirements for use and followup inspections.

For inspection, sample and enforcement action accomplishments performed outside of the cooperative agreement, EPA encourages states/tribes to report these activities on a separate copy of the form with the "State Activities Only" block checked. Use the same instructions as described above for reporting accomplishments. This will give a complete picture of the total pesticides compliance activities being conducted.

D. Total Applicators Holding a Valid Certification as of September 30th

The Office of Compliance Monitoring uses the number of certified private applicators and commercial applicators as of September 30th as part of the formula for allotting enforcement cooperative agreement funds. It is important that each state participating in the enforcement cooperative agreement program report this information along with their fourth quarter report.

E. Inspection Category Definitions

It is understood that many states/tribes conduct inspections which are not specified as separate inspection categories on Form 5700-33H or defined in these guidelines. The state/tribe should consult with their Regional Office to determine which inspection categories most closely match such inspections. Inspections which do not fall within one

of the eleven standard inspection categories of the form should be reported in the narrative portion of the quarterly report.

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

Use Inspections

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

Uniform reporting requirements are:

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

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

1. Agricultural Use Inspections

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

The term "agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, christmas tree growers,

aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

2. Non-agricultural Use Inspections

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

Followup Inspections

A followup inspection is usually initiated in response to a complaint, damage report, referral, tip, etc. following a pesticide application. Section 18 and 24(c) followup inspections will be included in this category for reporting purposes.

Uniform reporting requirements are:

- o Followup inspections are differentiated from use inspections by the initial reason for the inspection.
- o Followup inspections are initiated when there is reason to believe that a violation has occurred or is occurring.
- o Followup inspections remain followup inspections even if a violation is not detected.

3. Agricultural Followup Inspections

Agricultural followup inspections are inspections of a suspected misuse of pesticides in conjunction with the production of agricultural commodities as defined in 40 CFR part 171.2(e).

4. Non-agricultural Followup Inspections

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

5. Experimental-Use Inspections

An experimental-use inspection may be an actual observation of an application or a followup inspection of records to determine compliance with the experimental-

use permit. All inspections must be conducted on site; telephone calls or correspondence reviews will not be counted as inspections.

6. Producer Establishment Inspections

A producer establishment inspection is an inspection of an establishment where pesticides or devices are produced and held for distribution or sale, for the purpose of inspecting the facility's products and obtaining samples. While conducting producer establishment inspections, product labels, containers, and records should be examined for compliance. Inspection of the books and records required by section 8 are also part of these inspections.

7. Marketplace Inspections

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

8. Import Inspections

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

9. Export Inspections

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

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

purchaser and consistent with the EPA Statement of Policy on the Labeling Requirements for Exported Pesticides, Devices, and Pesticide Active Ingredients and the Procedures for Exporting Unregistered Pesticides.

10. Certified Applicator License and Records Inspections

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

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

11. Restricted-Use Pesticide Dealer Records Inspections

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

• Comprehensive Inspections

Comprehensive inspections, covering all pertinent elements of each type of inspection, as explained in the inspector's manual, shall be conducted.

We have highlighted the importance of just a few of these elements on the reporting form. Of the inspections reported under each type of inspection, please verify how many included compliance monitoring for: a) worker protection; b) ground water; c) endangered species; and d) cancellations/suspensions.

Nationally, it is expected that each of these elements (a-d) would be routinely addressed under each type of inspection, with the possible exception of export and certified applicator record checks, as indicated in the footnote on the reporting form. However, if a state finds it necessary to report compliance monitoring for these elements under these two types of inspections, they can do so on the reporting form.

- Federal Facilities

Inspections at federal facilities shall be conducted. They would be reported under the applicable inspection category on the reporting form. According to the Office of Management and Budget Circular No, A-106, dated December 31, 1974, and the EPA Federal Facilities Compliance Strategy dated November 1988, federal facilities are defined as; "buildings, installations, structures, land public works equipment, aircraft, vessels, and other vehicles and property, owned by or constructed or manufactured and so leased to, the Federal Government."

F. Sample Definitions

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

- New Sections

Documentary or non-physical samples may include such items as product labels, photos or copies of sales receipts which may be needed as evidence in properly conducting inspection reports and case development activities. Many documentary samples result in enforcement actions and are significant functions. However, since the number of samples is also used for determining laboratory workload and productivity, documentary or non-physical samples should be differentiated so as not to be reported as sample projections on EPA Form 5700-33H. Documentary samples may be projected in the narrative portion to accompany EPA Form 5700-33H, if a state would like to do so. However, as stated above, only physical samples are required to be projected.

G. Sample Accomplishments

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

H. Enforcement Action Category Definitions

Only those enforcement actions initiated as a result of an inspection should be reported on EPA Form 5700-33H.

It is understood that many states initiate enforcement actions which are not specified as one of the standard categories for enforcement action on EPA Form 5700-33H or defined in these guidelines. The state/tribe should consult with their Regional Office to determine

which reporting categories most closely match such enforcement actions. Enforcement actions not readily falling within one of the ten standard categories on the form should be reported in the enforcement action category "Other Enforcement Actions" and described in the narrative portion of the quarterly report.

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

1. Civil Complaints Issues

Civil Complaints include any written notice proposing a monetary penalty for a violation(s). These actions should be reported during the quarter in which they are issued to the respondent.

2. Criminal Actions Referred

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

3. Administrative Hearings Conducted

An Administrative Hearing is when an alleged violator is required to appear before a state, tribal or federal hearing officer to explain why the violation occurred. These actions should be reported during the quarter in which the hearing is conducted.

4. License/Certificate Suspension

5. License/Certificate Revocation

6. License/Certificate Conditioning or Modification

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

7. Number of Warnings Issued

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

8. Stop-Sale, Seizure, Quarantine, or Embargo

All official written orders for removing products in violation from sale or use should be reported in this category.

9. Cases Forwarded to EPA For Action

This includes all inspectional files which document violations of FIFRA and are forwarded to EPA for enforcement action.

10. Other Enforcement Actions

Any other written, verifiable enforcement action initiated by the state, tribe, or federal agency that is not comparable to one of the above enforcement action categories.

11. Number of Cases Assessed Fines

Indicates the number of enforcement cases resulting in the assessment of a monetary fine (e.g., civil complaint settlements, criminal court actions, or administrative hearing orders).

Narrative

The Quarterly Accomplishment Report should be accompanied by a narrative portion as described below:

1. Inspections Conducted

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

Worker Protection Enforcement

Once the compliance dates for the revised worker protection rule have passed, the state/tribe's pesticide inspection activities will need to include monitoring for compliance with the new worker protection requirements. Monitoring for compliance with worker protection requirements shall be another element of comprehensive inspections.

On the reporting form, the grantee must document that compliance monitoring for the revised worker protection requirements was indeed a component of each of their inspections (as discussed on the reporting form). (It is expected that nationally compliance monitoring for worker protection would not be routinely addressed during export and certified applicator record checks only. However, if a state finds it necessary to report compliance monitoring for worker protection under these inspections, they can do so in the appropriate blocks on the reporting form.)

If monitoring for worker protection was not included as part of every inspection, the grantee must explain why in the narrative section of the quarterly report.

Ground Water/Endangered Species/Cancellations/Suspensions

On the reporting form, the grantee must document that compliance monitoring for the labeling and other requirements associated with ground water, endangered species, and cancellations/suspensions was indeed a component of each of their inspections (as discussed on the reporting form). (It is expected that nationally compliance monitoring for ground water and endangered species related requirements would not be routinely addressed during export and certified applicator record checks only. However, if a state finds it necessary to report compliance monitoring for ground water and endangered species under these inspections, they can do so in the appropriate blocks on the reporting form.)

If monitoring for ground water, endangered species, and cancellations/suspensions was not included as part of every inspection, the grantee must explain why in the narrative section of the quarterly report.

2. Enforcement Accomplishments

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

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

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

A "field notice" would be included under the category of "other enforcement actions" (as opposed to the "warning" category) only if it does not meet the definition of a "warning" as described on page 10 (under item #7).



United States Environmental Protection Agency
Washington, DC 20460

Pesticides Enforcement and Applicator Certification Cooperative Agreement Output Projections

Form Approved
OMB No. 2070-0113
Expires 2-29-93

Form to be completed by State agency and submitted with application for Cooperative Agreement

State _____

Project Period _____

Enforcement Projections		Agricultural		Nonagricultural		Experimental Use	Producer Establishment	Market-Place	Imports	Export	Certified Applicator Records	Restricted Use Pesticide Dealers	Total
		Use	Followup	Use	Followup								
Inspections Projected Per Quarter	1												
	2												
	3												
	4												
Inspections Projected for Fiscal Year													
Physical Samples Projected Per Quarter	1												
	2												
	3												
	4												
Samples Projected for Fiscal Year													



United States Environmental Protection Agency
Washington, DC 20460

Pesticides Enforcement and Applicator Certification Cooperative Agreement Quarterly Accomplishment Report

Form Approved
OMB No. 2070-0113
Expires 2-29-93

Public reporting burden for this collection of information is estimated to average 6.3 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460; and to Management and Budget, Paperwork Reduction Project (2070-0113), Washington, D.C. 20503.

State	Fiscal Year	Reporting Period	<input type="checkbox"/> Cooperative Agreement Only				<input type="checkbox"/> State Activities Only							
Enforcement Accomplishments This Quarter			Agricultural		Nonagricultural		Experi- mental Use	Producing Estab- lishment	Market- Place	Imports	Export	Certified Applicator Records	Use Restricted Pesticide Dealers	Total
			Use	Followup	Use	Followup								
Total Inspections Conducted														
Federal Facilities														
How many addressed the following *										/	/			
a) Worker Protection														
b) Ground Water										/	/			
c) Endangered Species										/	/			
d) Cancellations/Suspensions											/			
Samples Collected			Physical											
			Documentary											
Civil Complaints Issued														
Criminal Actions Referred														
Administrative Hearings Conducted														
License/Certificate Suspension														
License/Certificate Revocation														
License/Certificate Conditioning or Modification														
Number of Warnings Issued														
Stop-Sale, Seizure, Quarantine, or Embargo														
Cases Forwarded to EPA for Action														
Other Enforcement Actions														
Number of Cases Assessed Fines														

EPA Form 8700-33H (Rev. 9-90) Previous editions are obsolete.

* Comprehensive inspections shall be conducted. Of the "inspections conducted" which are reported on the first line, please verify how many addressed the elements listed above as a-d.

/ It is expected that nationally elements a-d would not be routinely addressed for export and record inspections only. However, if a state finds it necessary to report compliance monitoring for these elements under these inspections, they can do so in the blocks indicated above.

ANNUAL CERTIFICATION AND TRAINING PROJECTIONS

Certification Projections (Annual)	Private Applicators	Commercial Applicators	Agricultural		Forest	Orna- mental and Turf	Seed Treat- ment	Aquatic	Flight of Way	Industrial, Insti- tutional, Structural, Health	Public Health	Regula- tory	Demon- stration and Research	Other
			Plant	Animal										
Training Sessions To Be Participated In or Monitored														
Applicators To Be Certified														
Applicators To Be Recertified														

CERTIFICATION AND TRAINING ACCOMPLISHMENTS THIS QUARTER

Certification Accomplishments This Quarter	Private Applicators	Commercial Applicators	Agricultural		Forest	Orna- mental and Turf	Seed Treat- ment	Aquatic	Flight of Way	Industrial, Insti- tutional, Structural, Health	Public Health	Regula- tory	Demon- stration and Research	Other
			Plant	Animal										
Training Sessions Participated In or Monitored														
Applicators Certified														
Applicators Recertified														
NOTE - Report the information below only with the End-of-Year Report														
Total Applicators Holding a Valid Cer- tification as of September 30th														
Recertification Period (In years)														

The Model of Priority Setting Plans was
unavailable upon publication of this Guidance.
It will be sent to the regions in late August, 1991.

03/18/91

OFFICE OF COMPLIANCE MONITORING
 PESTICIDES ENFORCEMENT GRANTS
 STATE STATISTICAL DATA

POPULATION (1000s)	FARMS	ACRES (1000s)	PRODUCERS	PVT-APP	COM-APP	BASEFUND
* REGION 1						
CT	3287	4000	440	44	1483	2081 107100.00
MA	6016	6900	690	69	1530	2085 107100.00
ME	1228	7300	1450	11	2011	1761 107100.00
NH	1109	3200	510	13	809	895 107100.00
RI	1003	770	73	16	430	1412 107100.00
VT	563	7100	1520	10	1673	791 107100.00
* Subtotal **	13206	29270	4683	163	7936	9025 642600.00
* REGION 2						
NJ	7730	8300	880	235	2434	7357 107100.00
NY	17990	39000	8400	311	13727	31513 107100.00
PR	3599	21800	954	31	9528	2593 107100.00
VI	0	0	0	0	0	0 56700.00
* Subtotal **	29319	69100	10234	577	25689	41463 378000.00
* REGION 3						
DC	607	0	0	5	0	832 107100.00
DE	666	3000	590	27	1610	992 107100.00
MD	4781	15600	2300	94	4744	3475 107100.00
PA	11882	54000	2300	282	20332	8039 107100.00
VA	6187	47000	9000	87	16413	7767 107100.00
WV	1793	21000	3700	23	4591	1476 107100.00
* Subtotal **	25916	140600	17890	518	47690	22581 642600.00
* REGION 4						
AL	4041	47000	10600	114	12255	5927 107100.00
FL	12938	41000	11200	1148	9717	5739 107100.00
GA	6478	48000	12600	285	17835	6671 107100.00
KY	3685	96000	14200	104	57528	8032 107100.00
MS	2573	41000	13300	90	14877	3329 107100.00
NC	6629	65000	10000	227	61988	7384 107100.00
SC	3487	25500	5300	91	12399	3155 107100.00
TN	4877	91000	12600	160	38771	6688 107100.00
* Subtotal **	44708	454500	89800	2219	225370	46925 856800.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
STATE STATISTICAL DATA

STATE POPULATION (1000s)	FARMS	ACRES (1000s)	PRODUCERS	PVT-APP	COM-APP	BASEFUND
* REGION 5						
IL	11431	86000	28500	982	39367	6897 107100.00
IN	5544	71000	16400	567	23190	4583 107100.00
MI	9295	55000	10800	333	12209	4939 107100.00
MN	4375	90000	30000	523	36459	7936 107100.00
OH	10847	87000	15800	521	18523	7678 107100.00
WI	4892	81000	17600	292	27177	9944 107100.00
* Subtotal **	46384	470000	119100	3218	156925	41977 642600.00
* REGION 6						
AR	2351	49000	15700	96	2827	276 107100.00
LA	4220	35000	9300	164	3662	7771 107100.00
NM	1515	14000	44500	24	3144	1419 107100.00
OK	3146	69000	33000	68	5791	6727 107100.00
TX	16385	18600	132000	593	167322	13198 107100.00
* Subtotal **	27617	185600	234500	945	182746	29391 535500.00
* REGION 7						
IA	2777	10500	33500	872	48790	10305 107100.00
KS	2478	69000	47900	295	20592	5976 107100.00
MO	5117	108000	30400	403	35746	5040 107100.00
NB	0	0	0	0	0	0 0.00
NF	0	0	0	0	0	0 195200.00
* Subtotal **	10372	187500	111800	1570	105128	21321 516500.00
* REGION 8						
SI	0	0	0	0	0	0 140500.00
CF	0	0	0	0	0	0 107100.00
CO	3294	27000	33500	92	11621	1929 107100.00
MT	799	24700	60600	78	8491	2360 107100.00
ND	639	33500	40500	93	21517	35054 107100.00
SD	696	35000	44300	125	20821	3256 107100.00
UT	1723	13000	11300	26	2721	3630 107100.00
WY	0	0	0	0	0	0 0.00
** Subtotal **	7151	133200	190200	414	65171	46229 783100.00

03/18/91

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
STATE STATISTICAL DATA

STATE	POPULATION (1000s)	FARMS	ACRES (1000s)	PRODUCERS	PVT-APP	COM-APP	BASEFUND
* REGION 9							
AI	0	0	0	0	0	0	280000.00
AS	0	0	0	0	0	0	28500.00
AZ	3665	8100	36000	109	664	3245	107100.00
CA	29760	84000	31300	792	29755	15828	107100.00
CO	0	0	0	0	0	0	42600.00
HI	1108	4650	1720	34	1554	948	107100.00
IA	0	0	0	0	0	0	28500.00
IL	0	0	0	0	0	0	81500.00
IN	1202	2500	8900	26	207	759	107100.00
IT	0	0	0	0	0	0	22300.00
* Subtotal **	35735	99250	77920	961	32180	20780	911800.00
* REGION 10							
AK	550	600	1010	1	784	294	107100.00
ID	1007	22300	13700	55	15357	10585	107100.00
OR	2842	37000	17800	113	10278	4365	107100.00
SB	0	0	0	0	0	0	30000.00
WA	4867	38000	16000	194	12865	10848	107100.00
* Subtotal **	9266	97900	48510	363	39284	26092	458400.00
** Total ***	249674	1866920	904637	10948	888119	305784	6367900.00

	POP	FARMS	ACRES	PROD	PVT-APP	COM-APP
1	13206	29270	4683	163	7936	9025
2	29319	69100	10234	577	25689	41463
3	25916	140600	17890	518	47690	22581
4	44708	454500	89800	2219	225370	46925
5	46384	470000	119100	3218	156925	41977
6	27617	185600	234500	945	182746	29391
7	10372	187500	111800	1570	105128	21321
8	7151	133200	190200	414	65171	46229
9	35735	99250	77920	961	32180	20780
10	9266	97900	48510	363	39284	26092
GRAND TOTALS FOR ALL REGIONS						
	249674	1866920	904637	10948	888119	305784

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
FORMULA PERCENTAGES

STATE	POP	FARMS	ACRES	PRODUCERS	PVT-APP	COM-APP	TOTAL
CT	0.3291	0.0536	0.0000	0.1005	0.0167	0.1021	0.6020
MA	0.6024	0.0924	0.0000	0.1576	0.0172	0.1023	0.9719
ME	0.1230	0.0978	0.0000	0.0251	0.0226	0.0864	0.3549
NH	0.1110	0.0429	0.0000	0.0297	0.0091	0.0439	0.2366
RI	0.1004	0.0103	0.0000	0.0365	0.0048	0.0693	0.2213
VT	0.0564	0.0951	0.0000	0.0228	0.0188	0.0388	0.2319
NJ	0.7740	0.1111	0.0000	0.5366	0.0274	0.3609	1.8100
NY	1.8013	0.5223	0.0000	0.7102	0.1546	1.5458	4.7342
PR	0.3604	0.2919	0.0000	0.0708	0.1073	0.1272	0.9576
VI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
DC	0.0608	0.0000	0.0000	0.0114	0.0000	0.0408	0.1130
DE	0.0667	0.0402	0.0000	0.0617	0.0181	0.0487	0.2354
MD	0.4787	0.2089	0.0000	0.2147	0.0534	0.1705	1.1262
PA	1.1898	0.7231	0.0000	0.6440	0.2289	0.3943	3.1801
VA	0.6195	0.6294	0.0000	0.1987	0.1848	0.3810	2.0134
WV	0.1795	0.2812	0.0000	0.0525	0.0517	0.0724	0.6373
AL	0.4046	0.6294	0.0000	0.2603	0.1380	0.2907	1.7230
FL	1.2955	0.5490	0.0000	2.6215	0.1094	0.2815	4.8569
GA	0.6486	0.6428	0.0000	0.6508	0.2008	0.3272	2.4702
KY	0.3690	1.2855	0.0000	0.2375	0.6478	0.3940	2.9338
MS	0.2576	0.5490	0.0000	0.2055	0.1675	0.1633	1.3429
NC	0.6638	0.8704	0.0000	0.5184	0.6980	0.3622	3.1128
SC	0.3492	0.3415	0.0000	0.2078	0.1396	0.1548	1.1929
TN	0.4883	1.2186	0.0000	0.3654	0.4366	0.3281	2.8370
IL	1.1446	1.1516	0.0000	2.2424	0.4433	0.3383	5.3202
IN	0.5551	0.9508	0.0000	1.2948	0.2611	0.2248	3.2866
MI	0.9307	0.7365	0.0000	0.7604	0.1375	0.2423	2.8074
MN	0.4381	1.2052	0.0000	1.1943	0.4105	0.3893	3.6374
OH	1.0861	1.1650	0.0000	1.1897	0.2086	0.3766	4.0260
WI	0.4898	1.0847	0.0000	0.6668	0.3060	0.4878	3.0351
AR	0.2354	0.6562	0.0000	0.2192	0.0318	0.0135	1.1561
LA	0.4226	0.4687	0.0000	0.3745	0.0412	0.3812	1.6882
NM	0.1517	0.1875	0.0000	0.0548	0.0354	0.0696	0.4990
OK	0.3150	0.9240	0.0000	0.1553	0.0652	0.3300	1.7895
TX	1.6406	0.2491	0.0000	1.3541	1.8840	0.6474	5.7752
IA	0.2781	0.1406	0.0000	1.9912	0.5494	0.5055	3.4648
KS	0.2481	0.9240	0.0000	0.6736	0.2319	0.2931	2.3707
MO	0.5124	1.4462	0.0000	0.9203	0.4025	0.2472	3.5286
NB	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NF	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
FORMULA PERCENTAGES

STATE	POP	FARMS	ACRES	PRODUCERS	PVT-APP	COM-APP	TOTAL
8I	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
CF	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
CO	0.3298	0.3616	0.0000	0.2101	0.1308	0.0946	1.1269
MT	0.0800	0.3308	0.0000	0.1781	0.0956	0.1158	0.8003
ND	0.0640	0.4486	0.0000	0.2124	0.2423	1.7195	2.6868
SD	0.0697	0.4687	0.0000	0.2854	0.2344	0.1597	1.2179
UT	0.1725	0.1741	0.0000	0.0594	0.0306	0.1781	0.6147
WY	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AS	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AZ	0.3670	0.1085	0.0000	0.2489	0.0075	0.1592	0.8911
CA	2.9799	1.1248	0.0000	1.8085	0.3350	0.7764	7.0246
GU	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
HI	0.1109	0.0623	0.0000	0.0776	0.0175	0.0465	0.3148
MR	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NV	0.1204	0.0335	0.0000	0.0594	0.0023	0.0372	0.2528
TT	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AK	0.0551	0.0080	0.0000	0.0023	0.0088	0.0144	0.0886
ID	0.1008	0.2986	0.0000	0.1256	0.1729	0.5192	1.2171
OR	0.2846	0.4955	0.0000	0.2580	0.1157	0.2141	1.3679
SB	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
WA	0.4873	0.5089	0.0000	0.4430	0.1449	0.5321	2.1162
** Total ***							
	24.9999	25.0004	0.0000	25.0001	9.9998	14.9996	99.9998

03/18/91

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
FUNDING ALLOTMENTS

STATE	FORMULA PERCENT	FORMULA FUNDING	BASE FUNDING	TOTAL FUNDING (ROUNDED TO NEAREST \$100)
* REGION 1				
CT	0.6020	33420.03	107100.00	140500.00
MA	0.9719	53955.03	107100.00	161100.00
ME	0.3549	19702.27	107100.00	126800.00
NH	0.2366	13134.85	107100.00	120200.00
RI	0.2213	12285.47	107100.00	119400.00
VT	0.2319	12873.93	107100.00	120000.00
* Subtotal **	2.6186	145371.58	642600.00	788000.00
* REGION 2				
NJ	1.8100	100482.15	107100.00	207600.00
NY	4.7342	262819.11	107100.00	369900.00
PR	0.9576	53161.16	107100.00	160300.00
VI	0.0000	0.00	56700.00	56700.00
* Subtotal **	7.5018	416462.42	378000.00	794500.00
* REGION 3				
DC	0.1130	6273.19	107100.00	113400.00
DE	0.2354	13068.23	107100.00	120200.00
MD	1.1262	62520.99	107100.00	169600.00
PA	3.1801	176543.25	107100.00	283600.00
VA	2.0134	111773.90	107100.00	218900.00
WV	0.6373	35379.71	107100.00	142500.00
* Subtotal **	7.3054	405559.27	642600.00	1048200.00
* REGION 4				
AL	1.7230	95652.35	107100.00	202800.00
FL	4.8569	269630.80	107100.00	376700.00
GA	2.4702	137133.15	107100.00	244200.00
KY	2.9338	162869.91	107100.00	270000.00
MS	1.3429	74551.09	107100.00	181700.00
NC	3.1128	172807.09	107100.00	279900.00
SC	1.1929	66223.84	107100.00	173300.00
TN	2.8370	157496.06	107100.00	264600.00
** Subtotal **	20.4695	1136364.29	856800.00	1993200.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
FUNDING ALLOTMENTS

STATE	FORMULA PERCENT	FORMULA FUNDING	BASE FUNDING	TOTAL FUNDING (ROUNDED TO NEAREST \$100)
* REGION 5				
AL	5.3202	295350.90	107100.00	402500.00
IN	3.2866	182455.60	107100.00	289600.00
MI	2.8074	155852.81	107100.00	263000.00
TN	3.6374	201930.26	107100.00	309000.00
OH	4.0260	223503.39	107100.00	330600.00
VI	3.0351	168493.58	107100.00	275600.00
* Subtotal **	22.1127	1227586.54	642600.00	1870300.00
* REGION 6				
AR	1.1561	64180.89	107100.00	171300.00
LA	1.6882	93720.42	107100.00	200800.00
VM	0.4990	27701.99	107100.00	134800.00
OK	1.7895	99344.09	107100.00	206400.00
TX	5.7752	320610.23	107100.00	427700.00
* Subtotal **	10.9080	605557.62	535500.00	1141000.00
* REGION 7				
IA	3.4648	192348.37	107100.00	299400.00
KS	2.3707	131609.41	107100.00	238700.00
MO	3.5286	195890.23	107100.00	303000.00
NB	0.0000	0.00	0.00	0.00
NF	0.0000	0.00	195200.00	195200.00
* Subtotal **	9.3641	519848.01	516500.00	1036300.00
* REGION 8				
RI	0.0000	0.00	140500.00	140500.00
CF	0.0000	0.00	107100.00	107100.00
CO	1.1269	62559.85	107100.00	169700.00
MT	0.8003	44428.65	107100.00	151500.00
ND	2.6868	149157.70	107100.00	256300.00
SD	1.2179	67611.72	107100.00	174700.00
UT	0.6147	34125.07	107100.00	141200.00
WY	0.0000	0.00	0.00	0.00
* Subtotal **	6.4466	357882.99	783100.00	1141000.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES ENFORCEMENT GRANTS
FUNDING ALLOTMENTS

STATE	FORMULA PERCENT	FORMULA FUNDING	BASE FUNDING	TOTAL FUNDING (ROUNDED TO NEAREST \$100)
* REGION 9				
AI	0.0000	0.00	280000.00	280000.00
AS	0.0000	0.00	28500.00	28500.00
AZ	0.8911	49469.42	107100.00	156600.00
CA	7.0246	389970.67	107100.00	497100.00
GU	0.0000	0.00	42600.00	42600.00
HI	0.3148	17476.12	107100.00	124600.00
MR	0.0000	0.00	28500.00	28500.00
NI	0.0000	0.00	81500.00	81500.00
NV	0.2528	14034.19	107100.00	121100.00
TT	0.0000	0.00	22300.00	22300.00
* Subtotal **	8.4833	470950.40	911800.00	1382800.00
* REGION 10				
AK	0.0886	4918.63	107100.00	112000.00
ID	1.2171	67567.31	107100.00	174700.00
OR	1.3679	75938.97	107100.00	183000.00
SB	0.0000	0.00	30000.00	30000.00
WA	2.1162	117480.84	107100.00	224600.00
* Subtotal **	4.7898	265905.75	458400.00	724300.00
*** Total ***	99.9998	5551488.87	6367900.00	11919600.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
STATE STATISTICAL DATA

STATE	FARM LABOR (1000s)	FARMS	NUR/GRN SITES	PVT-APP	COM-APP	BASEFUND
* REGION 1						
CT	15	4000	510	1483	2081	20000.00
MA	17	6900	716	1530	2085	20000.00
ME	35	7300	339	2011	1761	20000.00
NH	6	3200	216	809	895	20000.00
RI	2	770	109	430	1412	20000.00
VT	13	7100	174	1606	791	20000.00
* Subtotal **	88	29270	2064	7869	9025	120000.00
* REGION 2						
NJ	28	8300	1235	2434	7357	20000.00
NY	107	39000	1886	13727	31513	20000.00
PR	0	21800	0	9528	2593	20000.00
VI	0	0	0	0	0	10200.00
* Subtotal **	135	69100	3121	25689	41463	70200.00
* REGION 3						
DC	0	0	0	0	832	20000.00
DE	8	3000	106	1610	992	20000.00
MD	38	15600	614	4744	3475	20000.00
PA	92	54000	2157	20332	8039	20000.00
VA	106	47000	750	16413	7767	20000.00
WV	21	21000	180	4591	1476	20000.00
* Subtotal **	265	140600	3807	47690	22581	120000.00
* REGION 4						
AL	63	47000	543	12255	5927	20000.00
FL	182	41000	3841	9717	5739	20000.00
GA	92	48000	644	17835	6671	20000.00
KY	268	96000	421	57528	8032	20000.00
MS	62	41000	250	14877	3329	20000.00
NC	262	65000	1243	61988	7384	20000.00
SC	63	25500	351	12399	3155	20000.00
TN	152	91000	921	38771	6688	20000.00
* Subtotal **	1144	454500	8214	225370	46925	160000.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
STATE STATISTICAL DATA

STATE	FARM LABOR (1000s)	FARMS	NUR/GRN SITES	PVT-APP	COM-APP	BASEFUND
** REGION 5						
IL	141	86000	737	39367	6897	20000.00
IN	99	71000	565	23190	4583	20000.00
MI	130	55000	1368	12209	4939	20000.00
MN	155	90000	597	36459	7936	20000.00
OH	106	87000	1459	18523	7678	20000.00
WI	162	81000	759	27177	9944	20000.00
** Subtotal **	793	470000	5485	156925	41977	120000.00
** REGION 6						
AR	682	49000	245	2827	276	20000.00
LA	46	35000	445	36662	7771	20000.00
NM	29	14000	130	3144	1419	20000.00
OK	65	69000	376	5791	6727	20000.00
TX	231	186000	1658	167322	13198	20000.00
** Subtotal **	1053	353000	2854	215746	29391	100000.00
REGION 7						
IA	174	105000	333	48790	10305	20000.00
KS	70	69000	298	20592	5976	20000.00
MO	102	108000	492	35746	5040	20000.00
NE	0	0	0	0	0	20000.00
NF	0	0	0	0	0	0.00
** Subtotal **	346	282000	1123	105128	21321	80000.00
** REGION 8						
8I	0	0	0	0	0	28100.00
CO	49	27000	438	11621	1929	20000.00
MT	35	24700	134	8491	2360	20000.00
ND	40	33500	78	21517	35054	20000.00
SD	42	35000	80	20821	3256	20000.00
UT	30	13000	195	2721	3630	20000.00
WY	0	0	0	0	0	0.00
** Subtotal **	196	133200	925	65171	46229	128100.00

OFFICE OF COMPLIANCE MONITORING
 PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
 STATE STATISTICAL DATA

STATE	FARM LABOR (1000s)	FARMS	NUR/GRN SITES	FVT-APP	COM-APP	BASEFUND
** REGION 9						
AI	0	0	0	0	0	
AS	0	0	0	0	0	5100.00
AZ	49	8100	163	664	3245	20000.00
CA	811	84000	3263	29755	15828	20000.00
GU	0	0	0	0	0	7700.00
HI	17	4650	1050	1554	948	20000.00
MR	0	0	0	0	0	5100.00
NI	0	0	0	0	0	9800.00
NV	6	2500	24	255	766	20000.00
TT	0	0	0	0	0	4000.00
** Subtotal **	883	99250	4500	32228	20787	178900.00
** REGION 10						
AK	1	600	66	784	294	20000.00
ID	78	22300	415	15357	10585	20000.00
OR	137	37000	1507	10278	4365	20000.00
SB	0	0	0	0	0	5400.00
WA	257	38000	1184	12865	10848	20000.00
** Subtotal **	473	97900	3172	39284	26092	85400.00
*** Total ***	5376	2128820	35265	921100	305791	1162600.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
FORMULA PERCENTAGES

STATE	FARM LABOR	FARMS	NUR/GRN SITES	PVT-APP	COM-APP	TOTAL
CT	0.0698	0.0470	0.3615	0.0161	0.1021	0.5965
MA	0.0791	0.0810	0.5076	0.0166	0.1023	0.7866
ME	0.1628	0.0857	0.2403	0.0218	0.0864	0.5970
NH	0.0279	0.0376	0.1531	0.0088	0.0439	0.2713
RI	0.0093	0.0090	0.0773	0.0047	0.0693	0.1696
VT	0.0605	0.0834	0.1234	0.0174	0.0388	0.3235
NJ	0.1302	0.0975	0.8755	0.0264	0.3609	1.4905
NY	0.4976	0.4580	1.3370	0.1490	1.5458	3.9874
PR	0.0000	0.2560	0.0000	0.1034	0.1272	0.4866
VI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
DC	0.0000	0.0000	0.0000	0.0000	0.0408	0.0408
DE	0.0372	0.0352	0.0751	0.0175	0.0487	0.2137
MD	0.1767	0.1832	0.4353	0.0515	0.1705	1.0172
PA	0.4278	0.6342	1.5291	0.2207	0.3943	3.2061
VA	0.4929	0.5519	0.5317	0.1782	0.3810	2.1357
WV	0.0977	0.2466	0.1276	0.0498	0.0724	0.5941
AL	0.2930	0.5519	0.3849	0.1330	0.2907	1.6535
FL	0.8464	0.4815	2.7230	0.1055	0.2815	4.4379
GA	0.4278	0.5637	0.4565	0.1936	0.3272	1.9688
KY	1.2463	1.1274	0.2985	0.6246	0.3940	3.6908
MS	0.2883	0.4815	0.1772	0.1615	0.1633	1.2718
NC	1.2184	0.7633	0.8812	0.6730	0.3622	3.8981
SC	0.2930	0.2995	0.2488	0.1346	0.1548	1.1307
TN	0.7068	1.0687	0.6529	0.4209	0.3281	3.1774
IL	0.6557	1.0099	0.5225	0.4274	0.3383	2.9538
IN	0.4604	0.8338	0.4005	0.2518	0.2248	2.1713
MI	0.6045	0.6459	0.9698	0.1325	0.2423	2.5950
MN	0.7208	1.0569	0.4232	0.3958	0.3893	2.9860
OH	0.4929	1.0217	1.0343	0.2011	0.3766	3.1266
WI	0.7533	0.9512	0.5381	0.2950	0.4878	3.0254
AR	3.1715	0.5754	0.1737	0.0307	0.0135	3.9648
LA	0.2139	0.4110	0.3155	0.3980	0.3812	1.7196
NM	0.1349	0.1644	0.0922	0.0341	0.0696	0.4952
OK	0.3023	0.8103	0.2666	0.0629	0.3300	1.7721
TX	1.0742	2.1843	1.1754	1.8165	0.6474	6.8978
IA	0.8092	1.2331	0.2361	0.5297	0.5055	3.3136
KS	0.3255	0.8103	0.2113	0.2236	0.2931	1.8638
MO	0.4743	1.2683	0.3488	0.3881	0.2472	2.7267
NE	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NF	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

OFFICE OF COMPLIANCE MONITORING
PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
FORMULA PERCENTAGES

STATE	FARM LABOR	FARMS	NUR/GRN SITES	PVT-APP	COM-APP	TOTAL
SI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
CO	0.2279	0.3171	0.3105	0.1262	0.0946	1.0763
MT	0.1628	0.2901	0.0950	0.0922	0.1158	0.7559
ND	0.1860	0.3934	0.0553	0.2336	1.7195	2.5878
SD	0.1953	0.4110	0.0567	0.2260	0.1597	1.0487
UT	0.1395	0.1527	0.1382	0.0295	0.1781	0.6380
WY	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AS	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AZ	0.2279	0.0951	0.1156	0.0072	0.1592	0.6050
CA	3.7714	0.9865	2.3132	0.3230	0.7764	8.1705
GU	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
HI	0.0791	0.0546	0.7444	0.0169	0.0465	0.9415
MR	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NI	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
NV	0.0279	0.0294	0.0170	0.0028	0.0376	0.1147
TT	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
AK	0.0047	0.0070	0.0468	0.0085	0.0144	0.0814
ID	0.3627	0.2619	0.2942	0.1667	0.5192	1.6047
OR	0.6371	0.4345	1.0683	0.1116	0.2141	2.4656
SB	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
WA	1.1951	0.4463	0.8394	0.1397	0.5321	3.1526
*** Total ***	25.0003	24.9999	25.0001	9.9997	15.0000	100.0000

CHART-1 REGIONAL TOTALS REVERIFICATION OF STEP-1

	FARM LABOR	FARMS	NUR/GRN SITES	PVT-APP	COM-APP
1	88	29270	2064	7869	9025
2	135	69100	3121	25689	41463
3	265	140600	3807	47690	22581
4	1144	454500	8214	225370	46925
5	793	470000	5485	156925	41977
6	1053	353000	2854	215746	29391
7	346	282000	1123	105128	21321
8	196	133200	925	65171	46229
9	883	99250	4500	32228	20787
10	473	97900	3172	39284	26092
GRAND TOTALS FOR ALL REGIONS					
	5376	2128820	35265	921100	305791

OFFICE OF COMPLIANCE MONITORING
PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
FUNDING ALLOTMENTS

STATE	FORMULA PERCENT	FORMULA FUNDING	BASE FUNDING	TOTAL FUNDING (ROUNDED TO NEAREST \$100)
** REGION 5				
IL	2.9538	17120.22	20000.00	37100.00
IN	2.1713	12584.85	20000.00	32600.00
MI	2.5950	15040.62	20000.00	35000.00
MN	2.9860	17306.86	20000.00	37300.00
OH	3.1266	18121.77	20000.00	38100.00
WI	3.0254	17535.22	20000.00	37500.00
** Subtotal **	16.8581	97709.54	120000.00	217600.00
** REGION 6				
AR	3.9648	22979.98	20000.00	43000.00
LA	1.7196	9966.80	20000.00	30000.00
NM	0.4952	2870.18	20000.00	22900.00
OK	1.7721	10271.09	20000.00	30300.00
TX	6.8978	39979.65	20000.00	60000.00
** Subtotal **	14.8495	86067.70	100000.00	186200.00
** REGION 7				
IA	3.3136	19205.63	20000.00	39200.00
KS	1.8638	10802.58	20000.00	30800.00
MO	2.7267	15803.95	20000.00	35800.00
NE	0.0000	0.00	20000.00	20000.00
NF	0.0000	0.00	0.00	0.00
** Subtotal **	7.9041	45812.16	80000.00	125800.00
** REGION 8				
8I	0.0000	0.00	28100.00	28100.00
CO	1.0763	6238.23	20000.00	26200.00
MT	0.7559	4381.20	20000.00	24400.00
ND	2.5878	14998.89	20000.00	35000.00
SD	1.0487	6078.27	20000.00	26100.00
UT	0.6380	3697.85	20000.00	23700.00
WY	0.0000	0.00	0.00	0.00
** Subtotal **	6.1067	35394.44	128100.00	163500.00
** REGION 9				
AI	0.0000	0.00	67200.00	67200.00

OFFICE OF COMPLIANCE MONITORING
PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
FUNDING ALLOTMENTS

STATE	FORMULA PERCENT	FORMULA FUNDING	BASE FUNDING	TOTAL FUNDING (ROUNDED TO NEAREST \$100)
** REGION 1				
CT	0.5965	3457.31	20000.00	23500.00
MA	0.7866	4559.13	20000.00	24600.00
ME	0.5970	3460.21	20000.00	23500.00
NH	0.2713	1572.45	20000.00	21600.00
RI	0.1696	983.00	20000.00	21000.00
VT	0.3235	1875.01	20000.00	21900.00
** Subtotal **	2.7445	15907.11	120000.00	136100.00
** REGION 2				
NJ	1.4905	8638.94	20000.00	28600.00
NY	3.9874	23110.97	20000.00	43100.00
PR	0.4866	2820.33	20000.00	22800.00
VI	0.0000	0.00	10200.00	10200.00
** Subtotal **	5.9645	34570.24	70200.00	104700.00
** REGION 3				
DC	0.0408	236.48	20000.00	20200.00
	0.2137	1238.61	20000.00	21200.00
	1.0172	5895.69	20000.00	25900.00
PA	3.2061	18582.56	20000.00	38600.00
VA	2.1357	12378.52	20000.00	32400.00
WV	0.5941	3443.40	20000.00	23400.00
** Subtotal **	7.2076	41775.26	120000.00	161700.00
** REGION 4				
AL	1.6535	9583.69	20000.00	29600.00
FL	4.4379	25722.07	20000.00	45700.00
GA	1.9688	11411.16	20000.00	31400.00
KY	3.6908	21391.88	20000.00	41400.00
MS	1.2718	7371.35	20000.00	27400.00
NC	3.8981	22593.39	20000.00	42600.00
SC	1.1307	6553.54	20000.00	26600.00
TN	3.1774	18416.21	20000.00	38400.00
** Subtotal **	21.2290	123043.29	160000.00	283100.00

OFFICE OF COMPLIANCE MONITORING
 PESTICIDES WORKER PROTECTION ENFORCEMENT GRANTS
 FUNDING ALLOTMENTS

STATE	FORMULA PERCENT	FORMULA FUNDING	BASE FUNDING	TOTAL FUNDING (ROUNDED TO NEAREST \$100)
AS	0.0000	0.00	5100.00	5100.00
AZ	0.6050	3506.58	20000.00	23500.00
CA	8.1705	47356.22	20000.00	67400.00
GU	0.0000	0.00	7700.00	7700.00
HI	0.9415	5456.93	20000.00	25500.00
MR	0.0000	0.00	5100.00	5100.00
NI	0.0000	0.00	9800.00	9800.00
NV	0.1147	664.80	20000.00	20700.00
TT	0.0000	0.00	4000.00	4000.00
** Subtotal **	9.8317	56984.53	178900.00	236000.00
** REGION 10				
AK	0.0814	471.79	20000.00	20500.00
ID	1.6047	9300.84	20000.00	29300.00
OR	2.4656	14290.62	20000.00	34300.00
SB	0.0000	0.00	5400.00	5400.00
WA	3.1526	18272.47	20000.00	38300.00
** Subtotal **	7.3043	42335.72	85400.00	127800.00
*** Total ***	100.0000	579599.99	1162600.00	1742500.00

**Regional Allocations for Groundwater, Endangered Species, and Worker Protection
Enforcement - Related Activities**

<u>PESTICIDE INITIATIVES</u>	<u>Regions</u>											
	<u>National</u>	I	II	III	IV	V	VI	VII	VIII	IX	X	
GW - Factor Based on GW vulnerability and pesticide use (in %)	100.00	0.40	1.36	4.52	31.37	22.94	10.78	17.27	5.73	4.17	1.46	
GW Grants (\$)	333,333	1,333	4,533	15,067	104,567	76,467	35,933	57,567	19,100	13,900	4,867	
ES # of ES FY 91 Cooperative Agreements per Region	51	6	4	6	8	6	5	3	5	4	4	
ES grants (\$)	333,333	39,216	26,144	39,216	52,288	39,216	32,680	19,608	32,680	26,144	26,144	
WP #of WP FY 91 Cooperative Agreements per Region	60	6	4	6	8	6	5	3	7	10	5	
WP Grants (\$)	333,333	33,333	22,222	33,333	44,444	33,333	27,778	16,667	38,889	55,556	27,778	
Total Grant Distribution	1,000,000	73,882	52,899	87,616	201,298	149,016	96,391	93,841	90,669	95,599	58,788	

BACKGROUND INFORMATION ON EPA & FTC AUTHORITIES

EPA Authority Under FIFRA

Advertising-related violations under FIFRA occurs when the claims made for a registered product differ from the claims made at the time of registration, or when a product is misbranded, and sale or distribution occurs. Under Section 2(gg), it states that sale and distribution of a pesticide does not apply to the holding or applying of registered pesticides by an applicator as long as there occurs no delivery of any unused portion of the applied pesticide to the customer. This section of FIFRA therefore exempts applicator services from the violations discussed below since sale and distribution of a product does not occur.

EPA enforces against the following types of advertising-related violations: misbranding and "claims differ."

- o A 12(a)(1)(E) misbranding violation occurs when false and misleading claims, (as defined by 40 CFR, Section 156.10(a)(5)), are part of the product's label or labeling. That is, the advertising must accompany the product at some point in its sale or distribution, or it must be referenced on the label, or literature, that accompanies the product.
- o A "claims differ" violation under Section 12(a)(1)(B) occurs when the advertised claims for the product differ from the claims accepted by EPA as part of product registration. The Statement of Enforcement Policies and Interpretations, 40 CFR, Part 168, sets forth EPA's policy on "offers to sell" for unregistered products or products bearing unregistered uses. EPA has determined that "claims differ" violations could extend to oral claims as well.

In summary, under FIFRA authority, EPA can take enforcement action only if false or misleading claims are part of the product's label or labeling (including oral claims), or if any product's claims differ from the product's claims submitted as part of the its registration. A FIFRA violation can occur only with product sale or distribution, (including offer for sale).

FTC Authority Under The FTC Act

The Federal Trade Commission (FTC) has broad authority under Section 5 of the Federal Trade Commission Act which prohibits unfair, misleading, or deceptive (unsubstantiated) advertising practices (similar to "claims differ" or misbranding violations under FIFRA but without product sales and distribution). In the past, FTC has been concerned primarily with safety-related claims for pesticides that may lead consumers to believe that the pesticide is less hazardous than the toxic data indicates, or as indicated by the warning or precautionary statements, (e.g. claims of absolute human or environmental safety such as "safe", "non-hazardous", or "no danger"). The FTC handles claims which use dangling or incomplete safety comparisons which do not inform consumers, or provide the basis of the comparison or the characteristics being compared, (e.g. "safer", "less toxic", or "less hazardous"). The FTC is also concerned with claims which contradict or are inconsistent with the label's safety instructions (e.g. "easy to use", when, in fact, the label contains lengthy, and detailed use procedures, or "no special protective clothing needed", when the label warns the user to avoid contact with eyes or skin).

State authority under "Little FTC Acts" handles primarily local or intra-state advertising violations through the State Attorney General's office.

-LOG OF LITERATURE-

Literature Review
Name/Title

Issue(s)/Date(s)
Publication

-LAWN CARE VIOLATION LIST-

<u>Company/Product</u>	<u>Type of Violation</u> <u>(type/date)</u>	<u>Action Taken</u> <u>(agency/date)</u>	<u>Referral</u> <u>to State/</u> <u>FTC</u>
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Funding for Pesticide Program Activities

Certification Program Funds

FY 92 Grant Allocation Method

A total of \$3.57 million is available to fund State certification programs. The certification funds are allotted as follows: A base funding level of \$22,000 for each participating State, Puerto Rico, the Virgin Islands, and the District of Columbia; \$23,000 the Pacific Island entities; \$57,000 for the Colorado Federal program; and \$17,000 for the Colorado State program for commercial applicator certification, and \$119,000 for the Nebraska Federal Program.

The remaining funds are then allotted according to this formula developed in FY90 and first used in FY91.

- o Total number of Farms per State in FY 90 5%
- o Private Applicators (derived as follows) 40%
 - (a) Total number certified as of 9/30/90 (10%)
 - (b) Number initially certified in FY90 (10%)
 - (c) Average number/year recertified - FY 88-90 (20%)
- o Commercial Applicators (derived as follows) 40%
 - (a) Total number certified as of 9/30/90 (10%)
 - (b) Number initially certified in FY 90 (10%)
 - (c) Average number/year recertified-previous 3 years (20%)
- o Regional Discretionary Funds 15%

Allocation of Regional Discretionary Funds

Allocation of the 15% regional discretionary funds are based on the proportion of each State's total funds for farms, private applicators and commercial applicators, by region, compared with the national total.

Ground Water Program FundsFY 92 Grant Allocation

A total of \$5 million is available to fund cooperative agreements to address pesticides in ground water concerns: \$2.6 million for base funding, \$2 million allotted based on ground water susceptibility, and \$400,000 for regional discretionary funding for States, Tribes, and Territories according to need.

Base Funding. The base funding of \$2.6 million supports implementation and management plan development.

A base amount of \$50K is allocated per State for the geographic area within a State's boundaries. The Pacific Islands will receive \$50K for the entire group, including Guam, American Samoa, Council of the Northern Mariana Islands (CNMI), and the Trust Territories of the Pacific Islands. Puerto Rico will receive \$30K, while the Virgin Islands and the District of Columbia will receive a base of \$10K each.

Funding Based on Ground Water Susceptibility. Of the remaining funds, \$2 million is allocated based on need relative to the ground water susceptibility in each geographical area as governed by the percent distribution from Table A at the end of this appendix. This distribution percentage defines individual needs in terms of likely ground water problems related to pesticides. Table B shows a tiered assignment of these percentage allocations.

The base amount plus the geographical needs allocation are added together to yield the overall geographical area allocation. The allocated amounts are based on the overall ground water problem in each geographical area as a whole, regardless of ownership of the land. The geographical area allocation will therefore be the entire amount available for any and all OPP-sponsored activities addressing ground water protection within these boundaries, whether they occur on State or Tribal lands. Where Indian Tribal lands designated for agricultural use occur within these boundaries, and these Tribal lands have been determined to have ground water concerns involving pesticide use, those Tribes will be eligible to receive some of the funding available for that geographical area. (Tribes are eligible provided that they have an existing cooperative agreement with EPA for FIFRA enforcement or are willing to enter into such an agreement within the following six months after filing this application. This can be accomplished either through a cooperative effort between the State and the Indian Tribe, or through submission of separate proposals from the States and Tribes to the appropriate EPA Regional offices, to be funded with a proportional amount of the available geographical area

allocation.)

The Regions will be responsible for reviewing each State grant application to determine how much of the funding available for that geographical area will actually be needed to address their problem. In addition, the Regions will review proposals from Indian Tribes and Territories to assess the complexity of their problems and allot an appropriate amount to those deserving a portion of the monies available for that geographical area. Where the amount of dollars available for a particular area is determined to exceed its needs, the Region may incorporate the excess funds into its Regional discretionary allotment. These funds can then be redistributed to other States, Tribes, or Territories, where needed, or used elsewhere in the Region.

A more complex situation arises where agricultural Tribal lands cross the boundaries of more than one State or Region. Allocations for these Tribes will need to be coordinated among the Regions concerned, taking into account the amounts of land and pesticide use, the area affected, and the extent of the problem. The Regions will coordinate the funding allocation to assure that a fair share of the applicable geographical area allocations is used to address the Tribe's ground water problem. The major components examined to derive these percentages are (1) the hydrogeological vulnerability as represented by county agricultural DRASTIC scores and (2) pesticide use as represented by the county-level estimates used to design the National Pesticide Survey. Each county is rated on pesticide use (loading rate), adjusted to a scale of 1 - 10, and hydrogeological vulnerability, also adjusted to a scale of 1 - 10. Then a combined use/vulnerability score is calculated for each county:

$$\text{County score} = (\text{Loading rate}) \times (\text{Vulnerability rate})^3$$

The exponential value assigned to the vulnerability rate has been calibrated to "3" based on the knowledge of pesticide use, hydrogeology, and history of pesticide problems in selected locations.

A cumulative score of these factors is calculated for each geographical area and those scores are then normalized to distribute funds for each area:

$$\text{Area score} = \text{Cumulative score of county scores}$$

These normalized cumulative scores become the percentages used to allocate the remaining funds. Allocations have been rounded to the nearest \$1K. Table C shows the allocation of funds to each geographical area, specifying the base dollars, funding according to needs, and the total geographical area allocation. This formula

has the following features:

The approach is logically based and addresses the objective to direct funds proportionally to areas having documented and potential ground water problems related to pesticides.

The formula allocates a based amount (\$50K) to each geographical area and additional funds based on needs. Allocations vary from \$50K for low agricultural areas such as Alaska to \$150K or more for areas with heavy pesticide use in relatively vulnerable environments such as Georgia, Florida and Iowa.

Several key factors are reflected by the algorithm, namely pesticide use, hydrogeological vulnerability and the area impacted. More funds are allocated where there is heavy pesticide use in areas that are more hydrogeologically vulnerable. Similarly, less funds are given where there is low pesticide use in areas that are less hydrogeologically vulnerable.

This approach does not penalize those who have developed management initiatives. For example, states like Iowa, Florida and Wisconsin have implemented ground water monitoring programs, BMP's, and other programs to manage pesticides and protect ground water resources. These areas remain eligible for resources to improve their programs.

It promotes implementation for States, Tribes and Territories that are likely to have problems but have not developed management initiatives, but have considerable agriculture in areas that are relatively susceptible to pesticides in ground water problems. Some States or Tribes may not have progressed as far as some others in conducting monitoring or developing management programs.

The formula specifically focuses OPP's grant funds on ground water protection from pesticides.

Regional Discretionary Funds. \$400K has been set aside for Regional discretionary funds to be divided among the Regions on a percentage basis and apportioned to States, Tribes, or Territories according to their need. The allocations for each geographical area in the Region are added together. This sum is divided by the total amount allocation nationwide (\$4.6 million).

The percentage obtained from this ratio is then applied against the \$400K Regional discretionary total to obtain the allotment for each Region. At the end of this appendix, see Table

C which gives a geographic distribution of funds and Table D which shows the regional distribution.

Endangered Species Protection Program Funds**FY 92 Grant Allocation Method**

A total of \$1,250,000 is available to fund endangered species protection program activities: \$262,000 for base program funding, \$718,000 in regional discretionary funds for use on a priority needs basis, and \$270,000 additional funding for priority States.

Base funding of \$262,000 is allocated \$5,000 per State, including Puerto Rico and the District of Columbia. An allotment of \$1,000 is available for the Pacific Islands and the Virgin Islands.

\$718,000 is allocated to the Regions on a priority needs basis. OPP's Environmental Fate and Effects Division (EFED) has selected those States which have the greatest needs based on the complexity of their endangered species problems and how closely associated those problems are to the pesticide uses within each area. Table E at the end of this appendix presents EFED's assessment of States and identifies those having the most critical needs for Federal funding to address endangered species problems related to pesticide use. A percentage is calculated for each Region based on the number of priority states within that Region divided by the total number of priority states nationwide (25). This percentage is applied to the \$718,000 to determine the allocation to be provided to that Region. Therefore, the greater the number of priority states in a Region, the larger the funding allocation for that Region. These Regional allocations will be used to fund the endangered species programs for the priority states in each Region. Where there are no priority states within a particular Region, no funds above the base will be allocated.

\$270,000 will be distributed according to the allocation strategy determined at the FY90 Regional Division Directors/Branch Chiefs meeting. The States are tiered according to need. See Table F. States in the first tier are allocated \$20K each, those in tier 2 are allocated \$15K each, and those in tier 3 are allocated \$10K each. The allocation of these funds to the priority state areas will be controlled by the Regional Division Director. Priority States applying for endangered species program monies will submit proposals outlining their endangered species protection plan in detail to the Regional Office, specifying what species will be targeted, the counties affected, and what methods they plan to use.

The amount allocated for each Region is based on the overall endangered species problems within its states' geographical areas as a whole, regardless of the ownership of the land. The allocation will therefore be the entire amount available for any and all OPP-sponsored activities addressing endangered species

within that Region's boundaries. Where Indian Tribal lands designated for agricultural use occur within a Region's boundaries and within the boundaries of priority state areas, and these lands have been determined to have endangered species concerns involving pesticide use, those Tribes may be eligible to receive funds from the Regional allocation.

Tribes are eligible provided that they have an existing cooperative agreement with EPA for FIFRA enforcement or are willing to enter into such an agreement within six months after filing this application. Tribes may elect to participate either through a cooperative effort between the Tribe and the State in which its lands are located, or through submission of their own proposals to the appropriate EPA Regional Office.

In addition to reviewing each State cooperative agreement application to determine how much each State will need to address its problem, the Regions will assess the complexity of the Tribes' problems and allocate an appropriate amount to those Tribes deserving a portion of the monies available for that Region. Where the amount of dollars available to fund endangered species programs in the priority State areas within a Region exceeds their needs, or where a State/Tribe from a priority State chooses not to apply for available funds, the funds designated to that State/Tribe will be returned to Headquarters. Headquarters will determine the next priority state area (#26, 27, etc. ...) that will be eligible to apply for these excess funds and reallocate them appropriately.

A more complex situation arises where agricultural Tribal lands cross the boundaries of more than one State or Region. Allotment of monies for these Tribes will need to be coordinated among the Regions concerning, and take into account the amount of land, amount of pesticide use, and number of species affected.

The Regions will coordinate the funding allocation to ensure that a fair share of each affected Region's allocation is appropriated.

In their applications the States/Tribes must develop a proposed work program that includes at least the two project outputs outlined in the cooperative agreement workprogram section. The Region will be responsible for reviewing each application to determine whether their proposal meets the endangered species program objectives as well what amount of funding available within that Region will be allocated to the State/Tribe to carry out its program.

Regional Allocations. The percentage calculations and subsequent Regional allocations for the program are listed in Tables G, H, and I.

Worker Protection Program Funds

FY 92 Grant Allocation

For FY 92, \$1.5 million in cooperative agreement funds will be available for worker protection program activities and will be distributed among the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, the Trust Territories of the Pacific Islands and Indian Tribes.

Tribes which have existing cooperative agreements with EPA will be allotted \$8,000 each. Other Tribes will be eligible for a share of the grant monies by applying for funding from the Regions, provided that they are willing to enter into FIFRA enforcement and certification cooperative agreements within six months of filing this application. Grant funds for these Tribes can be disbursed from the Regional discretionary funds. If several new Tribes are applying for funding, the Region may wish to use the discretionary funds to provide general pesticide workshops for Tribes at several locations in close proximity to Tribal lands. These workshops should focus on pesticide awareness and basic programmatic activities especially suited to Tribal needs to ensure safe pesticide usage.

Where Tribal lands cross the boundaries of more than one Region, funding for these Tribes will need to be coordinated among the Regions concerned to ensure that a fair share of each affected Region's discretionary allotment is applied to the Tribe's allocation.

The amount allocated for Puerto Rico and the Virgin Islands is \$15,000 each. The allocation for the Pacific Islands is \$26,000. The District of Columbia will receive a \$10,000 allocation. A total of \$250,000 has been designated for Regional discretionary funds. The remaining funds will be divided equally among the 50 States, resulting in \$20,800 per State.

Allocation of Regional Discretionary Funds

The \$250,000 designated as Regional discretionary funds is divided equally among all ten Regions.

TABLE A
FY 92 RESOURCE DISTRIBUTION ALLOCATION FOR EACH
GEOGRAPHICAL AREA

<u>AREA</u>	<u>PERCENT</u>
IA	7.74
GA	7.27
FL	5.63
IL	5.60
MN	5.27
IN	5.10
NC	4.83
NE	3.54
KS	3.51
AR	3.37
LA	3.32
AL	3.24
SC	2.98
TX	2.88
MS	2.78
KY	2.64
ND	2.63
MO	2.48
MI	2.48
OH	2.39
HI	2.30
WI	2.10
TN	2.00
CA	1.76
VA	1.62
SD	1.27
PA	1.17
NY	1.17
MD	1.11
OK	1.07
MT	0.96
WA	0.82
CO	0.74
DE	0.53
ID	0.44
OR	0.20
NJ	0.19
ME	0.17
NM	0.14
AZ	0.10
WV	0.09
WY	0.08
MA	0.07
VT	0.07
CT	0.06
UT	0.05
NH	0.02
NV	0.01
RI	0.01
AK	0.00

TABLE B
FY 92 RESOURCE DISTRIBUTION ALLOCATION RANKED BY % OF TOTAL

<u>RANKING</u>	<u>AREA</u>	<u>PERCENT</u>	<u>TIER</u>
1	IA	7.74	
2	GA	7.27	
3	FL	5.63	
4	IL	5.60	1
5	MN	5.27	
6	IN	5.10	
7	NC	4.83	
8	NE	3.54	
9	KS	3.51	
10	AR	3.37	
11	LA	3.32	
12	AL	3.24	2
13	SC	2.98	
14	TX	2.88	
15	MS	2.78	
16	KY	2.64	
17	ND	2.63	
18	MO	2.48	
19	MI	2.48	
20	OH	2.39	3
21	HI	2.30	
22	WI	2.10	
23	TN	2.00	
24	CA	1.76	
25	VA	1.62	
26	SD	1.27	
27	PA	1.17	
28	NY	1.17	
29	MD	1.11	
30	OK	1.07	
31	MT	0.96	4
32	WA	0.82	
33	CO	0.74	
34	DE	0.53	
35	ID	0.44	
36	OR	0.20	
37	NJ	0.19	
38	ME	0.17	
39	NM	0.14	5
40	AZ	0.10	
41	WV	0.09	
42	WY	0.08	
43	MA	0.07	
44	VT	0.07	
45	CT	0.06	
46	UT	0.05	6
47	NH	0.02	
48	NV	0.01	
49	RI	0.01	

TABLE C: FY 92 GEOGRAPHICAL AREA DISTRIBUTION OF \$5,000,000

AREA	GEOGRAPHIC BASE (\$)	GEOGRAPHIC NEEDS (\$)	GEOGRAPHICAL AREA TOTAL (\$)	ALLOCATION ROUNDED (\$)
IA	50,000	154,800	204,800	205,000
GA	50,000	145,400	195,400	196,000
FL	50,000	112,600	162,600	163,000
IL	50,000	112,000	162,000	162,000
MN	50,000	105,400	155,400	155,000
IN	50,000	102,000	152,000	152,000
NC	50,000	96,600	146,600	147,000
NE	50,000	70,800	120,800	121,000
KS	50,000	70,200	120,200	120,000
AR	50,000	67,400	117,400	117,000
LA	50,000	66,400	116,400	116,000
AL	50,000	64,800	114,800	115,000
SC	50,000	59,600	109,600	110,000
TX	50,000	57,600	107,600	108,000
MS	50,000	55,600	105,600	106,000
KY	50,000	52,800	102,800	103,000
ND	50,000	52,600	102,600	103,000
MO	50,000	49,600	99,600	100,000
MI	50,000	49,600	99,600	100,000
OH	50,000	47,800	97,800	98,000
HI	50,000	46,000	96,000	96,000
WI	50,000	42,000	92,000	92,000
TN	50,000	40,000	90,000	90,000
CA	50,000	35,200	85,200	85,000
VA	50,000	32,400	82,400	82,000
SD	50,000	25,400	75,400	75,000
PA	50,000	23,400	73,400	73,000
NY	50,000	23,400	73,400	73,000
MD	50,000	22,200	72,000	72,000
OK	50,000	21,400	71,400	71,000
MT	50,000	19,200	69,200	69,000
WA	50,000	16,400	66,400	66,000
CO	50,000	14,800	64,800	65,000
DE	50,000	10,600	60,600	61,000
ID	50,000	8,800	58,800	59,000
OR	50,000	4,000	54,000	54,000
NJ	50,000	3,800	53,800	54,000
ME	50,000	3,400	53,400	53,000
NM	50,000	2,800	52,800	53,000
AZ	50,000	2,000	52,000	52,000
WV	50,000	1,800	51,800	52,000
WY	50,000	1,600	51,600	52,000
MA	50,000	1,400	51,400	51,000
VT	50,000	1,400	51,400	51,000
CT	50,000	1,200	51,200	51,000
UT	50,000	1,000	51,000	51,000
NH	50,000	400	50,400	50,000
NV	50,000	200	50,200	50,000
RI	50,000	200	50,200	50,000
AK	50,000	0	50,000	50,000
	<u>\$2,500,000</u>	<u>\$2,000,000</u>	<u>\$4,500,000</u>	<u>\$4,500,000</u>
			+ 500,000	+ 500,000
			<u>\$5,000,000</u>	<u>\$5,000,000</u>

TABLE D
FY 92 GROUND WATER PROGRAM FUNDS - REGIONAL ALLOCATIONS

Region I

CT	\$ 51,000
ME	51,000
MA	53,000
NH	50,000
RI	50,000
VT	51,000

Regional Sum/Total Allocated:

306K/4600K = 6.7%

6.7% (\$400,000) = \$ 26,800

Sum: \$ 306,000

Regional Discretionary: \$ 26,800

Region II

NJ	\$ 54,000
NY	73,000
PR	30,000
VI	10,000

Regional Sum/Total Allocated:

167K/4600K = 3.6%

3.6% (\$400,000) = \$ 14,400

Sum: \$ 167,000

Regional Discretionary: \$ 14,400

Region III

DE	\$ 61,000
DC	10,000
MD	72,000
PA	73,000
VA	82,000
WV	52,000

Regional Sum/Total Allocated:

350K/4600K = 7.6%

7.6% (\$400,000) = \$ 30,400

Sum: \$ 350,000

Regional Discretionary: \$ 30,400

Region IV

AL	\$ 115,000
FL	163,000
GA	196,000
KY	103,000
MS	106,000
NC	147,000
SC	110,000
TN	90,000

Regional Sum/Total Allocated:

1030K/4600K = 22.4%

22.4% (\$400,000) = \$ 89,600

Sum: \$1,030,000

Regional Discretionary: \$ 89,600

Region V

IL \$ 162,000
IN 152,000
MI 100,000
MN 155,000
OH 98,000
WI 92,000

Sum: \$ 759,000

Regional Sum/Total Allocated:

759K/4600K = 16.5%

16.5% (\$400,000) = \$ 66,000

Regional Discretionary: \$ 66,000

Region VI

AR \$ 117,000
LA 116,000
NM 53,000
OK 71,000
TX 108,000

Sum: \$ 465,000

Regional Sum/Total Allocated:

465K/4600K = 10.1%

10.1% (\$400,000) = \$ 40,400

Regional Discretionary: \$ 40,400

Region VII

IA \$ 205,000
KS 120,000
MO 100,000
NE 121,000

Sum: \$ 546,000

Regional Sum/Total Allocated:

546K/4600K = 11.9%

11.9% (\$400,000) = \$ 47,600

Regional Discretionary: \$ 47,600

Region VIII

CO \$ 65,000
MT 69,000
ND 103,000
SD 75,000
UT 51,000
WY 52,000

Sum: \$ 415,000

Regional Sum/Total Allocated:

415K/4600K = 9.0%

9.0% (\$400,000) = \$ 36,000

Regional Discretionary: \$ 36,000

Region IX

AZ \$ 52,000
CA 85,000
HI 96,000
NV 50,000
PI 50,000

Sum: \$ 333,000

Regional Sum/Total Allocated:

333K/4600K = 7.2%

7.2% (\$400,000) = \$ 28,800

Regional Discretionary: \$ 28,800

Region X

AK \$ 50,000
ID 59,000
OR 54,000
WA 66,000

Sum: \$ 229,000

Regional Sum/Total Allocated:

229K/4600K = 5.0%

5.0% (\$400,000) = \$ 20,000

Regional Discretionary: \$ 20,000

TABLE E

ENDANGERED SPECIES

<u>STATE</u>	<u>SPECIES</u>	<u>PESTICIDE USE ASSOCIATIONS</u>
Alabama	some	moderate
Alaska	none	none
Arizona	many	high
Arkansas	some	moderate
California	very many	very high
Colorado	some	moderate
Connecticut	few	negligible
Delaware	few	negligible
Dist. of Columbia	one	low
Florida	very many	very high
Georgia	many	high
Hawaii	some	moderate
Idaho	few	low
Illinois	few	low
Indiana	few	low
Iowa	few	moderate
Kansas	some	moderate
Kentucky	some	moderate
Louisiana	few	low-moderate
Maine	few	negligible
Maryland	few	low
Massachusetts	few	negligible
Michigan	few	low
Minnesota	few	low
Mississippi	few	moderate
Missouri	some	moderate
Montana	few	low
Nebraska	some	moderate
New Hampshire	few	negligible
New Jersey	few	negligible
New Mexico	many	high
New York	few	low
Nevada	some	low
North Carolina	some	moderate
North Dakota	few	high
Ohio	few	low
Oklahoma	few	low
Oregon	some	low
Pennsylvania	few	negligible
Puerto Rico	many	moderate
Rhode Island	few	negligible
South Carolina	some	moderate
South Dakota	some	low
Tennessee	many	moderate
Texas	very many	very high

ENDANGERED SPECIES:

<u>STATE</u>	<u>SPECIES</u>	<u>PESTICIDE USE ASSOCIATIONS</u>
Utah	many	moderate
Vermont	none	none
Virginia	some	low
Washington	few	low
West Virginia	few	low
Wisconsin	few	low
Wyoming	few	low
Virgin Island	none	none
Pacific Territories	some	low

TABLE F
ENDANGERED SPECIES

<u>25 PRIORITY STATES</u>	<u>SPECIES</u>	<u>PESTICIDE USE ASSOCIATIONS</u>
<u>Tier 1</u>		
California	very many	very high
Florida	very many	very high
Texas	very many	very high
<hr/>		
<u>Tier 2</u>		
Georgia	many	high
New Mexico	many	high
Arizona	many	high
Tennessee	many	moderate
Puerto Rico	many	moderate
Utah	many	moderate
<hr/>		
<u>Tier 3</u>		
South Carolina	some	moderate
Colorado	some	moderate
Alabama	some	moderate
Hawaii	some	moderate
Kansas	some	moderate
Arkansas	some	moderate
Kentucky	some	moderate
Missouri	some	moderate
Nebraska	some	moderate
North Carolina	some	moderate
South Dakota	some	low
Pacific Territories	some	low
<hr/>		
<u>Tier 4</u>		
North Dakota	few	high
Iowa	few	moderate
Louisiana	few	low-moderate
Oklahoma	few	low

TABLE G

FY92 ENDANGERED SPECIES PROGRAM FUNDING

<u>REGION</u>	<u>BASE (1)</u>	<u>DISCRETIONERY (2)</u>	<u>ADDL STATE (3)</u>	<u>TOTAL</u>
I	30K	0	0	30
II	16	28.7	15	59.7
III	30	0	0	30
IV	40	201.1	90	331.1
V	30	0	0	30
VI	25	143.6	45	213.6
VII	20	114.9	30	164.9
VIII	30	114.9	35	179.9
IX	21	114.9	55	190.9
X	20	0	0	20
TOTALS	262	718	270	1250K

1. \$5K per State, District of Columbia, Puerto Rico
\$1K for Pacific Islands, Virgin Islands
2. See Table H.
3. See Table I.

TABLE H

FY92 ENDANGERED SPECIES PROGRAM FUNDS

REGIONAL DISCRETIONARY FUNDS FOR PRIORITY STATES

REGION	PRIORITY STATES	TOTAL	% OF 25	REGIONAL DISCRETIONARY FUNDS (% OF \$718K)
I	--	0	0	0
II	PR	1	4	28.7
III	--	0	0	0
IV	AL, FL, GA, KY, NC, SC, TN	7	28	201.0
V	--	0	0	0
VI	AK, LA, NM, OK, TX	5	20	143.6
VII	IA, KS, MO, NE	4	16	114.9
VIII	CO, ND, SD, UT	4	16	114.9
IX	AZ, CA, HI, PI	4	16	114.9
X	--	0	0	0
TOTALS		25	100	\$718K

TABLE I

FY 92 ENDANGERED SPECIES PROGRAM FUNDING

ADDITIONAL STATE FUNDING

<u>REGION</u>	<u>PRIORITY STATES</u>	<u>TOTAL</u>
I	--	0
II	PR (15K)	15K
III	--	0
IV	AL (10K) FL (20K) GA (15K) KY (10K) NC (10K) SC (10K) TN (15K)	90K
V	--	0
VI	AK (10K) LA (0K) NM (15K) OK (0K) TX (20K)	45K
VII	IA (0K) KS (10K) MO (10K) NE (10K)	30K
VIII	CO (10K) ND (0K) SD (10K) UT (15K)	35K
IX	AZ (15K) CA (20K) HI (10K) PI (10K)	55K
X	--	0
TOTAL		\$270K

EPA POLICY FOR THE ADMINISTRATION OF ENVIRONMENTAL
PROGRAMS ON INDIAN RESERVATIONSINTRODUCTION

The President published a Federal Indian Policy on January 24, 1983, supporting the primary role of Tribal Governments in matters affecting American Indian reservations. That policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian "self-government" and (2) that it will work directly with Tribal Governments on a "government-to-government" basis.

The Environmental Protection Agency (EPA) has previously issued general statements of policy which recognize the importance of Tribal Governments in regulatory activities that impact reservation environments. It is the purpose of this statement to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position in support of Tribal "self-government" and "government-to-government" relations between Federal and Tribal Governments. This statement sets forth the principles that will guide the Agency in dealing with Tribal Governments and in responding to the problems of environmental management on American Indian reservations in order to protect human health and the environment. The Policy is intended to provide guidance for EPA program managers in the conduct of the Agency's congressionally mandated responsibilities. As such, it applies to EPA only and does not articulate policy for other Agencies in the conduct of their respective responsibilities.

It is important to emphasize that the implementation of regulatory programs which will realize these principles on Indian Reservations cannot be accomplished immediately. Effective implementation will take careful and conscientious work by EPA, the Tribes and many others. In many cases, it will require changes in applicable statutory authorities and regulations. It will be necessary to proceed in a carefully phased way, to learn from successes and failures, and to gain experience. Nonetheless, by beginning work on the priority problems that exist now and continuing in the direction established under these principles, over time we can significantly enhance environmental quality on reservation lands.

POLICY

In carrying out our responsibilities on Indian reservations, the fundamental objective of the Environmental Protection Agency is to protect human health and the environment. The keynote of this effort will be to give special consideration to Tribal interests in making Agency policy, and to insure the close involvement of Tribal Governments in making decisions and managing environmental programs affecting reservation lands. To meet this objective, the Agency will pursue the following principles:

4. THE AGENCY WILL TAKE APPROPRIATE STEPS TO REMOVE EXISTING LEGAL AND PROCEDURAL IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS ON RESERVATION PROGRAMS.

A number of serious constraints and uncertainties in the language of our statutes and regulations have limited our ability to work directly and effectively with Tribal Governments on reservation problems. As impediments in our procedures, regulations or statutes are identified which limit our ability to work effectively with Tribes consistent with this Policy, we will seek to remove those impediments.

5. THE AGENCY, IN KEEPING WITH THE FEDERAL TRUST RESPONSIBILITY, WILL ASSURE THAT TRIBAL CONCERNS AND INTERESTS ARE CONSIDERED WHENEVER EPA'S ACTIONS AND/OR DECISIONS MAY AFFECT RESERVATION ENVIRONMENTS.

EPA recognizes that a trust responsibility derives from the historical relationship between the Federal Government and Indian Tribes as expressed in certain treaties and Federal Indian Law. In keeping with that trust responsibility, the Agency will endeavor to protect the environmental interests of Indian Tribes when carrying out its responsibilities that may affect the reservations.

6. THE AGENCY WILL ENCOURAGE COOPERATION BETWEEN TRIBAL, STATE AND LOCAL GOVERNMENTS TO RESOLVE ENVIRONMENTAL PROBLEMS OF MUTUAL CONCERN.

Sound environmental planning and management require the cooperation and mutual consideration of neighboring governments, whether those governments be neighboring States, Tribes, or local units of government. Accordingly, EPA will encourage early communication and cooperation among Tribes, States and local governments. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Rather, it recognizes that in the field of environmental regulation, problems are often shared and the principle of comity between equals and neighbors often serves the best interests of both.

7. THE AGENCY WILL WORK WITH OTHER FEDERAL AGENCIES WHICH HAVE RELATED RESPONSIBILITIES ON INDIAN RESERVATIONS TO ENLIST THEIR INTEREST AND SUPPORT IN COOPERATIVE EFFORTS TO HELP TRIBES ASSUME ENVIRONMENTAL PROGRAM RESPONSIBILITIES FOR RESERVATIONS.

EPA will seek and promote cooperation between Federal agencies to protect human health and the environment on reservations. We will work with other agencies to clearly identify and delineate the roles, responsibilities and relationships of our respective organizations and to assist Tribes in developing and managing environmental programs for reservation lands.

INDIAN LAW BRIEFING

What is Federal Indian Law?

A body of jurisprudence created by tens of thousands of treaties, statutes, executive orders, court decisions and administrative actions. Relationships among and between the United States, Indian tribes and individuals, and the States. EPA must operate its Indian programs under the existing legal frame work and must distinguish between state and federal jurisdiction.

ENDURING BASIC PRINCIPLES:

1. SANCTITY OF INDIAN TITLE TO LAND
2. SOVEREIGN STATUS

Upon conquest, tribes gave up external sovereignty, and became subordinate to Federal Government, but not to states. Tribes are distinct entities, not political subdivisions of states. Relationship between federal government and tribes is nation to nation.

3. NECESSARY DOMINANCE OF UNITED STATES
4. SPECIAL TRUST RELATIONSHIP
5. EXCLUSION OF STATE JURISDICTION

HISTORICAL PERSPECTIVE

Over the last 200 years, federal Indian policy has swung between two opposing views:

Tribes preserved with defined land area, protected from States by Federal government

Tribes abolished and individual Indians assimilated as citizens of States.

Colonial and Early U.S. years

Britain and other colonial powers dealt with tribes as sovereign nations. Tribes often formed alliances with one power to fight encroachment by land-hungry colonists. After the Revolution, the Constitution gave the Federal Government sole power to regulate commerce with tribes to Congress. Treaties negotiated by the President required ratification of the Senate. Trade and Intercourse Acts strictly regulated who could interact with the tribe. From 1790 to 1834, the separation of tribes from settlers was paramount interest.

Reservation Movement

In the 1830's, the demands of settlers for land inspired the establishment of reservations for tribes, severely limiting Indian lands. By bribery, deceit, or whatever means necessary, the federal government obtained treaties whereby tribes ceded major portions of their land to the U.S. and reserved small amounts for the tribe. Tribes were forcibly removed from desirable areas and concentrated on least productive land.

Allotment Act

In 1887, the Dawes Act, or Allotment Act, authorized BIA to allot tribal land to individual Indians--160 acres to heads of household and 80 acres to single adult males. Each allotment was to be held in trust by the U.S. for 25 years, to allow the Indian to learn farming, and then pass to state jurisdiction. The "surplus" or non-allotted lands were to be disposed of by the Secretary of Interior after negotiating with the tribe. The sale of "surplus" lands reduced Indian lands from 138 million acres to 48 million in 1934. Assimilation was now the goal.

Reorganization

In 1934, the Indian Reorganization Act (IRA) was passed which stopped the allotments, stabilized holdings, and promoted self-government. The IRA set out methods of adopting Constitutions and becoming federally chartered. Approximately two-thirds of the tribes accepted the IRA. A tribe did not lose federal recognition if it did not accept the IRA. All of Region 7's tribes are IRA tribes. Separation and preservation was now the goal again.

Termination

In the 1950's the pendulum swung again, with the passage of the Termination Acts. Termination ended the federal relationship but not the tribes' existence. Congressional standing committees were abolished. Ponca Tribe in Nebraska was terminated and subjected to State jurisdiction. Assimilation definitely had returned.

Indian Self-Determination

From 1961 to the present, the policy has returned to tribalism, with an emphasis on self-determination and education. Tribes are encouraged to assume responsibility for federal programs previously administered by BIA and IHS.

JURISDICTION

Tribes have:

inherent authority to regulate to protect health and welfare of the tribe within the reservation (Montana, Brendale cases)

delegated authority from federal government. For EPA programs or standards, EPA has responsibility absent delegation to tribe.

EPA PROGRAMS

Tribes are authorized to participate in federal environmental programs under the following statutes:

Clean Water Act §518(e):

Title II-Grants for the construction of Treatment works

§104-Research, Investigations, Training and Information grants

§106-Grants for pollution control programs

§303-Water quality Standards and Implementation Plans.*

§305-Water quality inventory.*
§308-Inspections, Monitoring, and Entry.
§309-Enforcement
§314-Clean Lakes program and grants
§319-Nonpoint source management program and grants.
§401-Certification
§402-National Pollutant Discharge Elimination System.
§404-Permits for Dredge and Fill Material.

*supported by §106 funds

Safe Drinking Water Act:

§1428-Wellhead protection
§1451-Primacy for UIC and PWS

FIFRA:

§23 (§136u)-Pesticide Enforcement and Applicator Certification

Clean Air Act (1990):

§107

CERCLA

§101 (36)
Subpart F of NCP
Part 35 Subpart O

EPCRTKA

Responsible for all of Title III

RCRA:

Workgroup formed to draft Indian provisions

Surface Mining (SMCRA) --Department of Interior
administration

§1300

Generally, where grant programs exist, only planning and development funds are available. No operation and maintenance funds are available.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Exhibit 3-3

MAR 20 1990

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: Proposed Pesticide Program Indian Strategy

FROM: Douglas Campt, Director
Office of Pesticide Programs *Douglas S. Campt*

TO: ~~Thomas E. Hooven~~ Deputy Director
Office of Program Management Operations
Office of Pesticides and Toxic Substances

The draft Pesticide Program Indian Strategy for 1990 - 1994 is submitted in accordance with the Administrator's memo of February 7, 1990 and your memo of February 22, 1990, both on EPA Indian Policy.

In developing the strategy, we have worked with the Office of Compliance Monitoring which drafted the pesticide enforcement-related language included throughout the document. We have tried to focus on the prior commitment of the Agency to pursue environmental goals on Indian lands and to build tribal capacity to implement the Federal statutes. We reviewed as part of the development of our strategy, major features of the: (1) latest OPP Indian Program Strategy (1987); (2) Agency 1985 "Interim Strategy for Implementation of the EPA Indian Policy"; (3) June 23, 1989 presentation of the Deputy Administrator to the Senate Select Committee on Indian Affairs; (4) recommendations made by Pat Garber under her FY 1989 NNEMS grant; (5) FY 88 and 89 Indian Work Group recommendations; and (6) Agency 1990, "Strategy for Implementation of the EPA Indian Policy".

We have included within our strategy document a description of work performed and a detailed listing of resources expended during FY 88 and FY 89 and estimates for FY 90 and FY 91. The estimates for FY90 are firm but those for FY91 are planning targets only. For FY 92 - FY 94, more general plans are set forth. These plans are developed within existing statutory and regulatory authority and the emphasis is on promoting tribal management of environmental programs. Tribal training and technical assistance have been emphasized to build long term tribal self-sufficiency and capacity to operate programs.

We are also committed to review our statutes and explore a funding initiative that would allow OPP to provide adequate funding to tribes on an annual basis to conduct meaningful pesticide programs. This is consistent with the directives from the President and the Administrator to treat Indian tribes as states.

In this draft strategy, as in our overall pesticide program strategy, the emphasis is on risk reduction to be obtained through: pollution prevention, reduction in exposure, and maximizing productivity. The other two themes in the overall strategy (safer pesticides and food safety) do not relate directly to work proposed under the Indian Strategy.

We believe that the draft Pesticide Program Indian Strategy is consistent with and moves to fulfill the policies articulated by the President and the Agency. However, the regional offices have the front-line role in implementing the strategy. It is suggested that your cover memo to them highlight this point and ask for their active participation in completing the formulation of the strategy. After approval of the strategy, we must meet with regional representatives and plan for its detailed implementation.

cc: S. Wayland
A.E. Conroy, II
OPP Division Directors
W. Jordan
L. True
R. Longmire
J. Kearns
B. Smith
J. Neylan
M. Lydon
C. Fox

PESTICIDE PROGRAM INDIAN STRATEGY

INTRODUCTION

There are about 312 recognized Indian tribes and 220 Alaskan native villages in the Nation with land holdings comprising approximately 87,000 square miles. Individual tribal holdings (both on and off the reservation) range from just a few-acres to several thousand acres. Although Federal laws do apply to reservations, all reservations are governed by tribal sovereign governments and operate independently, and therefore, are not subject to a number of state laws.

EPA has developed a system of working with the 50 states to develop environmental plans and programs. The system has not only been successful but made easier because states have similar constitutions, methods of problem solving, and methods of reaching a consensus of opinion. Tribes, on the other hand, have many types of governments, some with written constitutions and others with none. The methods used for decision making may vary considerably. Indian societies can be egalitarian, gregarious or both, but many are clan-based and are family oriented and, for the most part, Indians prefer to live on the reservations and have little interest in becoming assimilated or acculturated.

Tribes have been waging a life long struggle to retain their sovereignty and will work cooperatively with EPA to protect the environment as long as they don't perceive this as a threat to tribal governance and control.

The Federal government has a trust and fiduciary responsibility to Indian tribes as a result of treaties negotiated with tribes before 1871. In these treaties, the Federal government made obligatory commitments guaranteeing to provide housing, education, and health care to tribes in perpetuity in exchange for millions of acres of tribal ancestral home lands. The bottom line is that the EPA, in its policy making with regard to Indian tribal planning, has the obligation, by Federal laws, policies, and administrative directives to assist in the development of American Indian environmental programs in the same manner that it provides assistance to states. Consistent with this obligation, the Clean Water Act, the Safe Drinking Water Act, and the Comprehensive Environmental Response, Compensation and Liability Act (SUPERFUND) have all been amended to explicitly enable the agency to treat qualifying tribes as states. Also OPTS currently has eight pesticide enforcement cooperative agreements with Indian tribes or tribal organizations, one of which is an umbrella grant which addresses eight tribes. Therefore, currently there are 15 Indian tribes which receive pesticide enforcement cooperative agreement funds. In working with these tribes, the Agency follows the President's Federal Indian Policy.

The June 23, 1989 presentation of the Deputy Administrator to the Senate Select Committee on Indian Affairs noted that the President's Federal Indian Policy, issued in 1983, stressed two related themes: (1) that the Federal government will pursue the principle of Indian "self government" and (2) that it will work directly with tribal governments on a government-to-government basis. Mr. Habict said that the keynote of the EPA Indian policy is to ensure consideration of tribal interests as the agency develops policies that affect Indian lands, and to insure the close involvement of tribal governments in making decisions and managing environmental programs affecting reservation lands. He set forth nine specific principles that EPA will employ in implementing its Indian policy. The ninth one is essential to the development of a multi-year strategy and it is, "The agency will incorporate these Indian Policy goals into its planning and management activities including its budget, operating guidance, legislative initiatives, management accountability systems and ongoing policy and regulation development processes". The intent is to institutionalize consideration of Indian tribes to ensure that they will receive consistent attention under the Federal environmental statutes.

All tribes have annual budgets and develop strategic plans in various increments of up to 20 years. Some tribes, much like county governments, budget several years in advance for commitments such as finances, personnel, land use, construction, and conservation. Therefore, tribes need ample lead time to undertake new programs only funded in part by the Federal government. Joint planning by the Federal government and tribes is essential to program success. To bring this about both EPA and tribal staff must be trained and begin working together on pilot projects.

PROGRAM GOALS

The goals of the OPTS Pesticide Indian Program Strategy are to:

- (1) ensure the implementation of the pesticide programs on American Indian lands;
- (2) assist Indian tribes in their acquisition of needed: trained personnel, program information and funds;
- (3) honor Indian governments and culture in all aspects of OPTS's work with tribes.

PROGRAM OBJECTIVES

OPTS has organized its proposed pesticide activities to support the following eight objectives, consistent with its above-stated program goals:

1. Develop a pesticide program staff sensitivity for Indian tribal ways of operation to contribute to more effective communications with tribes
2. Strengthen the pesticide program infrastructure to provide more effective technical assistance to tribes
3. Assist in enhancing tribal awareness of pesticide program and enforcement activities relevant to tribal responsibilities and, over time, enhance the tribal working knowledge of pesticide functions
4. Assist tribes in conducting needs assessment surveys that will provide the bases for acquiring resources (staff, information and funding) to implement pesticide legislation and program guidance
5. Assist tribes in developing enhanced infrastructures for more effective utilization of pesticide program and enforcement resources, to include structures of individual tribes and tribal consortia
6. Develop strong functional linkages with other Federal Agencies for joint planning and funding of tribal pesticide-related activities
7. Develop annual funding for Indian Pesticide Programs
8. Enhance coordination efforts with other media offices within the agency on tribal enforcement matters.

OBJECTIVE 1 - TRAINING OF EPA PERSONNEL

STATEMENT OF OBJECTIVE:

Provide cultural awareness training to Headquarters and Regional personnel responsible for interacting with Indian tribes in pesticide program areas.

BARRIERS:

Currently, EPA does have a policy of providing sensitivity training for headquarters and regional personnel responsible for providing assistance to tribes in implementing environmental policies and programs on Indian reservations. With over 500 recognized Indian governments in the U.S., with various tribal customs and governments, there is a great need for this type of training. Such training will improve EPA's ability to communicate more effectively with Indian tribes in planning for pesticide program-related activities. The barrier to implementation thus is lack of funding. Funds must be acquired to expand the existing training program.

APPROACH:

Develop an expanded cultural awareness training course in conjunction with the EPA Institute and EPA's National Indian Coordinator (OFA).

Work would begin in the first quarter of FY 91 to determine the detailed requirements for the expanded training using existing resources in PMSD/FOD, OFA and the EPA Institute. A pilot project would be funded in FY 92. EPA should consider making cultural awareness training mandatory for Agency staff who have regular, direct contact with Indian tribes. The training of each Regional staff must be tailored to its particular cultural area and focus on local tribal issues and sensitivities.

OBJECTIVE 2 - IMPROVE EPA INFRASTRUCTURE

STATEMENT OF OBJECTIVE:

Strengthen the infrastructure of the pesticide program and related EPA organizations working with the pesticide program to provide more effective technical assistance to tribes.

pesticide tribal issues needs to be strengthened. Regional offices, including Regional Indian Coordinators, are understaffed to provide regular comprehensive technical assistance to Indian tribes. We not only need additional personnel but we need to recruit Indians for EPA HDQS and regional offices to enhance our knowledge of and ability to communicate with tribes. Also, travel funds are not adequate to spend the needed time with Indian leaders and staffs. The work that EPA is doing needs to be evaluated periodically by tribes served so EPA will know what changes are needed to more adequately meet Indian tribal pesticide program needs.

APPROACH:

The Office of Pesticide Programs (OPP) and the Office of Compliance Monitoring (OCM) will initiate regularly-scheduled briefings between the two offices on pesticide tribal matters. Pesticide-related conferences for tribal personnel will be coordinated jointly.

Regional Indian Coordinators, in conjunction with Regional managers (Division Directors and Branch Chiefs) should develop resource requirements (FTE's, extramural and travel funds) for serving Indian tribes in the areas of protection of: groundwater, agricultural workers, and endangered species. Also to be included, are certification and training and enforcement.

Consideration should be given to both working with SFIREG to address Indian needs and pesticide problems and the establishment of an Agency-wide Indian Advisory Committee (members from Indian tribes) which could also assist the Pesticide Programs at the Headquarters level develop new initiatives for serving tribes, with a strong focus on regional needs. Members of the committee also should be able to help EPA recruit Indians.

Management accountability systems will be used to establish targets of accomplishment and report on progress made. In addition, annual evaluation reports will be requested from tribes served.

Consideration should be given to establishing a position in OPP for an Indian Ombudsman. The person occupying this position could also work on other assignments.

The circuit rider system should be expanded to serve more tribes in a cost effective manner. Means to provide adequate training and travel funds will be explored.

Requirements analysis will be conducted in FY 91.

OBJECTIVE 3 - TRIBAL TRAINING AND AWARENESS

STATEMENT
OF OBJECTIVE:

Enhance tribal awareness of pesticide program and enforcement requirements relevant to tribal activities and to provide much needed training, leading to tribes' capacities to plan, manage and implement their own environmental programs.

BARRIERS:

Many small tribes, rancherias, and Alaskan villages have not yet begun developing their environmental plans. Small tribal organizations with limited financial resources continue to be inundated with printed material from EPA and other sources. One person is usually designated to review the information and decide upon its relevance to events taking place. If the material is not of the utmost importance to the tribe or if it is not understandable, it is promptly filed away. Other barriers factors include limited resources and lack of trained personnel, all of which must be overcome before a tribe can make informed decisions for inclusion in their future plans or strategy.

Many tribes which may be large enough to develop their own pesticide enforcement programs have not applied for available funding. Many tribes may not fully understand the risks that pesticides pose to health and the environment, and therefore have not pursued activities to regulate and monitor pesticide use. Tribes also may not be fully aware of, the benefits and requirements of the cooperative agreement program.

APPROACH:

To increase tribal awareness and the number of tribes participating in cooperative programs, there is a need for OPP, OCM and the Regions to go a step further to develop better communications with smaller tribal entities. OPP and OCM should coordinate with the Regions to disseminate information concerning the EPA programs available to Tribes. Development of brochures about the pesticide cooperative agreement guidance, as well as informational videos and brief manuals will constitute an expeditious and cost effective means of reaching and informing a large audience.

Several seminars addressing tribal pesticide enforcement, and C&T issues have been held. However, further development of pilot projects, seminars, technical assistance and training programs and, when requested, development of a one-on-one relationship utilizing American Indian trained circuit riders to provide direct consultation will increase the number of meaningful cooperative agreements between OPTS and Indian tribes.

Planning for this work would be done in FY 90 by OPP and OCM using existing resources. Funds would be set aside in FY 91 to begin a pilot project.

OBJECTIVE 4 - TRIBAL NEEDS ASSESSMENT

STATEMENT OF OBJECTIVE:

Assist Indian tribes in identifying pesticide related problems on tribal reservations.

BARRIERS:

Lack of information concerning the pesticide related needs of Indian tribes. The Agency is responsible for determining how well pesticide laws are being implemented on Indian reservations. Each tribal reservation that uses pesticides should have an environmental survey conducted on the impact of pesticides and the regulatory work conducted on reservations. This type of needs assessment will enable EPA to determine the extent of pesticide problems on reservations as well as to determine the solutions to correct them. Aside from the data on the compliance monitoring work completed under the eight tribal enforcement cooperative agreements with tribes, there is insufficient information on enforcement-related activities on tribal lands.

There is a lack of funding to conduct large scale surveys and to set up monitoring programs on Indian reservations.

APPROACH:

Conduct a review of existing data on pesticide-related problems from various Federal, state, and local governments/agencies to determine the extent of pesticide problems on reservations.

Based on results from that review, conduct further studies and analyses (surveys or monitoring) to focus on specific pesticide problems with a select number of tribes (to be based on a sampling plan or on preliminary findings from other sources).

Assist tribes in training tribal members to identify pesticide problems on reservations and to monitor pesticide related work. Consideration will also be given to pesticide contamination on reservations that originates outside of reservation boundaries, e.g. where: aquifers are polluted by injection well seepage, surface runoff waters flow into reservations, and aerial pesticide sprays drift onto reservations.

Require state grant recipients to separately report on the number of inspections completed on tribal lands. Conduct an extensive survey of jurisdictional problems on tribal lands as they relate to pesticide enforcement.

Provide technical assistance to tribes in developing pesticide pollution prevention programs on reservations based on needs assessment.

Initial work could be conducted within existing HQTRs and Regional resources e.g. using EPA's Institute Scholars.

Project design would start in quarter four of FY 90 with a project funded in FY 91.

A significant amount of needs assessment should be completed prior to substantial funding of tribes in accordance with Objective 7. This is consistent with the chart presented later that shows major funding for Objective 7 to begin in FY 93.

OBJECTIVE 5 - IMPROVE TRIBAL INFRASTRUCTURE

STATEMENT OF OBJECTIVE:

Assist tribes in developing enhanced infrastructures for more effective utilization of pesticide program resources.

BARRIERS:

Small tribes do not have and probably will never have adequate resources to effectively implement pesticide programs without assistance from other organizations.

APPROACH:

Develop an information packet for all tribes outlining alternative ways of obtaining assistance from other organizations, to include the advantages of consortium formation, drawing upon examples of work done by the Inter-Tribal Council of Arizona (ITCA), the Inter-Tribal Agricultural Council (ITAC), and the Council for Energy Resource Tribes (CERT). Under the consortium alternative, if it is selected by a set of tribes, the professional staff could be centrally located and service the surrounding reservations. Each consortium could then act as a unit and apply for funding and services to cover an extensive area. EPA would hire and train an American Indian to serve as a circuit rider to work within the consortium.

In conjunction with other organizations, EPA would explore the development of university and tribal community college scholarship programs. Cooperative education and summer student intern programs would be developed with the tribes. Coordination with programs like JTPA/DOL would be made to supplement financing of Tribal/EPA training programs.

Requirements analysis for a tribal infrastructure would be performed this year, in coordination with OCM, using existing PMSD, FOD, and OCM resources, leading to a pilot project to be funded in FY 91.

OBJECTIVE 6 - LEVERAGING RESOURCES

STATEMENT OF OBJECTIVE:

OPP wants to leverage its resources to draw in resources from other EPA program offices and other Federal Agencies, state and local governments, foundations, and elements of the private sector to increase the amount of support that can be provided to tribes in implementing pesticide laws and programs.

BARRIERS:

Each organization that could provide resources to this program has its own goals, and ways of operating and already has a busy schedule. There also may be concern for legislative authority and policy approval to operate in the ways proposed by OPP.

APPROACH:

Two activities are proposed under this objective: (1) development of joint plans with other organizations to fund programs of EPA and the other agencies that will enhance OPP's efforts; and (2) acquisition of personnel from other organization to work on details in OPP, Regional offices and Indian tribes.

The joint planning and funding activity would begin in June 1990 and would not require extramural resources. Existing staff in PMSD and FOD would develop a set of work assignments and a schedule for contacting other organizations. Plans would be developed with the organizations to develop joint ownership of the ideas. Where needed, memoranda of understanding would be formulated for approval by involved agencies.

It will probably prove more feasible to make each agreement between EPA and one other agency. However, where practicable more agencies would be included in each agreement.

Candidate organizations to meet with include: OTS; EPA Office of Water; Bureau of Indian Affairs; Joint Training and Partnership Act in Department of Labor; Indian Health Service and Native American Program in Health and Human Services; United States Geological Service; United States Department of Agriculture; McArthur Foundation; Carnegie Foundation; Goldman Foundation; Miljohn Foundation; Cray Research Inc., and other private firms that have made large donations for Indian Scholarships.

Exploratory discussions have already begun in an attempt to obtain knowledgeable persons from other organizations to serve on 6 months - 2 year details in EPA to accelerate the pesticide program work. Anyone acquired in this way must fit within positions allocated to divisions.

Initial contacts with other organizations will be made in FY 90 using existing resources. Expanded funding of this work will be made in FY 91.

OBJECTIVE 7 - ANNUAL FUNDING OF INDIAN PESTICIDE PROGRAMS

STATEMENT OF OBJECTIVE:

To obtain legislative authority, where needed, and funds to provide annual funding of pesticide programs on reservations and to accelerate staffing of Indian tribes with qualified professionals.

BARRIERS:

Funding has been provided under cooperative agreements to develop tribal pesticide enforcement programs and to pilot certification and training programs. New regional and state initiatives in groundwater, worker protection and endangered species are also applicable to Indian reservations and pesticide program funds have been set aside for these programs. However, in the future, the amount of funding specifically devoted to tribal pesticide program and enforcement matters needs to be increased and the availability of these funds publicized. As more tribes apply for funds, there will be a stronger justification for proposing increases in the tribal budget.

Without a separate tribal budget initiative within the pesticides program, we may not see sufficient annual funding by EPA. This is needed in order to make pesticide programs successful on reservations. Also, EPA funding of projects with Indians that are of short term and require large amounts of matching funds are unlikely to lead to continuing tribal programs. Further, to the extent feasible, tribes must be notified well in advance of funding opportunities so that they will be able to include in their multiyear plans provisions for EPA funding and resources they must acquire from other sources to make programs whole. Tribes may not have an adequate number of trained professionals to do the work required. Enhanced EPA legislative authority and increased funding for current and new tribal grantees will be required. However, major needs assessment surveys must be completed prior to significant funding to tribes.

APPROACH:

Consistent with the President's policy of treating Indian tribes like states, OPTS will work with OGC to explore ways of using existing legislation and modifying FIFRA. In addition we will propose a major initiative for annual funding of Indian tribes. An increase in funds would be requested for grants to tribes for: certification and training; enforcement of FIFRA; training and program development for protection of: agricultural workers, groundwater, and endangered species, along with other new emerging issues. OPP will follow the guidance set forth in the 1990 EPA Indian Policy, "Current allocation formulas are based largely upon risk to health and environment, in an effort to protect the greatest number of people with available resources. The approach does not naturally channel resources to Indian tribes, which typically have small populations that are dispersed on large land masses and, in many cases, are remote from industrial centers where significant levels of pollution are more prevalent. Accordingly, special emphasis will be placed on developing allocation formulas to adequately reflect the rural, low-population density typical of Indian country".

Study will also be made of other Federal legislation (for EPA, and other agencies) and existing generic Federal legislation that could be used to develop and fund programs to accelerate the staffing of Indian tribes with qualified professionals to perform pesticide related functions. This work would include creation of scholarships for promising Indian students to obtain degrees in biology, chemistry, hydrology, economics, environmental sciences and other pesticide related fields through a University Centers Program. Existing work-study programs would be expanded to provide excellent work experience at EPA Headquarters, Regional offices and on the reservations during summers and at other times when school work would permit. The circuit rider and SEE programs would be supported to supplement the full time staffing on reservations.

OBJECTIVE - 8 ENHANCE ENFORCEMENT COORDINATION

STATEMENT
OF OBJECTIVE:

Enhance coordination efforts with other media offices within the Agency on tribal enforcement matters.

BARRIERS:

Many tribes may not fully understand the need for pesticide enforcement and for environmental enforcement in general. Tribes that would like to develop compliance monitoring capabilities often do not have the necessary expertise to develop enforcement tools, such as enforcement strategies and penalty policies. Currently, different offices in EPA with enforcement programs and activities available for tribes are not coordinating with each other to the full extent possible to train tribal enforcement personnel, in spite of the similar nature of their programs.

APPROACH:

The Office of Compliance Monitoring will contribute to and participate in the overall Agency efforts to train Tribal environmental personnel on enforcement issues. OPTS' efforts in this area will be coordinated through the Agency's National Indian Coordinator. Coordination on use of enforcement resources will also assist in drawing resources from other programs with similar objectives. At the same time, OCM will continue to assist tribes on a case by basis to develop pesticide enforcement programs through OCM's cooperative agreement program.

INTEGRATION OF ACTIVITIES

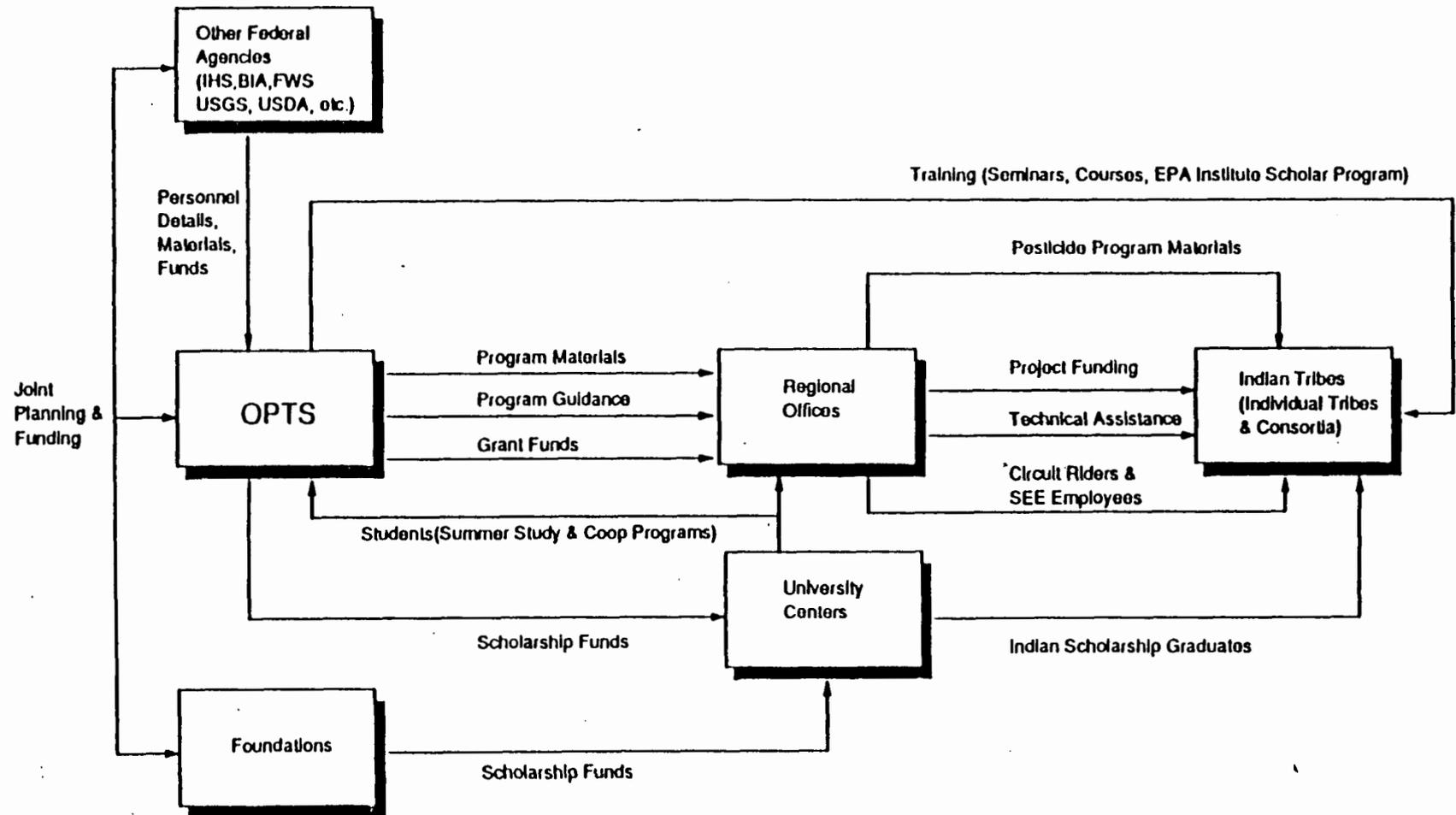
The activities discussed in the previous section are brought together in an integrated whole here. As can be seen in the figure on the next page, OPTS wants to leverage its funds to draw in resources from other Federal agencies, foundations and private industry through joint planning to be able to do more for tribes. Resources would be used to: develop program guidance and materials for training and technical assistance; support of student formal education and job experience; and program implementation grants. The regional offices would provide direct services and funds to tribes. Headquarters personnel would assist regions through the development of training courses and the provision of EPA Institute Scholars for short term training and technical assistance. The University Centers program would develop the professionals needed to work on the reservation to provide technical leadership to the tribes in implementing the pesticide programs.

The three tables following the figure list:

- Planned Accomplishments FY 1990 - 1994
- Proposed Funding Levels for FY's 1990 - 1994
(FTEs, \$EM)
- OPP's and OCM's Indian Programs Budget Estimates for FY 89, 90 and 91
- Narrative of Accomplishments from FY's 85 - FY 90

The Pesticide Program Indian Strategy will become an integral part of the overall Pesticide Program Strategy in the Fall of 1990 when the updated version of the FY 92 - 95 strategy is prepared.

SUPPORT TO TRIBES FOR PESTICIDE PROGRAMS



PLANNED ACCOMPLISHMENTS FYs 1990-1994

<u>OBJECTIVES</u>	FY 90	FY 91	FY 92	FY 93	FY 94
1. EPA Training	*Status report	*Selection of Contractor *Development of requirements for training	*Conduct & evaluate a pilot training project for HQIRs & Regional Personnel	*Conduct sensitivity training	*Conduct sensitivity training
2. EPA Infrastructure	*Status report *Initiate regularly-scheduled briefings between OPP and OCM	*Prepare requirements report for development of EPA Infrastructure	*Develop Indian Program budget for EPA *Create Indian Advisory Committee *Establish Management Accountability System	*Expand circuit rider programs *Expand regional resources and work with tribes	*Increase regional resource to reach desired level
3. Tribal Training	*Report on preliminary development of training requirements	*Select contractor *Begin development of training program curricula and materials *Develop brochure on Consolidated Pesticide Cooperative Agreement Funding	*Conduct tribal training *Distribute brochure	*Conduct tribal training *Distribute brochure	*Conduct tribal training *Distribute brochure

PLANNED ACCOMPLISHMENTS FYs 1990-1994

OBJECTIVES

	FY 90	FY 91	FY 92	FY 93	FY 94
4. Tribal Needs Assessment	*Review existing data from other Federal, State, & local governments/ Agencies	*Select contractor *Perform specialized surveys on Indian reservations (needs assessment) *Require state pesticide grant recipients to separately report on number of inspections conducted on Indian lands	*Use pilot project to train tribal members on identifying & monitoring pesticide problems *Reporting requirements	*Assist tribes in developing pesticide pollution prevention projects. *Reporting requirements	*Continue needs assessment
5. Tribal Infrastructure	*Assist some tribes in determining infrastructure requirements	*Prepare guidance documents and conduct pilot study	*Provide technical assistance to tribes	*Provide technical assistance to tribes	*Help several tribes to reach capacity to fully utilize EPA annual funding
6. Leveraging Resources	*Report on contacts with other Federal Agencies, foundations and private industry *Develop plans for acquiring persons on details from other agencies *Begin exploratory efforts with universities	*Draft plans for working with other organizations & *Sign memoranda of understanding *Begin one or more jointly funded projects *Develop University Centers Plan	*Obtain joint agreements with Agencies, foundations & fund University Centers program	*Award scholarships *Increase joint projects *Increase work study program	*Reach target levels in study, joint projects and rotational program

PLANNED ACCOMPLISHMENTS FYs 1990-1994

<u>OBJECTIVES</u>	FY 90	FY 91	FY 92	FY 93	FY 94
7. Funding for Indian Tribes	Report on study of legislative initiatives considered for funding tribes like states	*Draft legislative language and prepare funding initiative	*Get approval from OMB on EPA proposal	*Get Congressional approval and funds. *Fund tribes like states in transition mode	*Begin full b funding of tribes that veloped need: capacity

PROPOSED FUNDING LEVELS FOR FY'S 1990-1994 (FIES, \$EM)

OBJECTIVES	FY 90				FY 91***				FY 92****				FY 93****				FY 94****			
	(WITHIN EXISTING RESOURCES)																			
	\$EM	OPP	OCM	REG**	\$EM	OPP	OCM	REG	\$EM	OPP	OCM	REG	\$EM	OPP	OCM	REG	\$EM	OPP	OCM	REG
1. EPA Training*	---	---	0.1	0.2	30K	0.3	0.2	0.5	---	---	---	---	---	---	---	---	---	---	---	---
2. EPA Infrastructure	---	---	---	0.2	---	0.5	0.2	0.3	---	---	---	---	---	---	---	---	---	---	---	---
3. Tribal Training*		0.1	0.1	0.1	50K	0.5	0.2	0.3	---	---	---	---	---	---	---	---	---	---	---	---
	15K																			
4. Tribal Needs Assessment* (Joint funding with OW, OSWER, etc.)	---	0.1	0.1	0.2	50K	0.2	0.2	0.6	---	---	---	---	---	---	---	---	---	---	---	---
5. Tribal Infrastructure	64K	0.1	0.1	0.2	70K	0.2	0.1	0.3	---	---	---	---	---	---	---	---	---	---	---	---
6. Leveraging Resources	---	0.1	---	---	---	0.3	---	0.2	---	---	---	---	---	---	---	---	---	---	---	---
7. Annual Funding for Tribes	---	---	---	---	---	0.5	0.1	0.2	---	---	---	---	---	---	---	---	---	---	---	---
TOTALS	<u>79K</u>	<u>0.4</u>	<u>0.4</u>	<u>0.9</u>	<u>200K</u>	<u>2.5</u>	<u>1.0</u>	<u>2.4</u>												

*OFA and EPA Institute support is expected in the development and conduct of EPA and Tribal training and tribal needs assessment

**Regional resources would be used to provide suggestions and critique draft plans.

***Planning targets only. The OPP Integrated Work Planning process will determine resources for FY 91.

****Resource estimates will be made after plan approval.

Management overtime would be used to perform work on Objectives 1 and 2.

OPP'S INDIAN PROGRAM BUDGET ESTIMATES FOR FY'S 89, 90, 91

	<u>FY89</u> <u>Actual</u>	<u>FY90</u> <u>Planned</u>	<u>FY91</u> <u>Estimate</u>
Pesticide Program Implementation	\$60,000	\$79,000	\$60,000

In FY 89, Region 8 along with OPP sponsored a National Indian Tribal Certification and Training Workshop to discuss pesticide program initiatives and detailed instructions for development and administration of a C&T program.

In FY 90, Region 9 has \$15,000 to work with the Navajo Tribes to translate applicator training material into Navajo. Also, in FY 90 the Tribes will receive funds for worker protection, endangered species, and groundwater if the tribes have or are willing to enter into, an Enforcement/Certification Cooperative Agreement with EPA. Also, \$64,000 has been set aside for worker protection for Tribes within existing enforcement cooperative agreements.

In FY 90, Region 8 and OPP are developing plans to conduct a workshop for tribes similar to the one conducted in FY 89 on C&T, however, the focus will be on pesticides in ground water.

OCM'S TRIBAL ENFORCEMENT COOPERATIVE AGREEMENT BUDGET ESTIMATES FOR FY'S 89, 90 AND 91

<u>FY89</u>	<u>FY90</u>	<u>FY91</u>
\$297,000	\$447,000	\$695,100

In addition to the figure listed above for FY 90, OCM has set aside \$50,000 from its extramural/contract funds to hold a tribal pesticide enforcement conference in FY 90. From the FY 90 tribal enforcement grant budget listed above, Region VIII received \$120,000, Region IX received \$303,000 and Region X received \$23,500 for their FY 90 tribal enforcement cooperative agreements.

*OPP is currently considering to fund some additional projects in FY 90 if funding becomes available later in the year.

**This figure was provided to OMB in January 1990 and is only an estimate. Actual cost will not be developed until OPP undergoes the annual planning process.

ENVIRONMENTAL PROGRAMS ON INDIAN RESERVATIONS FY'85

THE OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

REGION	(\$000) EXPENDITURE	PERSON YEARS	TYPE OF ASSISTANCE	PROGRAM DESCRIPTION
IV		0.1	T/A	Advice on pesticide use/application, certification requirements for applicators using restricted use pesticides.*
V		0.7	T/A	Technical assistance on TSCA issues of concern to tribes including PCBs and health effects.
	IHS funded	.03	T/A	Technical assistance concerning health effects of asbestos; includes slide shows, seminars and answering questions on removal or abatement of asbestos.
VI	N/A	N/A	T/A	Only minimal current FIFRA and TSCA activities with the Navajo nation.
VII	N/A	N/A	N/A	No current FIFRA or TSCA activities reported.
VIII	\$140.5		F/A	There are six Pesticide Cooperative Enforcement Grants active in the region. They provide for pesticide applicator certification and enforcement programs.
		0.2	T/A	Inspector training, program information, joint enforcement if requested.
		0.3	T/A	Program oversight, pesticide use, and technical assistance. Efforts are underway to achieve tribal/state/EPA coordination. Enforcement training which involves pesticide problem identification.
		0.83	D/I	Pesticide enforcement on several reservations.

*All tribes except the Seminole have memoranda of understanding with state agencies giving the state authority to regulate certified applicators.

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS ON INDIAN RESERVATIONS

THE OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

REGION	(\$000) EXPENDITURE	PERSON YEARS	TYPE OF ASSISTANCE	PROGRAM
IX	\$200.0		F/A	Ther in t FIFRA Grants
	\$1.0	0.06	T/A	FIFRA training in field procedur evidence collect- ion, ent.
		0.04	T/A	Assis p procedures and n ance with TSCA Working with a program to help compliance.
X	\$18.0		F/A	Pestic Grant to help Shosh develop a pesti- cide eram on the reserv
HO	\$234.0		F/A	Interac with the Depart prior to aid in Removin Indian school.

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) EXPENDITURE	WORK YEARS	TYPE OF ASSISTANCE	PROGRAM DESCRIPTION
OPTS Region V		0.01	Outreach	A director representative participated as a speaker and presented talks on asbestos: its uses, problems, and health effects. Information packets were provided on the Asbestos School Hazard Abatement Act Loan or Grant Program for use by Indian Reservation Schools.
OPTS Region VIII	\$125.5		F/A	There are five Pesticide Cooperative Enforcement grants Active in the region. They provide for pesticide applicator certification and enforcement programs.
OPTS Region VIII		0.25	F/A	Inspector TRAINING program information, for enforcement if requested.
OPTS Region VIII		0.35	F/A	Program oversight, pesticide use, and technical assistance. Efforts are underway to achieve tribal/state/EPA coordination. Enforcement training which involves pesticide problem identification.
OPTS Region VIII		0.83	O/I	Pesticide enforcement on several reservations.
OPTS Region IX	\$70.0	0.25	F/A T/A	This grant to the Navajo Nation enables developing a tribal pesticide code, enforcing FIFRA, conducting a pesticide outreach program on the reservation and providing technical assistance.

EPA ACTIVITIES ON INDIAN RESERVATIONS: FY 86

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) EXPENDITURE	WORK YEARS	TYPE OF ASSISTANCE	PROGRAM DESCRIPTION
OPTS Region IX	\$160.896	0.25	F/A T/A	This grant enables the Inter-Tribal Council of Arizona to work with six tribes in Arizona on pesticide issues including enforcement of FIFRA and tribal pesticide ordinances, and to provide technical assistance.
OPTS Region X		0.20	O/I	Administration of pesticide enforcement grant by Region X Idaho Operations Office on the Ft. Hall Reservation
OPTS HQ - Asbestos Action Program	\$264.434		F/A	Under the Asbestos School Hazard Abatement Act, the EPA provides financial assistance in the form of grants to BIA schools for abatement of asbestos hazards in school buildings. In FY 86, EPA offered grants for 38 new BIA asbestos abatement projects in the north-central and southwestern United States.
OPTS HQ - Asbestos Action Program			Outreach	HQ personnel conducted several briefings on the ASHAA loan and grant program for BIA officials in Washington, D.C., and assisted the Bureau in application distribution.

EPA ACTIVITIES ON INDIAN RESERVATIONS: FY 87

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(5000) EXPENDITURE	WORK YEARS	TYPE OF ASSISTANCE	PROGRAM DESCRIPTION
OPTS Region VIII	\$120.0		F/A	There are five Pesticide Cooperative Enforcement grants active in the region. They provide for pesticide applicator certification and enforcement programs.
		0.20	T/A	Inspector training, program information, joint enforcement if requested.
		0.30	T/A	Program oversight, pesticide use, and technical assistance. Efforts are underway to achieve tribal /state/EPA coordination. Enforcement training which involves pesticide problem identification.
		0.83	D/I	Pesticide enforcement on several reservations.
OPTS Region IX	\$63.0	0.25	F/A T/A	This grant to the Navajo Nation enabled the development of the tribal pesticide code. The Navajo have passed the Tribal Pesticide Code and are now enforcing FIFRA and conducting a pesticide outreach program on the reservation.
	\$171.0	0.50	T/A	This grant enables the Inter-Tribal Council of Arizona to work with six tribes in Arizona on pesticide issues including enforcement of FIFRA and tribal pesticide ordinances, and to provide technical assistance.

EPA ACTIVITIES ON INDIAN RESERVATIONS: FY 87

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) EXPENDITURE	WORK YEARS	TYPE OF ASSISTANCE	PROGRAM DESCRIPTION
OPTS Region X	\$36.0*		F/A	Pesticide enforcement grant to Shoshone-Bannock Tribes to assist in development of Pesticide Use and Certification Code, and training of tribal inspector.
		0.20	D/I	Working with Shoshone-Bannock Tribes in pesticides enforcement, code development, training, disposal policies, safety programs, and in development of inter-agency agreement.
OPTS HQ - Asbestos Action Program	\$262.500		F/A	Under the Asbestos School Hazard Abatement Act, the EPA provides financial assistance in the form of grants to BIA schools for abatement of asbestos hazards in school buildings. In FY 87, EPA offered grants for 8 new BIA asbestos abatement projects in the north-central and southwestern United States.
			Outreach	HQ personnel conducted several briefings on the ASHAA loan and grant program for BIA officials in Washington, D.C., and assisted the Bureau in application distribution.

* Includes \$18,000 FIFRA enforcement grant in FY 86 not shown on final version of FY 86 report, and \$18,000 grant in FY 87.

EPA ACTIVITIES ON INDIAN RESERVATIONS: FY 88

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) FUNDING	WORK YEARS	TYPE	PROGRAM DESCRIPTION
Region 5	\$39.0		F/A	Asbestos abatement of pipe and boiler wrap in school buildings. (Oncida and Mille Lac Band of Chippewa.)
			Outreach T/A	School asbestos inspection, assessment and management of buildings. (AHERA regulations for schools.)
Region 6		0.20	T/A	Coordination and oversight of grant awarded by HQ to BIA to administer and subsidize the asbestos inspection and management plan development program under AHERA for all Indian schools in the U.S.
Region 8	\$171.5		F/A	There are five Pesticide Cooperative Enforcement Agreements active in the region with the Cheyenne River, Lower Brule, Pine Ridge Oglala and Rosebud Sioux Tribes and Three Affiliated Tribes at Ft. Berthold. They provide for pesticide enforcement of FIFRA and tribal pesticide ordinances.
		0.20	T/A	Inspector training, program information, joint enforcement if requested.
		0.30	T/A	Program oversight, pesticide use, and technical assistance. Efforts are underway to achieve tribal/state/EPA coordination. Enforcement training involves pesticide problem identification.
		0.83	D/I	Pesticide enforcement on several reservations.
Region 9	\$63.0	0.25	F/A	Grant to Navajo Nation to enable the tribe to enforce FIFRA and conduct a pesticide outreach program on the reservation.
	\$160.0	0.50	F/A T/A	Grant to Inter-Tribal Council of Arizona on pesticide issues including enforcement of FIFRA and tribal pesticide ordinances, and to provide technical assistance. Tribes which are included in this effort are Gila River, Cocopah, Quechan, Colorado River, Salt River-Pima Maricopa, Ft. Mohave, Ak-Chin and Tohono O'Odham.

EPA ACTIVITIES ON INDIAN RESERVATIONS: FY 88

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) FUNDING	WORK YEARS	TYPE	PROGRAM DESCRIPTION
Region 10	\$18.0		F/A	Pesticide enforcement grant to Shoshone-Bannock Tribes to assist in development of pesticide use and certification code, and training of a tribal inspector.
		0.20	D/I	Working with Shoshone-Bannock Tribes in pesticides enforcement, code development, training, disposal policies, safety programs, and in development of IAG
HQ-ASHAA *Region 6 *Region 7 *Region 8	\$113.7 \$40.878 \$33.097 \$39.777		F/A	Under the ASHAA, the EPA provides financial assistance in the form of grants to BIA schools for abatement of asbestos hazards in school buildings. In FY 88, EPA offered grants for 17 new BIA asbestos abatement projects in the north-central and southwestern United States.
			Outreach	HQ personnel met with BIA officials regarding the ASHAA loan and grant program and assisted the Bureau in updating their applications.
HQ-AIMPAP	\$1000.0		F/A	Under the Asbestos Inspection and Management Plan Assistance Program, EPA provides financial assistance (in the form of grants) to BIA schools to help defray the cost of complying with the Inspection and Management Plan requirements of AHERA. The grant was awarded directly to BIA, which will develop an award strategy for their schools.
			Outreach	HQ personnel met with BIA officials to discuss the application requirements. HQ and regional personnel worked directly with BIA to ensure that all selection criteria were addressed.

EPA ACTIVITIES ON INDIAN RESERVATIONS: FY 89

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

OFFICE	FUNDING (\$000)	WORK YEARS	TYPE	PROGRAM DESCRIPTION
HQ-OPTS	\$6.0		T/A	AA/OPTS funding a NNEMS grant for review of indian program implementation and options for consideration of revised strategies.
			T/A	OPTS mailed SARA Title III, section 313 information to indian libraries in order to increase public awareness of manufacturing facility emissions into the environment and to encourage access and use of this data for planning purposes.

~~ACTIVITIES OF INDIAN RESERVATIONS: FY 89~~
OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) FUNDING	WORK YEARS	TYPE	PROGRAM DESCRIPTION
Region 5			Outreach T/A	School asbestos inspection, assessment and management of buildings. (AHERA regulations for schools).
		0.02	T/A	Background information packet for FIFRA grant guidance for Oneida and other interested Region V tribes.
		0.01	T/A	Contacted State and other lead agencies (MN, MI, WI) under FIFRA request during FY'90 to cooperatively review role of enforcing Federal statutes on Federally recognized Indian Reservations.
		0.02	Outreach	Conducted Pesticide Seminar to facilitate information exchange between States, Region and Tribes in Region V on groundwater issues.
Region 6		0.20	T/A	Coordination and oversight of grant awarded by HQ to BIA to administer and subsidize the asbestos inspection and management plan development program under AHERA for all Indian schools in the U.S.
		0.02	D/I	Met with Laguna Tribal representatives concerning a TSCA enforcement action against Transwestern Pipeline Company (Contamination on Indian Lands)
Region 8	\$151.3		F/A	There are five Pesticide Cooperative Enforcement Agreements active in the region with the Cheyenne River, Lower Brule, Pine Ridge Oglala and Rosebud Sioux Tribes and Three Affiliated Tribes at Ft. Berthold. They provide for pesticide enforcement of FIFRA and tribal pesticide ordinances.
		0.20	T/A	Inspector training, program information, joint enforcement if requested.

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

PROGRAM HEADING	(\$000) FUNDING	WORK YEARS	TYPE	PROGRAM DESCRIPTION
Region 8 (cont.)		0.30	T/A	Program oversight, pesticide use and technical assistance. Efforts are under way to achieve tribal/state/EPA coordination Enforcement training involves pesticide problem identification.
		0.83	D/I	Pesticide enforcement on several reservations.
	\$60.0		T/A	EPA/OPP funding a National Indian Tribal Certification and Training Workshop to discuss pesticide program initiatives and detailed instructions for development and administration of a C&T program.
				EPA/OPP review of certification plans for Rosebud Sioux, Lower Brule Sioux.
Region 9	\$74.5	0.25	F/A	Grant to Navajo Nation to enable the tribe to enforce FIFRA and conduct a pesticide outreach program on the reservation.
	\$140.0	0.50	F/A T/A	Grant to Inter-Tribal Council of Arizona on pesticide issues including enforcement of FIFRA and tribal pesticide ordinances, and to provide technical assistance. Tribes which are included in this effort are Gila River, Cocopah, Quechan, Colorado River, Salt River-Pima Maricopa, Ft. Mohave, Ak-Chin and Tohono O'Odham.
	\$30.0		F/A T/A	Grant from AA/OPTS to Inter-Tribal Council of Arizona to coordinate FIFRA Tribal Inspectors' Training Workshop, which was held in March, 1989 and which was attended by tribal representatives from reservations in EPA Regions VIII, IX, and X.

Two Certification Plans have been submitted for approval and FR publication. The tribe submitting these plans were Cheyenne River Sioux and Rosebud Sioux.

OFFICE OF PESTICIDES AND TOXIC SUBSTANCE

PROGRAM HEADING	(\$000) FUNDING	WORK YEARS	TYPE	PROGRAM DESCRIPTION
Region 9 (cont.)	\$50.0	0.05	F/A	Funding of Inter-Tribal Council of Arizona to conduct a 2-year special project on endangered species to include 8 of the tribes in Az.
Region 10		0.20	D/I	Working with Shoshone-Bannock Tribes in pesticides enforcement, code development, training, disposal policies, safety programs and in development of IAG
	\$18.0		F/A	Pesticide enforcement grant to Shoshone-Bannock Tribes to assist with implementation of the tribal pesticide code and certification programs.
		0.25	D/I	Work with Shoshone-Bannock Tribes to help develop and implement a penalty policy and quality assurance plan.
		0.02	D/I	Investigation and Inspection of Rockford Grain Growers at the request of the Coer d'Alene tribe.
		0.05	Outreach	Continue to train tribal inspectors and oversee the permit program. Participation in national pesticide training program for tribes.
HQ-ASHAA			Outreach	HQ personnel met with BIA officials regarding the ASHAA loan and grant program and assisted the Bureau in updating their applications.
HQ-AIMAP			Outreach	HQ personnel met with BIA officials to discuss the ASHAA application requirements. HQ and regional personnel worked directly with BIA to ensure that all selection criteria were addressed.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 9 1990

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: OPP Activities on Indian Tribes - Update FY 89 and 90
FROM: *Chuck Reese*
Chuck Reese, Chief
Certification and Training Branch, FOD (H7506C)
TO: Thomas P. Hooven, Deputy Director
Office of Program Management Operations, OPTS (TS-788)

The Certification and Training Branch still has only one approved Tribal certification plan (Fort Berthold Reservation, ND), but has certification plans for final approval from the Rosebud Sioux (SD) and Cheyenne River Sioux (SD). Tribes' Certification plans are under review and being revised for the Lower Brule Sioux, (SD); Fort Peck Reservation, MT; and Fort Hall Reservation, ID. The Tribes with approved plans will be eligible to receive certification grants.

Region VIII, with support from Headquarters OPP, has conducted a National Indian Tribal Certification and Training Workshop. The workshop was held from September 5-8, 1989 in the Region VIII Conference Center adjoining the Regional office. The workshop agenda was developed by Region VIII in coordination with other interested Regions. The major topics addressed were structure and purpose of EPA's pesticides program, administration of cooperative agreements, special pesticide initiatives, other EPA programs that affect pesticides, and detailed instructions for development and administration of a pesticide certification and training program.

EPA/OPP has provided funding of \$60,000 for this initiative. Adequate funding was available to pay the travel and per diem costs of forty tribal representatives. However, only one member from each tribe was eligible for funding support. The National Congress of American Indians was retained by EPA to contact the tribes and to coordinate the travel and accommodations. Twenty-six tribal elders and environmentalists from 23 tribes or tribal groups and 13 EPA representatives participated in the workshop.

The purpose of the workshop was to assist Indian tribes in developing certification and training programs for their reservations. Participants were also briefed on related issues concerning funding and grants, enforcement, worker protection, endangered species and groundwater. A very interesting presentation of extensive monitoring of the Rosebud Sioux Reservation's aquifer in South Dakota was made by the tribal groundwater hydrologist.

For FY 90 the Tribes are to receive funds for worker protection, endangered species, and groundwater if they have, or are willing to enter into, an Enforcement/Certification Cooperative Agreement with EPA. In regards to worker protection, \$4,000/Tribe (grand total \$64,000 of \$1 million) has been set aside for Tribes with existing cooperative agreements. Since Groundwater and Endangered Species are geographic issues, funding for Tribes is not within a discrete allotment but part of a geographic allotment for the State in which the Tribal lands exist. Thus, Tribes with cooperative agreement will be eligible to receive some funding based on severity of problem on their lands. Also in FY 90 \$15,000 has been set aside for Region IX to work with the Navajo Tribes to translate applicator training materials into Navajo.

OPP has formed a minority recruiting task force which has been actively recruiting American Indians for available positions. The task force has advertised nationally (e.g. Winds of Change) and feels they are starting to meet with success.

OPP and Region VIII are developing plans to conduct a workshop for Tribes similar to the certification workshop but the topics will be groundwater and pesticides. This will occur in the fall of 1990 if funding is available.

If you have further questions, please contact me at 557-7371.

cc: SJohnson, FOD

Exhibit 3-4

PESTICIDE ENFORCEMENT
COOPERATIVE AGREEMENT
APPLICATION MANUAL

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INTRODUCTION

PESTICIDE CONTROL GOALS AND PURPOSE

The U.S. Environmental Protection Agency (EPA) is responsible for regulating pesticide use to prevent or limit the exposure of humans and the environment to pesticides and their harmful effects. Much of the regulatory authority to accomplish this is provided by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Cooperative agreement and applications. FIFRA makes it possible for tribes, as well as states, to develop pesticide enforcement cooperative agreements with the EPA. This cooperative agreement is a mechanism that allows the Federal Government to augment or develop state and tribal pesticide enforcement programs by delegating the authority to cooperate in the enforcement of FIFRA. Through the cooperative agreement process, regional EPA offices communicate EPA desires in the form of national priorities for enforcement and pesticide programs. The cooperative agreement process enables each participating state or tribe to create a local regulatory environment that is consistent with Federal regulations. In addition, it is the means by which EPA provides financial and technical assistance to tribes and states on a continuing basis.

Pesticide control efforts required under current law involve enforcement of regulations, certification and training of applicators, and operation of pesticide programs to protect workers, ground water, and endangered species from pesticide effects. Each of these areas may be the subject of a cooperative agreement. However, rather than deal with each area as a separate agreement, states and tribes can combine them in one consolidated cooperative agreement.

Funding for each type of cooperative agreement is determined prior to the start of each fiscal year (FY). The amount of funding that your tribe may apply for under the agreements depends on the needs of your programs and the funds allocated for each EPA region. In order to qualify to receive the funds, your tribe must demonstrate that the funds will be used appropriately, effectively, and legally.

You must apply the funds in ways that will enable you to--

- Support national and local priorities
- Plan future efforts
- Develop programs based on plans approved by EPA
- Implement and improve programs
- Report results

Your cooperative agreement application is the basis that the EPA regional staff will use to determine that your tribe is qualified to receive funding. By consulting with your regional EPA office before applying, you will be able to create an application that will qualify you for funding to establish and maintain pesticide control programs.

APPLICATION STEPS

The cooperative agreement application process is a complicated one. Many people participate in the creation and assembly of the application elements. The process will seem more manageable if you consider the sequence of steps in the process:

- Pre-application preparation
- Preparation of application forms
- Preparation of budgets
- Preparation of the narrative statement
- Preparation of work program for enforcement
- Preparation of work programs for certification and pesticide programs
- Submittal of the application

These steps are the major topics that this manual addresses. By dealing with each step separately, you should be able to complete the application quickly and easily.

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Although the EPA regional office staff is committed to helping tribes develop applications, they also have many other tasks to perform. You should consult with them whenever necessary, but much of the assistance they have been providing to tribes is now

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- General information for tribal applicants
- Specific information relevant to tribal concerns
- Detailed step-by-step instructions for tribal applicants

Most of this information is available in the FY 92 Consolidated Pesticide Cooperative Agreement Guidance which conveys the formal EPA policies regarding the agreements and applications. It is intended for use by the regional staff as well as by applicant tribes. This manual supplements that guidance and describes the application procedures rather than the application requirements. In this manual, you will find explanations of the information that the EPA regional staff will use to evaluate your application, as well as suggestions for collecting and presenting that information. You will also find sample applications that can be used as models for your tribe.

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Several appendices are included. The appendices provide a sample application that you may use as a model or for reference; a list of recommended steps to take when beginning a pesticide control program; and a list of contacts at EPA and other states and tribes.
- **Glossary**
The glossary contains definitions of many of the special terms used in this manual and the cooperative agreement guidance.

Marginal notes. Throughout this manual you will see text in the left margin next to some paragraphs. This text refers to specific pages, appendices, or portions of documents that contain additional information on the same subject matter as the paragraph. Among the documents referred to are the FY 92 Consolidated Pesticide Cooperative Agreement Guidance (*Guidance*) and appendices of this manual (such as *App. A*).

PRE-APPLICATION PREPARATION

Before you apply for a pesticide enforcement cooperative agreement, there are some preliminary steps you should take.

INITIAL TASKS

In order to apply for an agreement, you will already have a pesticide program in place or will have established the need to develop one. The application requires descriptions of plans or existing programs for which the funds will be used. If you are a first time applicant, funds will not be awarded to you without evidence that you have made efforts to plan a realistic program. For continuing applications, evidence is needed that shows you are maintaining your program and developing additional functions to support new local and Federal initiatives.

Your regional EPA office will provide comments on your pesticide regulations and advise you on implementing them. The regional office will also help you ensure that national requirements are met. EPA will assist you with all stages of developing your programs, including preparation of cooperative agreement applications. In fact, some details of your programs must be negotiated with EPA staff.

As you prepare your cooperative agreement applications, the EPA regional staff can assist you in several ways:

- Advice on your approach to program development. When you contact your regional EPA staff before you apply, they will want to discuss the amount of funds potentially available to you, the current state of your pesticide control programs, and the priority of various national and tribal goals related to the program. After they establish an understanding of your situation, they will advise you on the specific steps appropriate for you to take to achieve the greatest benefit with the funds that are available.

- Pre-application consultations. EPA maintains an ongoing dialogue with tribal members responsible for pesticide regulation and program operation. As a part of this dialogue, they will discuss all the requirements for planning and developing your programs and applying for cooperative agreements.
- Directions for applying. EPA will give you specific directions for receiving application materials (such as this manual), planning your approach to the application, negotiating details of the application, and answering any questions that are not covered in this manual.
- Determination of funds available. The Federal Government allocates funds for cooperative agreements to each region each year. Your region can tell you the maximum amount of funds that are available for your agreement. Using this information, you can plan exactly the level of operation that is realistic for the period of the application.
- Review of draft applications. EPA can review your application or parts of it before you submit it. This will ensure that it is adequate and will be approved.

Perhaps the most important prerequisite for preparing your application is that you establish the direction of your program. Tribal pesticide programs are too complex and costly for most tribes to develop completely in the first year. Instead, tribes develop programs through a gradual process of planning and incremental implementation. Each year tribes make decisions to include certain aspects of the program and exclude others. These decisions must be made after consideration of the needs of the tribe, the national and regional priorities established by EPA, and the amount of funding allocated to the region. Cooperative agreement funds may be used for the initial development of program elements as well as for their implementation and operation. By working in close cooperation with EPA, you will be able to develop an approach that balances development and implementation to create the best program for your tribe. Tribes, however, should not apply for cooperative agreement monies to fund an assessment of whether a pesticide enforcement program is needed. Once the tribe has determined a need, it should apply for funds to plan its program.

If you are just beginning to develop a pesticide program, you may find it useful to consult other tribes with existing programs to gain from their experience. Appendix B of this manual provides a list of contacts in other tribes that operate pesticide programs. A document produced by the Inter-Tribal Council of Arizona, a long-standing pesticide enforcement grantee, describes a number of important aspects of tribal pesticide programs. These aspects include developing regulations, setting priorities, implementing inspections, conducting investigations, and reporting results to EPA.

APPLICATION FORM

Many components make up the cooperative agreement application. Most of the pages in your complete application will contain technical details about your program. Every application must include one set of standard forms.

STANDARD FORM 424

The application form that you use to apply for cooperative agreement funds is the Standard Form 424, Application for Federal Assistance. This is a general purpose Federal form that is also used in other types of funding and grant programs. The form consists of three pages: the first page contains applicant and program identification information; the last two pages contain program budget information.

For your pesticide program cooperative agreement, you need to supply specific information relevant to pesticide programs and the funding agency (EPA). The specific information needed in each block of the form is described in the following paragraphs. A sample completed SF 424 from a tribal application is shown on page 12.

- | | |
|---------|---|
| Block 1 | TYPE OF SUBMISSION
Indicate Non-Construction since these funds are not to be used for construction projects. |
| Block 2 | DATE SUBMITTED
Indicate the date you are submitting the application. |
| Block 3 | DATE RECEIVED BY STATE
Leave blank. |
| Block 4 | DATE RECEIVED BY FEDERAL AGENCY
Leave blank. |
| Block 5 | APPLICANT INFORMATION
Legal Name. Name of governing/submitting body (tribe or group of tribes), such as Perfect Tribe or Inter-Tribal Council of Arizona. |

- Organizational Unit. Group within the tribe that is preparing the application. For example, the Department of Agriculture.
- Block 6 **EMPLOYER IDENTIFICATION NUMBER (EIN)**
Enter the employer identification number of the governmental body that will employ the pesticide personnel.
- Block 7 **TYPE OF APPLICANT**
Enter K for Indian tribe.
- Block 8 **TYPE OF APPLICATION**
Check New if this is your tribe's first cooperative agreement.
Check Continuation if your tribe currently has a pesticide cooperative agreement in effect.
Check Revision if this application is a resubmission of an application for the project period.
- Block 9 **NAME OF FEDERAL AGENCY**
Enter EPA and the regional office address.
- Block 10 **CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER**
The Catalog of Federal Domestic Assistance number for this application is 66-700; the title is Pesticide Enforcement Program.
- Block 11 **DESCRIPTIVE TITLE OF APPLICANT'S PROJECT**
The descriptive title is Consolidated Pesticide Cooperative Agreement Program. Include all activities that are addressed in your application. For example--
- Consolidated Pesticide Cooperative Agreement Program including--
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 Applicator Certification
 Pesticide Program Activities

PESTICIDE ENFORCEMENT
COOPERATIVE AGREEMENT
APPLICATION MANUAL

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INTRODUCTION

PESTICIDE CONTROL GOALS AND PURPOSE

The U.S. Environmental Protection Agency (EPA) is responsible for regulating pesticide use to prevent or limit the exposure of humans and the environment to pesticides and their harmful effects. Much of the regulatory authority to accomplish this is provided by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Cooperative agreement and applications. FIFRA makes it possible for tribes, as well as states, to develop pesticide enforcement cooperative agreements with the EPA. This cooperative agreement is a mechanism that allows the Federal Government to augment or develop state and tribal pesticide enforcement programs by delegating the authority to cooperate in the enforcement of FIFRA. Through the cooperative agreement process, regional EPA offices communicate EPA desires in the form of national priorities for enforcement and pesticide programs. The cooperative agreement process enables each participating state or tribe to create a local regulatory environment that is consistent with Federal regulations. In addition, it is the means by which EPA provides financial and technical assistance to tribes and states on a continuing basis.

Pesticide control efforts required under current law involve enforcement of regulations, certification and training of applicators, and operation of pesticide programs to protect workers, ground water, and endangered species from pesticide effects. Each of these areas may be the subject of a cooperative agreement. However, rather than deal with each area as a separate agreement, states and tribes can combine them in one consolidated cooperative agreement.

Funding for each type of cooperative agreement is determined prior to the start of each fiscal year (FY). The amount of funding that your tribe may apply for under the agreements depends on the needs of your programs and the funds allocated for each EPA region. In order to qualify to receive the funds, your tribe must demonstrate that the funds will be used appropriately, effectively, and legally.

You must apply the funds in ways that will enable you to--

- Support national and local priorities
- Plan future efforts
- Develop programs based on plans approved by EPA
- Implement and improve programs
- Report results

Your cooperative agreement application is the basis that the EPA regional staff will use to determine that your tribe is qualified to receive funding. By consulting with your regional EPA office before applying, you will be able to create an application that will qualify you for funding to establish and maintain pesticide control programs.

APPLICATION STEPS

The cooperative agreement application process is a complicated one. Many people participate in the creation and assembly of the application elements. The process will seem more manageable if you consider the sequence of steps in the process:

- Pre-application preparation
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- Block 1 **TYPE OF SUBMISSION**
Indicate Non-Construction since these funds are not to be used for construction projects.

- Block 2 **DATE SUBMITTED**
Indicate the date you are submitting the application.

- Block 3 **DATE RECEIVED BY STATE**
Leave blank.

- Block 4 **DATE RECEIVED BY FEDERAL AGENCY**
Leave blank.

- Block 5 **APPLICANT INFORMATION**
Legal Name. Name of governing/submitting body (tribe or group of tribes), such as Perfect Tribe or Inter-Tribal Council of Arizona.

- Organizational Unit. Group within the tribe that is preparing the application. For example, the Department of Agriculture.
- Block 6 **EMPLOYER IDENTIFICATION NUMBER (EIN)**
Enter the employer identification number of the governmental body that will employ the pesticide personnel.
- Block 7 **TYPE OF APPLICANT**
Enter K for Indian tribe.
- Block 8 **TYPE OF APPLICATION**
Check New if this is your tribe's first cooperative agreement.
Check Continuation if your tribe currently has a pesticide cooperative agreement in effect.
Check Revision if this application is a resubmission of an application for the project period.
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Enter EPA and the regional office address.
- Block 10 **CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER**
The Catalog of Federal Domestic Assistance number for this application is 66-700; the title is Pesticide Enforcement Program.
- Block 11 **DESCRIPTIVE TITLE OF APPLICANT'S PROJECT**
The descriptive title is Consolidated Pesticide Cooperative Agreement Program. Include all activities that are addressed in your application. For example--
- Consolidated Pesticide Cooperative Agreement Program including--
 Pesticides Enforcement
 Applicator Certification
 Pesticide Program Activities

- Block 12 **AREAS AFFECTED BY PROJECT**
Specify the tribal lands/reservation(s) where the program will be in effect.
- Block 13 **PROPOSED PROJECT**
Start Date /Ending Date. Show beginning and ending dates of the agreement.
- Block 14 **CONGRESSIONAL DISTRICTS OF Applicant/Project.** [Optional] Identify congressional district(s) in which the program will be effective.
- Block 15 **ESTIMATED FUNDING**
Show the estimated funding for each category listed. The amounts should match the amounts on your Budget Information forms (see chapter 4).
- Block 16 Leave this block blank since it does not apply to tribes. However, review of your application by your Tribal Council is recommended.
- Block 17 In this block, indicate if the tribe is delinquent on Federal debt.
- Block 18 In these blocks, supply the signature and other information of the Tribal Chairman or person with equivalent authority.

BUDGET INFORMATION FORMS

Two additional pages of budget information forms are necessary to complete the SF 424. The preparation of these forms is described in chapter 4, Budgets.

BUDGET REQUIREMENTS

You will not receive cooperative agreement funding unless you explain how the funds will be spent and justify the amount spent for each budget item. EPA regional staff will evaluate the legitimacy of your proposed budget and the adequacy of the budget to accomplish the proposed actions. They will determine if you have sufficient financial resources to accomplish the goals and implement the programs described in the other portions of your application. To ensure that your funding levels are adequate, EPA regional staff will assist you with determining a funding level that is both needed and available, and recommend activities that the funding can support.

BUDGETS FOR ACTIVITIES

*Guidance p. 2, 11,
Appendix IX*

Cooperative agreement applications may cover certification and pesticide program activities as well as enforcement. Since these activities are actually separate programs proposed in one consolidated application, you must supply separate budgets for each. However, the budget categories and totals for each may be shown on a single Budget Information form.

Individual cost items, such as one pesticide control officer who handles all activities, may be shared by the different activities. In such cases, the total cost of the item must be distributed among the budgets for the activities in which it is used. The only requirement is that you must show a need for at least one half workyear for enforcement activities.

COST CATEGORIES

*Guidance p. 12
OMB Circular A-87*

Cost categories are the various types of expenses that typically are incurred in the process of performing pesticide control activities. A set of standard cost categories has been defined by the Office of Management and Budget (OMB) in OMB Circular A-

87. This list of categories includes all those shown in section B of the Budget Information forms that accompany SF 424:

- Personnel
- Fringe benefits
- Travel
- Equipment
- Supplies
- Contractual
- Construction
- Other
- Indirect costs

By using these categories to prepare your budget, you will ensure that your budget is thorough and accurate. Each of the individual cost categories is explained in the sections below.

Personnel. Personnel costs are the salaries and wages that are paid to employees of an agency. Typical personnel positions involved in pesticide programs include pesticide control officers, inspectors, technicians, clerical support, and administrators.

Your application budget must show the positions, the number and rate of each position, and the time each spends on the activity being budgeted.

- **Rate.** The annual rate paid to each worker.
- **Time.** Estimate time spent by each position working on the program in question as a decimal fraction (for example, .25) of one workyear. (A workyear is assumed to be 1800 hours including vacation and holidays). For enforcement activity, an estimate may be based on the number of inspection sites and the average time required for one inspection.
- **Cost calculations.** Multiply the fraction of a year for each worker by the corresponding annual rate to calculate total salary cost.

For example, if a pesticide officer works half time on enforcement work, and has an annual salary of \$28,000, the cost of the officer's salary per year to the enforcement activity is \$14,000:

$$1 \text{ officer} \times \$28,000 \text{ per year} \times 0.5 \text{ years} = \$14,000$$

This information must be supplied in section B of the Budget Categories Information forms.

Fringe benefits. Fringe benefits are expenses related to personnel costs, but are considered a separate cost category. These costs include employee benefits such as leave, insurance, social security, pension, and workers' compensation.

Travel. Cooperative agreement funds may be used to pay for travel costs that are related to performance of pesticide control activities. Funding may be applied to travel to perform inspections, attend training or meetings, or other related actions. Estimates of travel budgets should include the number of trips, reasons for travel, method of transportation, and distances, as well as total costs. For example, 2 inspectors each will travel 300 miles round trip by car to attend a one-day training workshop. If travel by personal vehicle is reimbursed at \$.24 per mile, the cost is \$144.00.

$$2 \times 300 \text{ miles round trip} \times \$0.24 \text{ per mile} = \$144.00$$

Since the Budget Categories Information forms do not have a space for describing travel costs, you should include this description in the work program.

Equipment. Another significant expense for pesticide control is equipment. Equipment refers to devices that are long lasting and used in the performance of office, lab, or field work. You may include such items as detection, inspection, and recording instruments; clothing, safety gear, and tools; measurement and analysis instruments for lab work; and office machinery such as typewriters or microcomputers. List items costing more than \$25,000 separately; items less than \$25,000 may be grouped as appropriate.

Supplies. Supplies for pesticide activities may also be purchased with cooperative agreement funds. Supplies are generally low-cost items that are used up in the course of work. Examples include stationery, chemicals, test kits, sample containers, film, and computer disks. You do not have to itemize supply costs; you may group them into general categories such as office supplies, lab supplies, or field supplies.

Contractual. Contractual costs are costs for services performed by a provider and purchased by the tribe. Most tribes use an outside laboratory under contract to the tribe to perform sample analyses. Your tribe may use cooperative agreement funds for this and any other contracted services that are directly applicable to pesticide activities.

Construction. Do not include any construction costs in your application budget. Construction costs are not allowed under the pesticide cooperative agreement.

Other. Include cost items that are directly related to pesticide activities but not covered by the existing categories in this category. Examples of such costs are maintenance and repairs, postage, and technical or trade journals.

Indirect costs. Indirect costs, also known as overhead or burden costs, are the costs which cannot be easily assigned to specific objectives. You may include indirect costs in your budgets if you indicate the method used to determine them. Negotiate with the Department of the Interior to determine the exact rate you may use and submit some form of documentation with your application.

Indirect cost rates are typically expressed as a rate or percentage of a specified budget item such as direct salaries. For example, your tribe may be able to negotiate a rate of 22 percent of the total salaries. You would calculate the total indirect costs for your project by applying this value to the personnel cost from line a of section B. If this line item is \$17,500 then the indirect cost is calculated as

$$22\% \times \$17,500 = \$3,850$$

and added to the subtotal.

NON-FEDERAL RESOURCES

Guidance p. 12

Your tribe must contribute some tribal funds to cover a portion of the cost of your pesticide project. Each pesticide activity has a limit to the amount of funding that can be supplied by

cooperative agreement funds. The amount that must be supplied by the tribe is

- 15 percent for Enforcement funds
- 50 percent for Certification funds
- 15 percent for Pesticide Program funds

You must specify the exact amount your tribe will contribute for each activity in the designated areas of the budget information forms. In section C, indicate your tribe's contribution to each program in column b under the heading Applicant. These amounts should then be transferred to section A, column f, Non-Federal. In section D, line 14, show the quarterly distribution of the tribal contribution.

To arrive at the value of your tribe's contributions, calculate the tribe's percentage of the total expense of each program. For an enforcement program costing a total of \$35,000, the tribe must contribute a minimum of \$5,250 (15% of \$35,000).

Your tribe may fund any of the project budget items or a portion of any item as its contribution. For example, the Perfect Tribe must contribute \$5,250. They could designate that amount from their indirect charges, or they could designate \$3,150 of personnel salary, \$1,100 of fringe benefits, and \$1,000 of indirect costs as the tribe's contributions. The remainder of the project expenses will be funded by the cooperative agreement.

Your tribe's funds may consist of in-kind contributions. An in-kind contribution is the value of contributions other than cash; for example, charges for real property or equipment, or goods and services that directly benefit the activity. These amounts will not be funded by agreement monies, so the tribe will pay them directly. Thus, they qualify as costs funded by tribal funds.

COMPLETING BUDGET FORMS

Guidance p. 12

Your application must contain sufficient budget information to allow the EPA evaluators to determine whether your budget request is justified and realistic with regard to the work proposed. To convey the budget information, you must supply the two pages of Budget Information forms that accompany SF 424, as well as more detailed itemizations of budget items on the Budget Categories Information forms.

Budget Categories Information forms. Use one set of three Budget Categories Information pages (shown on pages 19-21) to determine the total costs for each category for each pesticide activity. The Budget Categories Information forms allow you to describe each cost item in the required detail. You can then transfer the totals from each category to section B of the Budget Information forms to arrive at the total program costs.

SF 424 Budget Information. A sample set of Budget Information forms for the Perfect Tribe sample application is included in Appendix A. Follow these steps to complete the SF 424 budget sheets:

1. Fill in section B with the subtotals from each Budget Categories Information form for each activity to get activity totals and the grand total.
2. In section C show any funds that the tribe (applicant) will contribute for each program. Also list any income generated by the activity in section C.
3. Show separately in section A the Federal and non-Federal funds budgeted for each program.
4. Use section D to show allocation of total Federal and non-Federal funds during each quarter of the fiscal year.
5. List any funds needed for the balance of the project in section E.
6. List additional direct or indirect charges in section F; use additional pages if necessary.

BUDGET CATEGORIES INFORMATION (FROM SF424A, SECTION B TOTALS)

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NARRATIVE STATEMENT

The cooperative agreement application consists of three major elements: SF 424, detailed budget information, and a narrative statement. The narrative statement itself contains some general information about your pesticide programs along with separate work programs for the enforcement, certification, and pesticide program activities. This chapter describes the portion of the narrative statement that applies to all of the pesticide activities and therefore appears only once in your application. Chapter 6 discusses the enforcement work program and Chapter 7 briefly describes the other work programs.

COMMON ELEMENTS

*Guidance p. 13
App. A p. A-2*

The narrative statement of the application is an essential element because it explains what your pesticide control program is intended to accomplish and how it will operate. Four key topics must be addressed in the portion of the statement that is common to all activities:

- Background information about the tribe and the programs
- Your ability to implement the programs
- Objectives of the programs
- Benefits of the program to your tribe and to EPA

Samples of these components from a typical new applicant tribe are provided in Appendix A.

If you are submitting a continuation application, you have supplied this information on earlier applications. Your current application may refer to those previous applications for the common portion of the narrative statement. However, you do need to submit complete work programs for enforcement and any pesticide activities that the agreement is to cover.

App. A p. A-2

Background. Begin the narrative statement with a description of the tribe, its population, land size and use, estimated number of pesticide applicators, types of potential problems associated with pesticide use, and any other general information that may be

address several issues such as your authority to enforce regulations, the development of cases, and cross-jurisdictional situations.

Describe any existing authority to conduct pesticide inspections and enforcement activities as a result of tribal codes. If none exists, describe any efforts or intentions to develop tribal laws or codes involving civil penalty authority for pesticide use violations. If no codes or laws exist, state that you will conduct inspections under Federal authority.

*Guidance p. 59
App. A p. A-4*

Enforcement response policy. Describe your Enforcement Response Policy (ERP) or your plans to develop one. The ERP includes a matrix of all the possible violations of pesticide regulations, different types of users, and the various penalties for first and subsequent violations, as shown below. It also shows the offenses that will be referred to state and Federal authorities for enforcement.

VIOLATION TYPE	MINIMAL TRIBAL ACTIONS	
	<u>1st Offense</u>	<u>2nd Offense</u>
<u>Use Violations</u>		
- Misuse of General-Use Pesticides		
Private	WL	CC
Commercial	WL	CC
- Inadequate applicator records		
Private	State	State
Commercial		
<u>Dealer Violations</u>		
- Sales of RUP to uncertified applicator	EPA	EPA
<u>Product Violations</u>		
- Non-registered product	EPA	EPA
WL = Warning letter		
CC = Civil Complaint		
State = Referred to state authority		
EPA = Referred to EPA authority		

Guidance p. 60
App. A p. A-4

Case development. If your enforcement capability is only partial, or nonexistent, describe procedures for forwarding inspection reports to EPA for enforcement determination and action. If pesticide use laws or codes exist or are under development, describe your case preparation and enforcement procedures or the schedule for their development. Your application must demonstrate the availability of sufficient resources to accomplish the anticipated case development, including reviewing the quality and adequacy of evidence. Describe procedures, or agree to comply with those described in the guidance, for handling violations of tribal law, Federal law, or both.

Guidance p. 61
App. A p. A-4

Cross-jurisdictional situations. Describe any agreements that exist with the state(s) in which the tribe is located concerning cooperative enforcement of problems involving cross-jurisdictional situations.

TRACKING ACTIVITIES

Guidance p. 62
App. A p. A-5

Describe your system for tracking and maintaining documents and files pertaining to all types of inspections, violations found, and enforcement actions taken. Include the length of time that these will be maintained. If your tracking system is not yet in place, agree to implement it within three months of the start of the cooperative agreement period. Agree to track inspections, violations found, and enforcement actions related to cancellations and suspensions of pesticides; agree to report these enforcement actions according to applicable compliance monitoring strategies.

REPORTING

Guidance p. 62,
App. XVIII
App. A p. A-8

Agree to report quarterly all accomplished inspections and sample collections on EPA form 5700-33H. This report should include a narrative report as necessary with details or other comments about the activities.

ACCOUNTING RECORDS AND FILING SYSTEMS

Guidance p. 15, 63
App. A p. A-8

If you are applying for a new cooperative agreement, describe your system for accounting and filing records of funds awarded under the cooperative agreement, in accordance with EPA requirements and generally accepted accounting principles.

Continuation applicants will have had their accounting and filing system described and approved in a previous application.

EVALUATION PLAN

*Guidance p. 63,
App. IV
App. A p. A-8*

EPA requires that each state and tribal pesticide program be evaluated for effectiveness and take steps to improve performance. In your application, describe an evaluation plan, with a schedule for conducting on-site evaluations, that meets EPA requirements. Include an agreement to discuss strengths and problems, take corrective actions, and discuss recommendations for followup activities.

UNRESOLVED PROBLEMS

Guidance p. 64

This category will apply only if you are submitting a continuation application. If any problem areas identified in the most recent end-of-year and current mid-year evaluations are unresolved, describe plans to address them; include a schedule for implementing the plan.

EPA SUPPORT

*Guidance p. 64
App. A p. A-9*

Describe any support available from EPA that you expect to need. This may include negotiated agreements for handling referrals and requests for information.

PESTICIDE PROGRAM WORK PROGRAMS

In addition to enforcement activities, pesticide programs may also address certification and training of pesticide applicators, ground water protection, endangered species protection, and worker protection regulations that are being developed and implemented. Each tribe submitting a cooperative agreement application may include these activities for funding. For each activity, you must prepare a separate work program according to the specifications in the guidance. You must also include cost estimates for each activity with the budget information for the entire program as detailed in SF 424 and the associated forms.

WORK PROGRAM FOR CERTIFICATION

Much of this proposed work program will not apply to most tribes because they will base their certification requirements on their respective state program. Because this type of certification program would be such a minor part of the tribe's overall program, it may be funded using enforcement cooperative agreement monies. The certification elements of tribal programs are mainly conducted to provide for an enforceable program, and consequently, the few dollars needed to operate a tribal certification program can be funded through the enforcement program.

Guidance p. 3, 19

Several key elements are needed in the certification work program if they apply to your tribe:

- If you have a certification program in place, describe efforts to revise your mechanisms for certification and training programs as agreed upon with EPA.
- For continuing applications, agree to implement any changes to your existing certification programs that may still remain from FY 87 and subsequent discussions.

- Agree to a review of your certification program by EPA regional program office.
- Agree to submit information semiannually on the number of training sessions and applicators certified; you may use EPA form 5700-33H for this reporting.
- Agree to provide information about training materials, particularly those that are of high quality or that the tribe is involved in developing, and about specific programs and/or materials needed for training.
- Describe any unresolved problems from ongoing certification programs.
- Describe your plan to implement the revised certification and training regulation 40 CFR Part 171, or your intention to develop a plan.

WORK PROGRAM FOR GROUND WATER

Guidance p. 5, 22

Your application should discuss the implementation of the ground water protection activities as specified in the guidance:

- Agree to finalize ongoing plans for ground water protection efforts.
- Describe any efforts to develop a generic management plan (if planned) to prevent pollution of ground water by pesticides.
- Assess and identify vulnerable areas.
- Conduct an outreach campaign.
- Develop chemical-specific plans or activities.
- Agree to begin implementation of approved plans.

WORK PROGRAM FOR ENDANGERED SPECIES

Guidance p. 6, 25

Outline how you intend to use funds to develop and implement the required level of endangered species protection actions. If your tribe is eligible only for the base allocation, you should describe any plans or programs that will provide information to the public about endangered species protection and that will identify and map habitats of affected species. Also indicate whether an expanded program involving active protection, impact assessment, or public review of maps and tables will be undertaken. If an expanded program is adopted, describe how its effectiveness will be evaluated.

WORK PROGRAM FOR WORKER PROTECTION

Guidance p. 8, 29

Describe plans to compile a distribution list and distribute information supplied by the EPA regional office. Describe plans to develop an implementation strategy including outreach and communications, training, cooperation, and a compliance monitoring strategy after the final Worker Protection Standards are published.

SCHEDULE

Guidance p. 33

Provide a schedule of activities and accomplishments planned for the grant period. Schedules for some activities/events are specified in the guidance, while others are left to the tribe to determine.

REPORTING

Guidance p. 33

Agree to report on pesticide program activities and accomplishments at the required intervals.

ACCOUNTING RECORDS AND FILING SYSTEM

*Guidance p. 15, 35
40 CFR Part 31.20*

Describe your accounting procedures and filing system with specific statements regarding its ability to track separate funds for enforcement, certification, and pesticide programs; prepare financial reports required by regulations; and trace funds sufficiently to show proper handling of them.

EVALUATION PLANS

*Guidance p. 35,
App. IV, XII*

Describe an evaluation plan with schedules for mid- and end-of-year evaluations, and others as appropriate.

APPLICATION SUBMITTAL

Before you submit your application to EPA you must make sure that it is complete and all requirements have been met. This chapter contains information that will help you do that.

APPLICATION ELEMENTS

*Guidance p. 10,
App. V*

If you have addressed all the issues described in the previous chapters and completed the forms that were in the application kit, your application should be complete. For FY 92 applications, EPA is requesting that each applicant submit an application review checklist. This checklist will help you determine that all the necessary information is present. To ensure that all the elements are accurate and authorized, you should make sure that they have been reviewed and approved by the appropriate authorities.

The elements required for a complete application are outlined in section II of the guidance and listed below.

Cover Letter

Your application should be accompanied by a cover letter that is signed by an authorized person (such as an agency director or Tribal Chairman). The letter should inform the regional EPA contact that the application is complete and is being submitted for evaluation.

A. SF 424

Include a complete SF 424 signed by the appropriate authority.

Include the signed Assurances form (SF 424B) that came with the SF 424.

Include a list of Key Personnel on the form provided.

B. Budget Information Forms

Include completed Budget Information pages (SF 424A) containing sections A through F.

Include separate Budget Categories Information sheets with itemized cost categories for each agreement component.

Include a copy of an indirect cost agreement if one has been negotiated with the Department of Interior.

- C. Narrative Statement**
Include one copy of the narrative statement common information.
Include a separate work program for each of the five activities as appropriate. Each work program should contain a completed form 5700-33H showing expected outputs, accomplishments, and schedules.
- D. Accountability**
Explain your fiscal control and accounting methods in the designated sections of your work programs.
- E. Certification for Drug Free Workplace**
Include a signed EPA form 5700-49, Certification Regarding Debarment, Suspension, and Other Responsibility Matters. Include a signed Certification of Drug Free Workplace.
- F. Certification Concerning and Disclosure of "Influencing Activities"**
If the funds requested exceed \$100,000, include a signed Certification Regarding Lobbying.
If appropriate, include a disclosure form for the use of non-Federal funds to influence the award of the cooperative agreement.
- G. Checklist**
Include a completed application review checklist.

APPLICATION DELIVERY

When all the parts of the application have been completed, reviewed, approved, and assembled, you are ready to submit the application to the EPA regional office. You should do this at least 60 days before the start of the designated budget period to allow adequate time for review. If your budget period is the same as the Federal fiscal year, EPA recommends that you submit your application 90 days prior to the start of the fiscal year.

APPLICATION EVALUATION

Your completed application will be reviewed and evaluated by the staff of the EPA regional office where it is submitted. Regions have the first responsibility for evaluating applications but the EPA headquarters also reviews some applications. Appendices II, III, VI, and VII in the Guidance explain the details of the evaluation procedures including time factors for evaluation activities.

GLOSSARY

These definitions are also found in the EPA Assistance Administration Manual.

Applicant	Any entity (such as a tribe) that files an application or unsolicited proposal for EPA financial assistance.
Application	A formal written request for EPA financial assistance that is submitted on a prescribed form and is sufficiently complete to permit evaluation.
Assistance agreement	The legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose. It is either a grant, a loan, a grant/loan combination, or a cooperative agreement and will specify: budget and project periods; the Federal share of eligible project costs; a description of the work to be accomplished; and any special conditions.
Award	The act of executing an assistance agreement.
Budget	The financial plan for expenditure of all Federal and non-Federal funds for a project as proposed by the applicant, negotiated and approved by the Award Official.
Budget period	The length of time EPA specifies in an assistance agreement during which the recipient may expend or obligate Federal funds.
Consolidated agreement	An assistance agreement awarded under more than one EPA program authority. Applicants for consolidated assistance submit only one application.
Continuation	An extension of an assistance agreement for an additional funding/budget period for a project the Agency initially agreed to fund for a definite number of years.
Cooperative agreement	An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project.
Cost share	The portion of allowable project costs that a recipient contributes toward completing its project using non-Federal funds. The cost share may include in-kind as well as cash contributions.

Direct costs	Those costs that can be identified specifically with a particular cost objective and are so charged.
Grantee	see Recipient
Indirect cost	Any costs that are incurred for common objectives and which cannot be directly charged to any single cost objective. These costs are allocated to the cost objectives benefited based on a fair method of approximation. Indirect costs are also referred to as overhead or burden costs.
In-kind contribution	The value of a non-cash contribution to meet a recipient's cost sharing requirements. An in-kind contribution may consist of charges for real property and equipment or the value of goods and services directly benefitting the EPA funded project.
Narrative statement	A description of the approach, policies, and procedures that will be carried out under the proposed project. It contains the detailed explanation of how the applicant will comply with the specific cooperative agreement requirements and applicable Federal regulations.
Output	An activity or product which the applicant agrees to complete during the budget period.
Program income	Gross income the recipient earns during its project period from charges to the project. This may include income from service fees, sale of commodities, trade-in allowances, or usage or rental fees. Revenue generated under the governing powers of a State or local government which could have been generated without an award is not considered program income.
Project	The activities or tasks EPA identifies in the assistance agreement.
Project costs	All costs the recipient incurs in carrying out the project. EPA considers all allowable project costs to include Federal share.
Project period	The length of time EPA specifies in the assistance agreement for completion of all project work. It may be composed of more than one budget period.

QA assurance program plan	A formal document which describes an orderly assembly of management policies, objectives, principles, organizational responsibilities, and procedures by which an agency or laboratory specifies how it intends to: (a) produce data of documented quality, and (b) provide for the preparation of quality assurance project plans and standard operating procedures.
QA project plan	An organization's written procedures which delineate how it produces quality data for a specific project or measurement method.
Recipient	Any entity (such as a tribe) which has been awarded and has accepted an EPA assistance agreement.
Supplies	All property, including equipment, materials, printing, insurances, and leases of real property, but excluding land or a permanent interest in land.
Tribe	Federally-recognized Indian tribal government.
Work program	The document which identifies how and when the applicant will use program funds to produce specific outputs.

SAMPLE FY 92 ENFORCEMENT WORK PROGRAM

The following is a sample work program for a fictitious new tribal applicant in EPA Region XI, the Perfect Tribe of New Arizona. It is assumed that this particular tribe has had no previous experience in pesticide enforcement and will be developing a program during the first year of the grant. The following core enforcement work program is based on the FY 92 Consolidated Pesticide Cooperative Agreement Guidance.

When completing the Tribal Compliance Monitoring Work Program address all issues. If an area exists that is not relevant to the tribe, such as exports, endangered species, or worker protection, note this fact in your application with a short statement. You will speed up the grant process if you do not omit categories.

NARRATIVE STATEMENT

1. Background

The Perfect Tribe is located in the northwest corner of New Arizona on 140,000 acres, 40,000 of which are arable. The reservation consists of 3,000 residents, with three-quarters of these being tribal members on the reservation.

Agriculture dominates the reservation. Crops grown include melons and fruit and a significant amount of land is leased for cattle and sheep grazing. Quality farming depends a great deal on pesticides for the reduction of weeds and insects. Since the state of New Arizona has no jurisdiction on the reservation the Perfect Tribe has decided to regulate chemical pesticides.

The Perfect Tribe has never participated in a Pesticide Cooperative Agreement with the Environmental Protection Agency. The main emphases of the FY 92 program will be to create a Tribal Pesticide Code, hire a pesticide inspector, and educate pesticide applicators and the tribal council about pesticides.

2. Ability to Implement Program

The Perfect Tribe is a federally recognized tribe organized under the Indian Reorganization Act of June 18, 1934 and is authorized by the Tribal Council to accept federal funds through the Department of Agriculture. The Department of Agriculture has been designated the lead agency for pesticide enforcement and has been authorized by the Tribal Council to receive federal funding.

The Perfect Tribal Council supports the FIFRA grant application for Pesticide Enforcement and Pesticide Certification for the amount of \$29,750 and is able to contribute \$5,250 to establish a successful pesticide program with the Environmental Protection Agency (EPA).

3. Objectives of the Project

The main objective of the Perfect Tribe in regard to this cooperative agreement is to establish and support an effective tribal pesticide enforcement which will protect human health and the environment from the mis-use of pesticides. To accomplish this objective, the Perfect Tribe intends to establish pesticide enforcement priorities, begin enforcing FIFRA and the tribal pesticide code, and improve the quality and availability of compliance information to pesticide users on the reservation.

4. Benefits of Project to the Applicant and EPA

The Perfect Tribe will benefit from the project by increased protection of the reservation's people, land and water from potential pesticide contamination. It will also benefit by further developing its range of environmental services to reservation residents. EPA will benefit from a tribal program by ensuring the reservation is adequately covered by FIFRA.

5. Work Program for Enforcement

Within one month after the start of the project period, the Perfect Tribe will hire a pesticide inspector. The person hired will have a sufficient work and educational background to carry out the responsibilities of the pesticide inspector for the Tribe. Under the supervision of the Director of Natural Resources and the Tribal Council, the pesticide inspector will be responsible for all activities listed in this work program.

The new inspector will attend an EPA Inspector Training course using project funds, as well as other appropriate training negotiated with EPA Region XI. The new inspector will also work with the regional office to arrange to attend inspections, if possible, with inspectors from the New Arizona Department of Agriculture. Region XI will help the inspector contact the appropriate officials in New Arizona.

Within six months after the beginning of the project period, the inspector will hire an employee to perform secretarial activities part time in support of pesticide enforcement activities.

CERTIFICATION AND TRAINING PLAN AND TRIBAL CODE

Within three months after the beginning of the project period, the Perfect Tribe will submit to the Regional office for review a draft certification and training plan and tribal pesticide code. EPA will provide comment on the code. The inspector will then present the Plan and Code to the Tribal Council for approval.

The Perfect Tribe does not intend to develop its own autonomous certification and training program, but rather intends to require applicators to obtain state certification before applying for tribal certification. Therefore, the Tribal Code will be based primarily on state law, with modifications to correspond to conditions unique to the reservation.

Project funds will be used to develop registration cards for inspectors applying for tribal certification and to maintain a computerized filing system. Registration for commercial applicators will cost approximately \$25; private applicators will be charged approximately \$10.

The Perfect Tribe will not conduct pesticide use inspections on the reservation until the inspector has obtained EPA FIFRA inspector credentials and the Tribal Code and Certification Plan are in place.

QUALITY ASSURANCE PROJECT PLANS

Within three months after the start of the project period, the Perfect Tribe will submit to the EPA Regional Office for review its Quality Assurance Project Plan. This Plan will be implemented prior to conducting sampling activities under the grant.

The EPA Regional Office will provide the tribe with sample QA Project Plans and Standard Operating Procedures.

The Perfect Tribe's QA Plan will consist of field sampling and chain of custody procedures, and the name of the EPA-approved lab that will perform chemical analysis for the tribe.

PRIORITY-SETTING PLAN

Priorities for this budget period will be determined by the Regional Office. As part of its work program for the next budget period, the Perfect Tribe will submit a priority-setting plan based on models provided in the pesticide cooperative agreement guidance.

ENFORCEMENT RESPONSE AND CASE DEVELOPMENT

Enforcement Response Policy

Within six months after the beginning the project period, the Perfect Tribe will submit an Enforcement Response Policy (ERP) to the Region. The Region will forward a copy of the ERP to the Grants and Evaluation Branch in the Office of Compliance Monitoring. The Tribe's ERP will include at a minimum:

- A list of violations likely to be encountered;
- A mechanism for determining level of gravity for each type of violation;
- A list of enforcement remedies available for each type and level of violation (including both Tribal and Federal action)
- An escalation of penalties for second and subsequent violations;
- Consideration of potential pollution prevention initiatives for use in determining final enforcement penalties and/or in settlement of enforcement cases; and
- a timetable which the Tribe will follow to ensure the timely investigation of complaints and the timely issuance of enforcement actions when violations are detected.

The tribe will implement its ERP before any enforcement actions are undertaken.

If the evidence in a case reveals a violation of Tribal law, the Perfect Tribe will pursue an appropriate remedy provided by the Tribal Pesticide Code and its enforcement response policy.

Where evidence reveals a possible violation of FIFRA only, the Tribe will forward the information to the EPA Regional office within 30 days after completion of the investigation. All cases forwarded to EPA will include all evidence, inspection reports and/or forms, a brief narrative of the case, and a recommended enforcement response. The Tribe will prepare and make available to EPA, when requested, testimony and other evidence pursuant to the procedures adopted by EPA. The Tribe will provide witnesses for informal settlement conferences, public hearings, and appearances in a court of law, as the EPA requests.

Where evidence reveals a violation of both Tribal and Federal law, the Tribe will choose whether to pursue the case under tribal or Federal law.

The Perfect Tribe will begin contacting New Arizona pesticide enforcement officials to discuss the possibility of developing procedures for cooperative enforcement of problems involving cross-jurisdictional situations. The tribe will work towards an informal agreement initially, with the goal of ultimately writing a Memorandum of Understanding with the state.

TRACKING SYSTEM

Within three months of the start of the project period, the Perfect Tribe will establish and begin utilizing a management system for tracking all inspections, violations found, and enforcement actions initiated. The tracking system will, at a minimum, include the following elements:

- Date of inspection
- Reason for inspection (routine or complaint)
- Name or person or firm inspected
- Violations found
- Summary of past compliance history (or reference to case file number)
- Enforcement Action taken
- Date of enforcement actions
- Disposition of action

The Tribe agrees to maintain these records for a minimum of five years.

INSPECTIONS AND SAMPLE COLLECTION ACTIVITIES

The Perfect Tribe will begin inspectional activities during the third quarter of the project period. The number and type of inspections projected can be found in Attachment 1, Form 5700-33H. The inspections to be conducted include agricultural use, agricultural follow-up, non-agricultural use, non-agricultural follow-up, marketplace and certified applicator. There are no pesticide manufacturers, pesticide importers or exporters.

All FIFRA inspections will be performed according to the protocol established in the EPA inspectors manual. All inspections conducted by the tribe will be comprehensive, addressing every element of each type of inspection as delineated in the EPA Pesticide Inspector's Manual. The tribal inspector will also use, at his discretion, the national inspector checklists developed by Mississippi for the Office of Compliance Monitoring. The inspector will eventually modify the checklists to conform more closely to circumstances he/she faces.

Copies of all inspectional reports will be retained by the Tribe for at least five years.

The Tribe will conduct two inspections in the fourth quarter at federal grain storage facilities located on the reservation.

SUSPENSIONS

The tribe will perform suspension compliance inspections as requested by the Region.

FORMAL REFERRALS

The Perfect Tribe herein adopts the referral and inspection procedures set forth under FIFRA Sections 26 and 27. Significant cases referred to the Perfect Tribe in writing by the EPA will be investigated in accordance with established procedures and action recommended within 30 days of the date of the completion of the investigation or the receipt of any analytical results, whichever is later. The Tribe shall report on the status of the investigation within 30 days of the date of the referral. Extensions for cause will be coordinated with the EPA Project Officer and Region XI.

The Perfect Tribe will consider "significant" to mean cases involving alleged human health/exposure including but not limited to cases involving worker protection, ground water contamination and congressional inquiries. Other EPA referrals and special requests shall be accomplished as expeditiously as possible in coordination with the EPA Project Officer.

LAWN CARE

There are no known lawn care companies on the Perfect Tribe reservation. The Perfect Tribe is therefore exempt from performing activities in support of EPA's lawn care program.

WORKER PROTECTION ENFORCEMENT ACTIVITIES

As agreed upon with Region XI, the Perfect Tribe will not develop its own compliance monitoring strategy for worker protection during the project period. Since the program will be in the developmental stage, the Perfect Tribe will implement the appropriate elements of the National Strategy within eight months of the publication of the Worker Protection Rule, as required by the grant guidance.

The Perfect Tribe will address its own worker protection efforts as part of next year's work program.

In regard to inspectional activity for the worker protection requirements, the Perfect Tribe will include monitoring for compliance with the new worker protection labeling requirements once the compliance dates become effective. Monitoring for compliance with worker protection requirements shall be another element of comprehensive inspections.

The Perfect tribe will also conduct investigations in response to incident and complaint reports and track tips and complaints not referred by EPA.

The Perfect Tribe will indicate in its Quarterly Accomplishment Reports if monitoring for the worker protection requirements was not included as part of every type of inspection, with the exception of certified applicator records and dealer inspections.

PLANNING ENFORCEMENT ACTIVITIES FOR RESIDUE REMOVAL

By the end of FY 92, as required by the grant guidance, the Perfect Tribe will submit an outline detailing specific proposed activities which will be conducted to ensure compliance with the residue removal regulations.

ENFORCEMENT ACTIVITIES FOR GROUND WATER PROTECTION

In FY 92, the Perfect Tribe will continue to monitor compliance with and enforce labeling as part of their routine inspections based on priorities agreed upon between Region XI and the state. Quarterly reports will document the number of inspections which included compliance monitoring for ground water-related requirements or ground water sampling.

The development of a tribal ground water management plan will be addressed in a later application.

ENFORCEMENT ACTIVITIES FOR ENDANGERED SPECIES PROTECTION

The Perfect Tribe will comply with the national Compliance Monitoring Strategy for the Endangered Species Protection Program to be issued in FY 1992.

SECTION 6(G) INFORMATION SUBMITTAL AND PESTICIDE RECALLS

As part of routine inspections, the Perfect Tribe will help to enforce the information submittal requirements under FIFRA 6(g). Region XI may refer inspections to the states, although the number that the state may be asked to perform in support of the information submittal requirements is impossible to project and may require some adjustments to other projected inspectional activities.

EXPORTS

There are no exporters of pesticide product located on the Perfect Reservation. No export inspections are therefore projected in FY 92.

REPORTING

Quarterly reports will be submitted to EPA within 30 days after the end of each quarter (by January 30, April 30, July 30 and October 30).

ACCOUNTING RECORDS AND FILING SYSTEMS

The Perfect Tribe will maintain accounting records for funds awarded in accordance with all applicable EPA regulations and generally accepted accounting principles. The accounting system to be used will be sufficient to: 1) track the expenditure of funds separately for at least each of three components of a consolidated pesticide agreement; 2) permit preparation of Financial Status Reports (FSRs) 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.

EVALUATION PLAN

The Perfect Tribe hereby agrees to be evaluated by EPA at the mid-year point and at the end of the fiscal year.

EPA SUPPORT

The tribe will request support from the EPA regional office to contact pesticide officials from the New Arizona Department of Agriculture, to develop QA plans, and to determine enforcement priorities.

TIMELINE

<u>Activity</u>	<u>Date Accomplished</u>
Beginning of project period	October 1
Hire inspector	November 1
Submit to EPA draft Certification and Training Plan, Tribal Code, and QA Plan	January 1
Implement tracking system	January 1
Submit 1st Quarter Report	January 30
Inspector attends EPA Inspector Training course, attends state inspections, and obtains EPA credentials	April 1
Begin implementing Tribal Pesticide Code	April 1
Submit Enforcement Response Policy	April 1
Submit 2nd Quarter Report	April 30
Begin inspectional activities	July 1
Submit 3rd Quarter Report	July 30
Submit 4th Quarter Report	October 30

Appendix B

TRIBES WITH PESTICIDE PROGRAMS

Tribes in several regions have implemented pesticide programs through the cooperative agreement process. Their names, and the names of the agencies and people responsible for the programs, are listed here as potential sources of assistance.

Region V

White Earth Band of Minnesota Chippewa Minnesota

EPA Project Officer: Edward Master (FTS) 353-5830
Tribal Pesticide Lead Agency: Biology Department (218) 573-3007
Tribal Pesticide Program Manager: Mike Swan (218) 573-3007
Inspector:

Region VII

Santee Sioux Nebraska

EPA Project Officer: Jake Jacobson (FTS) 541-5080/(402) 437-5080
Tribal Pesticide Lead Agency: Natural Resources and Environmental Quality
Committee
Tribal Pesticide Program Manager: Warren L. Mackey (402) 857-3302
Inspector:

Omaha Tribe Nebraska

EPA Project Officer: Jake Jacobson (FTS) 541-5080/(402) 437-5080
Tribal Pesticide Lead Agency: Land Management (402) 837-5391
Tribal Pesticide Program Manager: Clyde Tyndall (402) 837-5391
Inspector:

Winnebago Tribe

Nebraska

EPA Project Officer: Jake Jacobson (FTS) 541-5080/(402) 437-5080
 Tribal Pesticide Lead Agency: Natural Resources Department (402) 878-2272
 Tribal Pesticide Program Manager: Undesignated
 Inspector:

Region VIII

Cheyenne River Sioux

South Dakota

EPA Project Officer: Ron Schiller (FTS) 330-1733
 Dallas Miller (FTS) 330-1743
 Tribal Pesticide Lead Agency: Land & Natural Resources Committee
 Tribal Pesticide Program Manager: Dave Nelson (605) 964-6558
 Inspector: Dave Nelson

Oglala Sioux (Pine Ridge)

South Dakota

EPA Project Officer: Ron Schiller (FTS) 330-1733
 Dallas Miller (FTS) 330-1743
 Tribal Pesticide Lead Agency: Land Resource Committee
 Natural Resources Manager: John Mousseau (605) 867-5821
 Inspector: Eli Clifford (605) 867-5624

Region VIII

Three Affiliated Tribes

North Dakota

EPA Project Officer: Gina Hargett-Freed (FTS) 330-1744/
 (303) 293-1744
 Tribal Pesticide Lead Agency: Dept. of Natural Resources (701) 627-3627
 Tribal Pesticide Program Manager: Danald Morgan (701) 627-3627
 Inspector: H. Texx Lone Bear (701) 627-3627

Region IX

Intertribal Council of Arizona (ITCA)

Arizona, California, Nevada

EPA Project Officer: Armando F. Aparicio (FTS) 484-1100
Tribal Pesticide Lead Agency: ITCA (602) 248-0071
Tribal Pesticide Program Manager: Claire Miller (602) 248-0071
Inspector:

Navajo Nation

Arizona, New Mexico, Utah

EPA Project Officer: K. Robert Kaneshiro (FTS) 484-1099
Tribal Pesticide Lead Agency: Navajo Environmental Protection Agency (602)
871-6562
Tribal Pesticide Program Manager: Fritz Roanhorse (602) 871-6562
Inspector:

Region X

Nez Perce

Idaho

EPA Project Officer: Gary McRae (FTS) 334-9556
Tribal Pesticide Lead Agency:
Tribal Pesticide Program Manager: Gwen Carter (208) 843-2253
Inspector:

Shoshone-Bannock

Idaho

EPA Project Officer: Gary McRae (FTS) 554-9556/(208) 334-9556
Tribal Pesticide Lead Agency: Land Use Dept. (208) 238-3823
Tribal Pesticide Program Manager: John Helsel (208) 238-3860
Inspector: John Helsel

RECOMMENDED PESTICIDE PROGRAM DEVELOPMENT STEPS

A complete tribal pesticide program consists of several elements:

- A. Pesticide Code
- B. FIFRA Enforcement Program
 - Cooperative Agreement
 - Enforcement Response Policy
 - Field Sampling Quality Assurance Agreement
 - Management Plan
- C. Certification and Training Program
 - Certification and training plan
 - Cooperative Agreement
- D. Ground Water Protection Program
- E. Endangered Species Protection Program
- F. Worker Protection Program

Most tribal pesticide programs will not need to encompass all the elements listed above. Many tribes, for example, may not have endangered species on their reservations, a circumstance that would obviate the need for an endangered species program. In general, it is unlikely that you will implement all aspects of a comprehensive pesticide program in the program's first year.

In developing a new pesticide program, it might be helpful to have an idea about the order or chronology in which a program could be developed. These are recommended steps. (The only requirement is that states or tribes assume at least partial primacy for FIFRA before they develop a ground water, endangered species or worker protection program.) Some tribes and some EPA Regions may choose to develop their programs in a different order, or to develop several components of a program simultaneously.

Step 1: Develop a Pesticide Enforcement Program

- A. Submit and negotiate a Pesticide Enforcement Cooperative Agreement (grant) application to the Regional EPA Office. Documents that need to be developed as part of the enforcement program include:
 - 1. Management plan to address pesticide use problems on the reservation.
 - 2. Pesticides enforcement response policy, including a penalty matrix.
 - 3. Field Sampling Quality Assurance Agreement negotiated with the EPA Regional EPA Pesticide Section.
 - 4. System to track pesticide violations data
 - 5. Priority-setting plan
- B. Obtain training for tribal pesticide officer.

Step 2: Develop a Tribal Pesticide Code

Step 3: Develop a Tribal Pesticide Applicator Certification Program

- A. Submit an applicator certification plan to EPA for approval. The pesticide applicator certification plan includes a tribal pesticide code, as an attachment.
- B. Submit and negotiate Certification and Training Cooperative Agreement with Region
- C. Implement Cooperative Agreement

Step 4: Develop a Ground Water Protection Program

Step 5: Develop an Endangered Species Protection Program

Step 6: Develop a Worker Protection Program

Classification No.: 3500.1

Approval Date: June 29, 1988

TRAINING AND DEVELOPMENT FOR COMPLIANCE INSPECTORS/FIELD INVESTIGATORS

1. PURPOSE. This Order establishes a consistent Agency-wide training and development program for employees leading environmental compliance inspections/field investigations.
2. APPLICABILITY. This Order applies to all Environmental Protection Agency (EPA) personnel who lead or oversee the conduct of compliance inspections/field investigations on a full- or part-time basis under any of EPA's statutes. This Order is advisory to State and local agencies.
3. POLICY. It is the policy of the Environmental Protection Agency to ensure that those who lead environmental compliance inspections/field investigations are properly trained to perform these functions in a legally and technically sound manner.
4. REFERENCES.
 - a. EPA 1440. Occupational Health and Safety Manual: Chapter 7, Occupational Health and Safety Training.
 - b. EPA Order 1440.2, Health and Safety Requirements for Employees Engaged in Field Activities.
 - c. EPA Order 1440.3, Respiratory Protection.
 - d. Agency-wide Program to Train, Develop and Recognize Compliance Inspectors/Field Investigators: A Program Description, June, 1988.
5. DEFINITIONS.
 - a. Compliance Inspection/Field Investigation Function. The function includes leading, or overseeing State/local, contractor or other personnel conducting, any of the following activities for the purpose of establishing the

compliance status of facilities or sites with applicable laws, standards, regulations and permits and/or of supporting appropriate enforcement action (administrative, civil judicial or criminal), including:

- (1) planning and carrying out inspections of pollution abatement equipment, relevant facility operations and maintenance practices, self-monitoring practices and records, and laboratory equipment;
- (2) gathering and developing evidence, including but not limited to emission monitoring measurements, other analytical field procedures such as sampling and the associated quality assurance procedures, and in-depth engineering evaluations; and
- (3) maintaining field logs, recording field observations photographically, analyzing sampling and emissions data, and preparing reports of observations along with any supporting documentation.

Any EPA employee performing these activities regardless of job title or program shall be considered a compliance inspector/field investigator for the purposes of this Order. The terms compliance inspector/field investigator will be used throughout this Order. This function does not include field activities or investigations for purposes such as research and development, which are unrelated to compliance monitoring or enforcement.

Not all individuals performing work as On-Scene Coordinators (OSCs) and Remedial Project Managers (RPMs) under the CERCLA program are covered by the definition of the compliance inspection/field investigation function. Additional program guidance will be developed to assist Regions in distinguishing these functions from other programmatic responsibilities.

b. New Compliance Inspector/Field Investigators. Including:

- (1) Individuals newly employed by EPA subsequent to the issuance date of this Order regardless of previous training in and experience leading environmental compliance inspections/field investigations, or
- (2) Individuals rehired by EPA or transferred within EPA, subsequent to the issuance date of this Order, with no previous training in and experience leading environmental compliance inspections/field investigations.

c. Experienced Compliance Inspectors/Field Investigators. Including: Individuals who were employed by EPA on the issuance date of this policy, and/or who have previous training in and experience leading environmental compliance inspections/field investigations in any one of EPA's compliance and enforcement programs.

d. First-line Supervisors of Inspectors. A first-line supervisor is the immediate supervisor of the day-to-day work of an individual who leads or oversees compliance inspections/field investigations. The first-line supervisor, who is responsible for the official performance appraisal, may be "new" or "experienced" as defined above in items 5(b) or 5(c).

e. Contract Inspectors and Others. This category includes contract personnel and employees of a grantee organization under the Senior Environmental Employment Program, performing compliance inspections/field investigations under EPA's statutes.

f. Leading an Inspection. Leading an inspection means independently conducting a compliance inspection/field investigation or directing an inspection/investigation with others as support staff.

g. Curriculum. Curriculum refers to defined content presented in a sequence of supervised self-study, formal on-the-job and/or classroom training:

(1) Supervised Self-Study. Self-study means any knowledge gained through independent, personal study, and overseen by a first-line supervisor or an experienced inspector/investigator.

(2) On-the-Job Training. On-the-job training (OJT) means structured training that relates principles or theories to work-related skills which are demonstrated and applied in the field environment during an actual compliance inspection/field investigation.

(3) Classroom/classes. This refers broadly to any form of instruction, flexible in format and size, to include seminars, workshops, lecture-type or video-assisted classes, or question-and-answer sessions following or independent self-study, that fosters group interaction with an instructor or an experienced inspector.

h. Completing Required Training. Completion of required training means completing self-study, OJT and participation in classes covering the content described in applicable training curricula.

6. TRAINING PROGRAM. EPA's training program consists of three parts -- Occupational Health and Safety Curriculum, Basic Curriculum, and Program-Specific Curricula -- as follows.

a. Occupational Health and Safety Curriculum. EPA Order 1440.2 establishes basic, intermediate, advanced and refresher requirements for occupational health and safety training for all EPA employees before engaging in any field activities. In addition, EPA compliance inspectors/field investigators must meet requirements, where these apply, of EPA Order 1440.3 for Respiratory Protection. A summary of the curriculum is found in Appendix B of Reference 4(d) above. Contractor personnel must meet training requirements of applicable regulations of the Occupational Safety and Health Administration (OSHA).

b. Basic Inspector Curriculum. This Curriculum establishes required training to provide a comprehensive overview of knowledge and skills needed for compliance inspections/field investigations under any EPA statute. It consists of a course, that integrates legal, technical and administrative subjects, with communication skills. It also includes the Occupational Health and Safety Curriculum cited in 6(a) above. The Basic Curriculum is summarized in Appendix C of Reference 4(d) above. Related Supplemental Training is recommended to further develop some of these skills, as summarized in Appendix F of Reference 4(d) above.

c. Program-Specific Curricula. The Program-Specific Minimum Curriculum for each major environmental program establishes required training in legal, programmatic and technical subjects. Any EPA compliance inspector conducting inspections in more than one program is required to have completed the relevant Program-Specific Minimum Curricula in each such program. Program-Specific Specialized Training is recommended to further develop inspection skills. Summaries of these curricula are available in Appendix D, of Reference 4(d) above. A summary of multi-media (multi-program) training recommendations is available in Appendix E of Reference 4(d) above.

d. Refresher Training.

(1) Occupational Health and Safety: EPA Orders 1440.2 and 1440.3 require refresher training annually.

(2) Basic and Program-Specific Minimum Curricula: Refresher training in both the Basic Curriculum and Program-Specific Minimum Curricula is strongly recommended, but at the discretion of the first-line supervisor. At a minimum, refresher training should occur every three years, or more frequently, depending on the needs of the individual, and changing emphases or needs in the compliance and enforcement program.

7. REQUIREMENTS AND EXCEPTIONS.

a. Before Any Field Activities. All compliance inspectors and first-line supervisors of inspectors are required to complete applicable occupational health and safety training before any field activities as defined in EPA Orders 1440.2 and 1440.3.

b. Before Leading Inspections/Investigations. All compliance inspectors/field investigators must complete the Basic Curriculum and the Program-Specific Minimum Curriculum in the assigned program area(s) before leading an inspection. Experienced inspectors may be excepted from the Basic Curriculum, but new inspectors may not. There may be limited exceptions to program-specific requirements for new and experienced inspectors.

c. Within One Year When Supervising. The requirements to complete the Basic and Program-Specific Minimum Curricula apply to first-line supervisors of compliance inspectors. First-line supervisors shall meet these requirements within one year of appointment to the supervisory position, if they have not already done so. If the first-line supervisor directs inspectors/investigators in two or more programs, the supervisor may need additional time to complete all of the applicable Program-Specific Minimum Curricula, and should do so as soon as practicable. Experienced first-line supervisors may be excepted from the Basic Curriculum, but new ones may not. There may be limited exceptions to program-specific requirements for new and experienced first-line supervisors.

d. Procedures for Exceptions.

(1) Health and Safety Training. Any exceptions to the occupational health and safety training requirements must be in accordance with Paragraph 9(d), EPA Order 1440.2, or the provisions of 1440.3.

(2) Basic and Program-Specific Minimum Curricula. In the Regions, exceptions must be approved by the Regional Administrator. Delegation below this level may be made to the Deputy Regional Administrator or a cross-regional panel of managers established for this purpose, but excluding the immediate first- or second-line supervisor of the individual for whom the exception is being requested. For Program Offices with inspectors based in Headquarters, the Assistant Administrator shall approve exceptions for those inspectors. Delegation below this level may be made to the Deputy Assistant Administrator, or Office Director, or in the case of OECM, to the Director of the National Enforcement Investigations Center (NEIC). The first-line supervisor shall prepare a written request based upon guides for evaluating the previous knowledge, experience and/or training of the inspector, and shall submit this to the approving official, according to procedures adopted in the Region or Headquarters, whichever apply. A copy of the approved written request shall be placed in the employee's official personnel file along with other training records.

8. EFFECTIVE DATE.

a. Occupational Health and Safety Training. The requirements of EPA Orders 1440.2 and 1440.3 are in effect and will remain in effect.

b. Basic and Program-Specific Minimum Curricula. This Order is effective on the date of issuance; however, requirements are phased in as follows:

(1) New Inspectors. Beginning October 1, 1989, new inspectors shall not lead inspections unless they have completed the Basic Curriculum, and have completed, or have been formally excepted, from the Program-Specific Minimum Curricula.

(2) Experienced Inspectors. Beginning October 1, 1991, experienced inspectors shall not lead inspections unless they have completed or have been formally excepted from the Basic and Program-Specific Minimum Curricula.

(3) First-line Supervisors. Beginning October 1, 1989, all first-line supervisors shall meet the requirements of this Order or have been formally excepted within one year of appointment to the supervisory position, or as soon as practicable, for those with two or more programs.

(4) Contract Inspectors and Others. Training requirements for EPA contract inspectors shall be appropriately phased into future contracts or solicitations involving compliance inspection work. These requirements shall be incorporated into future assistance agreements awarded under the Senior Environmental Employment Program involving compliance inspections.

9. RESPONSIBILITIES. This section lists the primary responsibilities for implementing this Order. Appendix G of Reference 4(d) above contains a more detailed list of responsibilities.

a. Assistant Administrator for Enforcement and Compliance Monitoring (OECM). The Assistant Administrator for Enforcement and Compliance Monitoring is responsible for:

(1) Updating this Order, and overseeing and evaluating implementation of the overall program requirements every 3 years;

(2) Developing, updating and disseminating student manuals and instructor's guides for the Basic Curriculum to the Regions, coordinating the selection of and maintaining a list of instructors from the Regions and Headquarters; and

(3) Organizing a board of Senior Agency Managers from Headquarters and Regions, and inspectors/investigators to advise him/her in carrying out the responsibilities listed above.

b. Assistant Administrator for Administration and Resources Management. The Assistant Administrator for Administration and Resources Management is responsible for:

(1) Updating and providing sufficient materials for occupational health and safety training, or approving non-EPA courses to meet the requirement of EPA Orders 1440.2 and 1440.3, and reviewing program-specific health and safety training.

(2) Training and evaluating EPA personnel designated as instructors for delivering the Inspector Health and Safety Curriculum; and

(3) Coordinating and disseminating a timely schedule of classes of the Health and Safety, Basic, and Program-Specific Curricula, in consultation with OECM, Program Offices and the Regions.

c. Assistant Administrators. The Assistant Administrators are responsible for:

(1) Implementing the requirements of this Order and Agency program [Reference 4(3)] within their areas of jurisdiction, including periodically evaluating implementation;

(2) Developing, updating, and disseminating materials and schedules for classes under the Program-Specific Curricula, in consultation with Regions and States, and providing a plan by October 30, 1986, for implementing the Basic Curriculum for inspectors based in Headquarters;

(3) Establishing guides for first-line supervisors of inspectors to evaluate the training and development needs of compliance inspectors/field investigators and approving requests for exceptions;

(4) Determining who among those inspectors/investigators based in Headquarters are subject to this Order, and reviewing and approving exceptions to the training requirements requested for these personnel.

(5) Ensuring in future contracts and assistance agreements awarded under the Senior Environmental Employment Program involving compliance inspectors that training is required by means of statements of work or other appropriate vehicles; and

(6) Establishing standing work groups including Regions, and States where appropriate, to help carry out these responsibilities and to improve the quality of the compliance monitoring function.

d. Regional Administrators. The Regional Administrators are responsible for:

(1) Implementing the requirements of this Order and Agency program [Reference 4(d)] within their areas of jurisdiction, including periodically evaluating implementation;

(2) Determining who in the Region is subject to this Order, and reviewing and approving any exceptions to the training requirements;

(3) Ensuring in future contracts involving compliance inspections that training is required by means of statements of work or other appropriate vehicles;

(4) Supporting in-house instruction for the Basic Curriculum, by working with OECD to identify Regional personnel to serve as classroom instructors and providing a Regional implementation plan by October 30, 1988; and

(5) Ensuring each program identifies States' inspector training needs annually through the State/EPA Enforcement Agreements process; assisting States in identifying ways to meet their training needs; and coordinating training opportunities.

e. Line Supervisors. Line supervisors in Program or Environmental Service Divisions, are responsible for:

(1) Ensuring quality compliance inspections/field investigations using performance standards, periodic appraisals, appropriate assignments to ensure development, and recognition of personnel engaged in the compliance monitoring function; and

(2) Identifying employees who require training, ensuring that employees comply with the requirements of this Order, preparing requests for exceptions, and maintaining records of actions.

f. Compliance Inspectors/Field Investigators. Compliance inspectors/field investigators are responsible for:

(1) Advising their supervisor about the history and extent of relevant training and experience, and assisting in the preparation of an Individual Development Plan to meet the requirements of this Order; and

(2) Applying and maintaining the knowledge, skills, and techniques acquired through training to ensure that inspections/investigations are accomplished in a technically and legally sound manner.



A. James Barnes
Deputy Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C 20460

Exhibit 5-1

JUN 1 1990

OFFICE OF THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Grants Administration: Organizational Roles and Responsibilities

TO: Assistant Administrators
General Counsel
Inspector General
Associate Administrators
Regional Administrators
Staff Office Directors

05 JUN 1990
RA/DRA
Referred To
CC:
File:

Purpose

The purpose of this memorandum is to restate and clarify the existing agency policy on the assignment of roles and responsibilities for grants administration activities in regional offices.

Background

Effective administration of grant supported programs requires the active participation of staff who are trained in a variety of disciplines. Close coordination between and understanding of the responsibilities of those participants is vital to the achievement of program objectives.

The GMO is one participant among several organizations involved in the overall administration of a grants support program. The fundamental role of the Regional Grants Management Office is to complement technical knowledge of program officials with expertise in the business and other nonprogrammatic areas of grants administration.

REC:

JUN 27 1990

Many decisions and determinations, including some of the most important, should be made by program officials or with strong input from program officials. Programmatic input typically is required for factors such as determinations of the adequacy of an applicant's plans to accomplish project objectives consistent with national program guidance; the extent of a grantee's compliance with programmatic requirements; and the quality and degree of a grantee's programmatic performance.

Policy

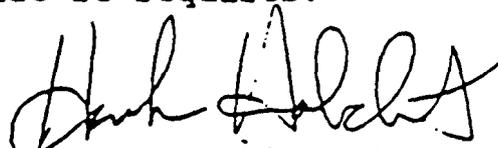
It is EPA's policy that the management of assistance agreements is a partnership between Program and Grants Management Offices. In furtherance of this policy, all grants administrative responsibilities will be performed by and consolidated into the GMOs under the Assistant Regional Administrators. This policy is based on three fundamental management principles:

- (1) Efficient utilization of resources by providing a core of business expertise without wasteful replication in each program division and diversion of technical staff to these duties.
- (2) Clear accountability for business administration responsibilities.
- (3) A "checks and balance" relationship to assure achievement of both programmatic and administrative objectives necessary to program integrity.

Regional Administrators are accountable for assuring that these principles are consistently fostered and implemented.

The GMOs will be responsible for the overall business management and administration of EPA financial assistance agreements (grants and cooperative agreements), and Interagency Agreements. The GMOs will provide full "cradle to grave" assistance management, from receipt of application, through award and monitoring of projects, to audit resolution, and close-out. The centralization of administrative and general management functions in GMOs will provide the Regional Administrators with an efficient single control and accountability point, permit the GMOs to exercise their fiduciary responsibilities and provide adequate "checks and balance." This will help assure that legitimate program interests are balanced by recipient compliance with equally important grants administrative requirements.

In implementing this policy, Regional Administrators should review their organizational functional statements to determine if any changes of divisional functions will be required in their region. After this review, the Management and Organization Division, OARM (382-5000) should be consulted to determine the appropriate procedures to be utilized in effecting the changes. This policy comports with sound internal Agency-wide management principles. At the same time, it is absolutely clear to Bill and me that there is much critically important work yet to do in the construction grants program, as it continues to build our water quality protection infrastructure. This team must receive first-class service. Accordingly, I would expect that the regions, in conjunction with headquarters, would undertake a review nine months after implementation of this policy to ensure that the new grants relationship is operating smoothly and that the construction grants program is receiving the service that it requires.



P. Henry Habicht II
Deputy Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 7 0 1990

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

MEMORANDUM

SUBJECT: Implementation of Regional Consolidation of
Grants Administration Functions

FROM: Charles L. Grizzle *Charles L. Grizzle*
Assistant Administrator

TO: Assistant Administrators
General Counsel
Inspector General
Associate Administrators
Regional Administrators
Staff Office Directors

This memorandum provides the implementing guidance for the Deputy Administrator's June 1, 1990, policy directive to centralize Regional Administrative Assistance management functions under the Assistant Regional Administrators. This guidance describes the fundamental roles and responsibilities for Regional Grants Management Offices.

The two attachments reflect the grants management offices responsibilities in administering grant regulations under 40 CFR Parts 30 - 35, and other grant regulations.

Attachment A summarizes the functions and activities for which Regional Grants Management Offices are responsible. Attachment B breaks down the functions into their constituent parts.

Please contact Harvey Pippen, Jr., Director, Grants Administration Division on FTS 382-5240 if you have any questions.

Attachments

cc: Assistant Regional Administrators
Regional Grants Management Branch Chiefs

1000-1234

GRANTS MANAGEMENT ROLES AND RESPONSIBILITIES

PREAWARD/AWARD AMENDMENTS	ACTIVE GRANTS MANAGEMENT	CLOSEOUT	OVERSIGHT	AUDIT	GRANTS MGMT. DIRECTION
<ul style="list-style-type: none"> - applicant/project officer guidance - application kit develop. - application receipt/review - negotiations meetings - award/amendment/IAG preparation - information management 	<ul style="list-style-type: none"> - reports - terms and conditions - files mgmt. - payment approval - information management - project status assessment - recipient guidance - report generation - procurement actions review - statutory & regulatory compliance 	<ul style="list-style-type: none"> - property accountability - technical reports - final FSR - close-out amendment - close-out documents - final payments - unliquidated obligations 	<ul style="list-style-type: none"> - on-site reviews of financial, procurement and prop. management systems for new and existing recipients - formal training to recipients and project officers - regular meetings 	<ul style="list-style-type: none"> - entrance/exit conferences - audit reports/resolution - auditor/management assistance - audit tracking - corrective actions followup - disputes 	<ul style="list-style-type: none"> - staff development - internal policies and procedures - regulation, policy implementation - internal management - regulation, guidance development

**GRANTS MANAGEMENT ROLES AND RESPONSIBILITIES
FOR ADMINISTERING GRANTS, COOPERATIVE AGREEMENTS AND
INTERAGENCY AGREEMENTS**

PRE-AWARD/AWARD/AMENDMENTS

1. Applicant/Project Officer Guidance

- inform applicants/project officers of administrative requirements
- respond to questions from project officers and applicants
- send out application kits

2. Application Kit Development

- develop instructions
- develop sample application and attachments
- include attachments (e.g. MBE reporting, budget breakdown, changes from prior FY, air MOE)
- include program specific instructions

3. Application Receipt/Review

- receive original application from applicant
- enter in GICS
- distribute to other parties
- assure application completeness and perform and document administrative/legal review (e.g. administrative assurances, authorized signatures, intergovernmental review, suspension & debarment, cost share/match levels and documentation, indirect cost agreement, MBE/WBE requirements)
- conduct and document cost analysis of budget and back-up for

allowability, allocability, reasonableness

- ensure statutory and regulatory compliance
- coordinate administrative and programmatic reviews and assure that administrative deficiencies are communicated to and resolved by applicant/recipient

4. Negotiation/Meetings

- participate/conduct annual negotiation, pre-application sessions with project officers and applicants
- assure adequacy of prospective recipient's financial, procurement, and property management systems

5. Award/Amendment/LAG Preparation

- assure receipt of project officer approval memo (decision memorandum)
- review and pre-validate commitment notices
- prepare grant document including cover letter and award
- assure that appropriate congressional notification occurs
- obtain appropriate signatures
- ensure inclusion of all appropriate conditions (admin.& program)
- mail out/distribute document
- send to finance for obligation of funds
- receive signed award document from recipient
- distribute counter-signed award document
- request LOC change
- enter award data into GICS

6. Information Management

- implement and maintain RAGDS/GICS/IAMS
- assure quality control of data

ACTIVE GRANTS MANAGEMENT

1. Reports (e.g. Financial, Progress, Property, MBE/WBE)

- ensure and track receipt of all reports
- review/analyze for administrative impact and compliance with admin/program requirements in conjunction w/program
- reconcile FSR with other financial reports
- identify and take follow-up action if reports overdue, incorrect, or deficient

2. Terms and Conditions

- ensure compliance with any terms or conditions
- ensure and track receipt of any deliverables
- identify and take follow up action if deliverables are overdue or deficient

3. Files Management

- maintain a list of the location of all documents contained in the official file
- create and secure official grants management award file
- retire old files in compliance with Record Management Procedures

4. Payment Approval (LOC, Advance, Reimbursement)

- identify and resolve discrepancies/issues (external and internal)
- review advance/reimbursement requests (match, cost share, terms/conditions, timeliness)
- coordinate approval/disapproval with Program/Finance

5. Information Management

- design milestone management tracking systems/develop reports
- analyze trends, recommend action
- manage grant workload
- coordinate automated program grant information

6. Project Status Assessment

- review finance report of grant balances
- coordinate findings (externally, internally)
- review rate of expenditure with percentage of work accomplished

7. Recipient Guidance

- interpret/implement assistance policy
- provide guidance, research

8. Report Generation

- develop reports for program identifying status of unobligated and unliquidated funds
- provide reports to program, finance, recipients

9 . Procurement Action Reviews

- assure compliance with EPA Procurement Regulations (e.g. Parts 31, 33) by reviewing individual procurement actions and recipients' procedures (e.g. cost and price analysis, contracts, model clauses) as necessary
- follow up on any deficiencies or areas needing improvement
- coordinate with program

10. Statutory and Regulatory Compliance (Including Managing Deviations)

- ensure compliance
- receive and analyze deviation requests for appropriateness
- prepare recommendation for Director, GAD

CLOSE-OUT

1. Property Accountability

- provide disposition instructions to recipients, if applicable
- ensure receipt of property inventory report and review

2. Technical Reports (from Recipient and/or Project Officer; Final Report, End-of-Year, Mid-Year)

- ensure receipt of reports, review
- coordinate with project officers

3. Final FSR

- maintain tracking system in GICS (e.g. FSR receipt date)
- ensure receipt, distribute
- review/analyze
- reconcile with IFMS
- review final FSR for any unliquidated obligations or any unobligated funds

4. Close-Out Amendment

- prepare close-out amendment

- ensure compliance with carryover policy
- ensure Finance Office makes any necessary adjustment to IFMS to deobligate funds as appropriate

5. Close-Out documents

- prepare close-out documents (e.g. memos to project officers, forms, letters to recipients, Cincinnati)
- prepare audit request before close-out if necessary
- review all close-out documents and ensure final approval by the Award Official
- send close-out letter to recipient

6. Final Payments

- ensure receipt
- review, approve

OVERSIGHT

1. On-Site Reviews of New and Existing Recipients for Financial, Procurement, Property Management Systems

- prepare protocol
- coordinate review with all involved parties
- conduct review as well as opening/exit conferences with recipient
- test transactions, as appropriate
- prepare report
- follow-up on findings and corrective actions

2. Conduct regular meetings with Program Managers and recipients

3. Formal Training to Recipients and Project Officers

- develop materials
- prepare training courses
- conduct training
- coordinate Headquarters sponsored training

AUDIT

1. Entrance/Exit Conferences

- coordinate
- attend

2. Audit Reports/Resolution

- receive/distribute/review
- coordinate agency position
- resolve audit findings and disputes
- prepare FDL, decision letters

3. Auditor/Management Assistance

- pull documentation, answer questions
- forewarn management and GAD (early warning system)
- respond to semi-annual reports to Congress
- serve as GAO liaison
- develop regional procedural guidance
- review/comment on new and revised audit regulations and guidance

4. Audit Tracking

- maintain a system for tracking audit status to ensure that 180 day deadline is met

5. Corrective Actions Follow-up

- maintain system (MATS)
- track milestones
- coordinate with programs, recipients, Headquarters
- ensure that all due dates are met

6. Disputes

- coordinate with Program and ORC
- develop Regional procedural guidance

GRANTS MANAGEMENT DIRECTION

1. Staff Development

- provide for training for the GMO office
- assess needs, (including task force participation) prepare, attend, participate, follow-up on National Meetings
- attend and participate in National Grants Conferences and Branch Chiefs Meetings

2. Internal Policies and Procedures

- develop
- implement

3. Regulation/Policy and Guidance Development

- comment
- develop Regional policy/guidelines
- participate on work groups

4. Regulation/Policy/Guidance Implementation

- understand, educate, coordinate
- implement
- revise as needed

5. Internal Management

- manage the GMO offices (e.g. workplan, performance standards)

REQUEST FOR ADVANCE OR REIMBURSEMENT

Exhibit 6-1

(See instructions on back)

1. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED		2. BASIS OF REQUEST <input type="checkbox"/> ADVANCE <input type="checkbox"/> REIMBURSEMENT <input type="checkbox"/> CASH <input type="checkbox"/> FINAL <input type="checkbox"/> PARTIAL <input type="checkbox"/> ACCRUAL	
6. EMPLOYER IDENTIFICATION NUMBER		7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER	
8. EMPLOYER ORGANIZATION		9. PERIOD COVERED BY THIS REQUEST FROM (month, day, year) TO (month, day, year)	
Name		Name	
Number and Street		Number and Street	
City, State and ZIP Code		City, State and ZIP Code	
10. PAYEE (Where check is to be sent to if different than item 8)		Name	
Number and Street		Number and Street	
City, State and ZIP Code		City, State and ZIP Code	

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED				
PROGRAMS/FUNCTIONS/ACTIVITIES	(a)	(b)	(c)	TOTAL
a. Total program outlays to date (As of date)	\$	\$	\$	\$
b. Less: Cumulative program income				
c. Net program outlays (Line a minus line b)				
d. Estimated net cash outlays for advance period				
e. Total (Sum of lines c & d)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (Line g minus line h)				
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month			
	2nd month			
	3rd month			

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY	
a. Estimated Federal cash outlays that will be made during period covered by the advance	\$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (Line a minus line b)	\$

13. CERTIFICATION		
I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE	TELEPHONE AREA CODE, NUMBER, EXTENSION

This space for agency use

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11c, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

<u>Item</u>	<u>Entry</u>	<u>Item</u>	<u>Entry</u>
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.		
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.		
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.		
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.		
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.		
	Note: The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.		
11	The purpose of the vertical columns (a), (b), and (c), is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed,		use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
		11a	Enter in "as of date", the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
		11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
		11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
		13	Complete the certification before submitting this request.



Letter of Credit Users Manual

Exhibit 6-2



Standard Form 1170
 5/15/78 EDITION GSA GEN. REG. NO. 27
 Fiscal Service, Bureau of Finance

ISSUING AGENCY	LETTER OF CREDIT <small>AND TREASURY DEPARTMENT</small> <small>(INCLUDES FIDUCIARY FUNDS)</small>	LETTER OF CREDIT NUMBER
AGENCY STATUS SYMBOL		AMENDMENT NUMBER
TO: The Federal Reserve Bank		EFFEKTIVE DATE
		EXAMPLE BANK AT

In accordance with the authorization of the Fiscal Assistant Secretary, Treasury Department, there is hereby authorized for the issuance and responsibility of the issuing agency a letter of credit:

IN FAVOR OF	FOR DEPOSIT ONLY TO		
	ACCOUNT		
AMOUNT AUTHORIZED	<input type="checkbox"/> EACH MONTH <input type="checkbox"/> EACH QUARTER <input type="checkbox"/> WITHOUT THIS LIMIT	PURSE AUTHORIZATION	THIS CHANGE NUMBER
\$		\$	\$

The unpaid balance of this letter of credit will remain available until you are advised in writing by the Treasury Department that this letter has been revoked.

OR

The unpaid balance of this letter of credit is revoked on the end of each period indicated and the full amount remains listed in the beginning of the following period until you are advised in writing by the Treasury Department that this letter has been revoked.

The amount of this letter of credit is hereby restricted to the dollar amount, upon presentation to you of Form TDS 1001, Payment Voucher on Letter of Credit, by the official(s) of the recipient organization whose signature(s) appear(s) on the Standard Form 1170, Authorized Signature Card for Payment Voucher on Letter of Credit, attached hereto or previously or subsequently furnished you through the Treasury Department.

The amount of each payment voucher paid by a Federal Reserve Bank or branch to a designated commercial bank for credit to the account of the recipient organization shall constitute payment to the recipient organization by the United States.

I certify as the Treasury Department that the payments authorized herein are correct and proper for payment from the appropriations or funds legally committed and available for the purpose, when paid in accordance with the terms and conditions stated above.

DATE CERTIFIED _____ AUTHORIZED CERTIFYING OFFICER _____

GSA FPMR 101-11.6 TYPED NAME AND TITLE _____



FOREWARD

This manual has been prepared by the United States Environmental Protection Agency to assist recipients of EPA funds in the use of letter of credit procedures where authorized under EPA grants and contracts. These procedures apply only when advance financing is authorized and projected disbursements meet the criteria established by the Department of the Treasury. When authorized by EPA, recipient organizations may obtain the necessary funds (Federal portion only) to carry out a project agreement by submitting a payment voucher to a commercial bank. The commercial bank obtains approval from the Federal Reserve System to transfer funds to the recipient's account. This method provides funds to a recipient organization as promptly as they are needed to meet expenses and precludes the withdrawal of funds from the Department of the Treasury earlier than necessary.

ENVIRONMENTAL PROTECTION AGENCY
LETTER OF CREDIT - USER'S MANUAL

CONTENTS OF CHAPTERS

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CHAPTER 1 - GENERAL

1. PURPOSE. Federal programs under grants or contracts which involve cash advances to organizations outside the Federal Government constitute a significant portion of the Federal budget. The timing of advance payments to such organizations has a substantial impact on the Department of the Treasury in its management of the public debt and financing costs. These procedures (a) provide a system whereby the recipient organization may promptly obtain the funds necessary to finance the Federal portion of a project by presenting a payment voucher to a commercial bank which will transfer funds to the recipient's account upon approval by a Federal Reserve Bank or branch and (b) preclude withdrawal of funds from the Department of the Treasury any sooner than absolutely necessary.

2. METHOD OF OPERATION. The following is a brief outline of the letter of credit procedures:

a. EPA makes a determination that a project will be funded through the letter of credit method and requests certain information from the recipient organization. This information will include a statement concerning the accounting competency of the recipient.

b. The recipient organization selects a commercial bank and provides information concerning the selected bank to EPA.

c. The recipient organization designates the employees who are authorized to drawdown funds against a letter of credit and certifies their signatures to EPA on a signature card.

d. EPA certifies the signatures appearing on the signature card to the Department of the Treasury.

e. EPA prepares a letter of credit. Copies are transmitted to the Department of the Treasury and to the recipient organization.

f. The Department of the Treasury transmits the letter of credit and the signature card to the applicable Federal Reserve Bank or branch which services the commercial bank selected by the recipient organization.

g. The recipient organization executes payment vouchers against the letter of credit to meet its immediate cash needs and presents them to the commercial bank for deposit. Moreover, the recipient organization provides drawdown information on each grant or contract under the letter of credit.

h. The commercial bank credits the recipient organization's bank account promptly upon approval of the voucher by the Federal Reserve Bank or branch. EPA receives a copy of the paid voucher.

i. EPA reports to the Department of the Treasury on disbursements under letter of credit procedures.

CHAPTER 2 - POLICIES AND PROVISIONS

1. POLICIES.

a. Cash advances shall be limited to the minimum amounts possible and shall be timed to be as close as administratively feasible to the daily needs of the recipient organization. Federal funds may not be used to pay for the recipient's matching share of disbursements for liabilities relating to project costs.

b. Cash advances made by primary recipient organizations (those which receive advances directly from the Federal Government) to secondary recipients shall conform substantially to the same standards of timing and amount as apply to advances by the Agency to primary recipient organizations.

c. In instances where the contract or grant agreement between the United States Environmental Protection Agency (EPA) and the recipient organization provides that the recipient organization shall pay a part of the project costs in cash, the recipient organization shall provide its pro-rata share of the cash on a current basis pursuant to the agreement. Generally, for instance, Federal funds should not be used exclusively until exhausted and then the non-Federal funds be used to pay the remaining project costs.

d. Letters of credit generally shall be issued by an EPA Regional Office. However, under certain conditions, the Headquarters Office may elect to issue a letter of credit.

e. The map (Figure 2-1) on page 5 shows, among other things, the location of each EPA regional office and the geographical boundaries assigned to each office. The mailing address of the Headquarters servicing office and of each regional office is shown in paragraph 3.

f. All EPA programs which are not affected by the limitations and exceptions listed in 2. below shall use the letter of credit technique in providing Federal funds to the recipient organizations. The letter of credit technique shall be used for procurement contracts which qualify. However, these contracts are also subject to the provisions of the Federal Procurement Regulations regarding contract financing.

g. In instances where the letter of credit recipient organization is operating more than one project under the EPA program, the grant amount for each project shall be added together and, if the anticipated cash requirements exceed \$120,000 per year, a single letter of credit shall be issued covering the aggregate amount provided other limitations do not preclude issuance.

h. Where a recipient organization consistently fails to comply with the provisions governing the timing of drawdowns or with reporting requirements, the Agency may revoke the letter of credit in favor of the reimbursable payment method.

2. LIMITATIONS.

a. Letters of credit shall not be used in the following instances:

(1) When the disbursements are made, or will be made, on a reimbursable basis, unless specific approval is granted by the Department of the Treasury.

(2) When the aggregate annual amount required for advance payment does not equal or exceed \$120,000 per recipient.

(3) When the project(s) is not of a continuing nature of at least one year duration.

(4) When a method other than letter of credit, but meeting the objectives of the Department of the Treasury Circular No. 1075, has been established by EPA and approved by the Department of the Treasury. These objectives are identified in 1a, b, and c on the preceding page.

(5) When the existing Federal legislation specifies the timing of payment in a manner which makes the letter of credit technique impracticable.

(6) When the recipient is funded on a reimbursable basis, except when the recipient is a non-profit organization participating in a single letter of credit to a State.

b. Payment vouchers on letters of credit shall not be for amounts less than \$5,000 or more than \$5,000,000 unless so stated on the letter of credit.

3. LOCATIONS AND ACCOUNTING STATION SYMBOLS OF EPA OFFICES. The following are locations of administering EPA offices and the eight-digit accounting station symbols assigned to those offices. These symbols shall be used exclusively for letters of credit transactions.

8 DIGIT ACCOUNTING
STATION SYMBOL

<u>OFFICE</u>	<u>LOCATION</u>	<u>8 DIGIT ACCOUNTING STATION SYMBOL</u>
Region I	John F. Kennedy Federal Building Boston, Massachusetts 02203	68 13 9701
Region II	26 Federal Plaza New York, New York 10007	68 13 9702
Region III	Curtis Building 6th and Walnut Streets Philadelphia, Pennsylvania 19106	68 13 9703
Region IV	345 Courtland Street, N.E. Atlanta, Georgia 30365	68 13 9704
Region V	230 South Dearborn Street Chicago, Illinois 60604	68 13 9705
Region VI	1201 Elm Street Dallas, Texas 75270	68 13 9706
Region VII	324 E. 11th Street Kansas City, Missouri 64106	68 13 9707
Region VIII	Lincoln Tower Building 1860 Lincoln Street Denver, Colorado 80203	68 13 9708
Region IX	215 Fremont Street San Francisco, Calif. 94105	68 13 9709
Region X	1200 Sixth Avenue Seattle, Washington 98101	68 13 9710
Headquarters Grants	Accounting Operations Office P.O. Box 18418 Las Vegas, Nevada 98114	68 13 9799
Headquarters Contracts	Financial Management Division EPA (MD-32) Accounting Operations Branch Research Triangle Park, N.C. 27711	68 13 9722

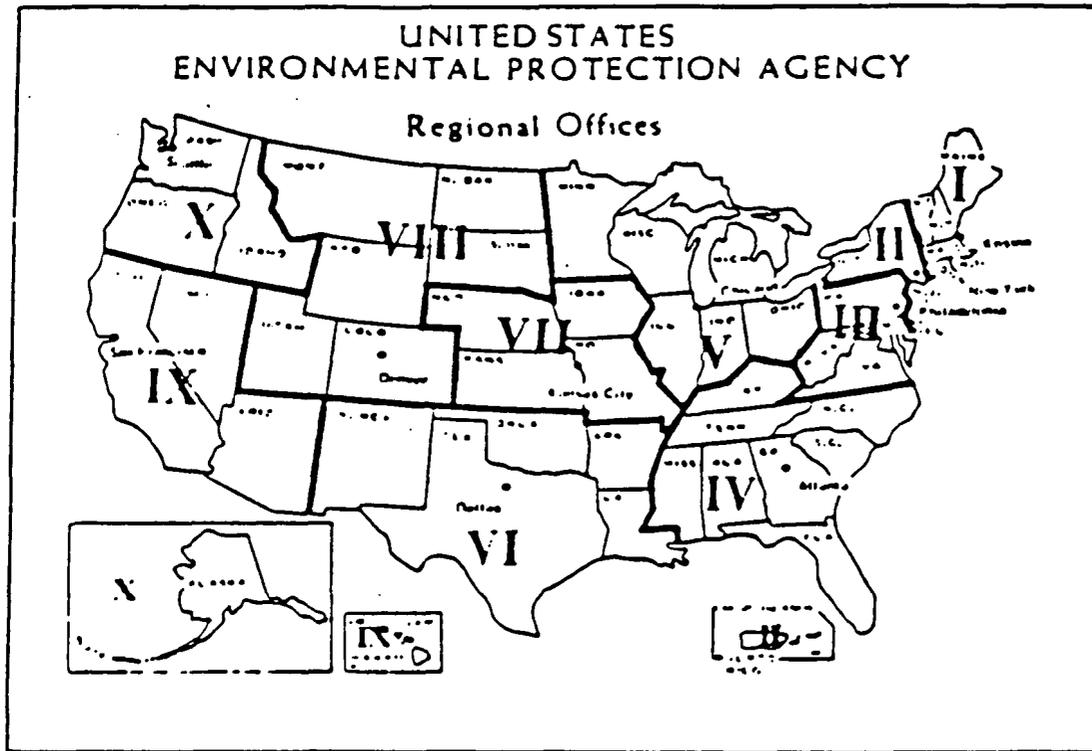


FIGURE 2-1 MAP OF EPA REGIONS

CHAPTER 3 - ESTABLISHING LETTERS OF CREDIT

1. SELECTION OF A COMMERCIAL BANK.

a. The recipient organization shall select a commercial bank which agrees to receive payment vouchers drawn on the Treasurer of the United States and to forward such vouchers to the applicable Federal Reserve Bank or branch. If feasible, the bank selected should be one in which a minority group has an interest.

b. The recipient organization shall furnish the applicable EPA office the following information pertaining to the selection of a commercial bank:

(1) Name, address, and telephone number of the commercial bank selected.

(2) Name and title of two principal officers of the bank.

(3) Title and account number of the recipient's bank account.

(4) Address of the Federal Reserve Bank or branch which serves the commercial bank selected. (The recipient organization must obtain this information from the selected commercial bank.)

2. AUTHORIZED SIGNATURE CARD (SF 1194). In the letter of transmittal or other document providing the information required in paragraph 1.b., the name, title and signature of the official authorized to sign the signature card must be shown. The signature card must be completed as follows:

a. The recipient organization shall submit to EPA two originals of Standard Form 1194, Authorized Signature Card for Payment Vouchers on Letter of Credit.

b. On the following pages are a facsimile of SF 1194 (Figure 3-2) and an explanation of what information shall be entered in the numbered blocks (Figure 3-3).

c. The Federal Reserve Bank or branch will accept only the signature of persons named on current signature cards (SF 1194) on file. Recipient organizations shall, therefore, submit new signature cards (SF 1194) whenever there is a change, including additions or deletions in the persons authorized to sign payment vouchers. Change in the title or position of a person so authorized does not require a superseding signature card if the person's authority to sign payment voucher (Form TFS 5401) remains unchanged.

3. LETTER OF CREDIT (SF 1193). Figure 3-1 is the letter of credit format. When the steps described in paragraphs 1 and 2 are completed, a

letter of credit is prepared by the EPA. The following is an explanation of the information on the letter of credit and how used by a recipient:

<u>BLOCK</u>	<u>DESCRIPTION</u>
(1)	The letter of credit is prepared by the financial management office of the issuing EPA office,
(2)	The first four digits of the number assigned to the letter of credit identifies EPA and the issuing office. The last four digits identify the letter of credit. The Letter of Credit Number is required on the payment voucher (TFS 5401).
(3)	The letter of credit must be amended for (a) any increase or decrease in the amount authorized; (b) a change in the name of the recipient organization; (c) a change in the title of the bank account; or (d) a change in the commercial bank which requires a change in the Federal Reserve Bank or branch. A statement should be included in the amending letter of credit to explain any amendment other than a change in the amount authorized.
(4)	The AGENCY STATION SYMBOL identifies the accounting station of the EPA office which is administering the letter of credit. The agency station symbol is required on the payment voucher (TFS 5401).
(5)	For State recipients, the letter of credit is issued in favor of the title (not name) of the official authorized by the recipient's governing body to receive Federal funds. For educational or other institutions, the letter of credit is issued in favor of the name of the recipient organization.
(6)	The name of the bank account, as specified on the signature card by the recipient, is entered here.
(7)	The letter of credit issued by the EPA office for an amount which represents the maximum the recipient can draw as designated. Any unused balance of the authorized amount is automatically canceled at the end of the designated period, and the full authorized amount is reinstated at the beginning of the next period. The EPA office should be contacted whenever the designated periodic ceiling requires revision.

ISSUING AGENCY (1)	LETTER OF CREDIT <small>Auth: TREASURY DEPARTMENT CIRCULAR No. 1073, Revised</small>	LETTER OF CREDIT NUMBER (2) AMENDMENT NUMBER (3)
AGENCY STATION SYMBOL (4)	(FOR AGENCY USE)	EFFECTIVE DATE
TO: The Federal Reserve Bank,		BRANCH BANK AT

In accordance with the authorization of the Fiscal Assistant Secretary, Treasury Department, there is hereby authorized for the account and responsibility of the issuing agency a letter of credit:

IN FAVOR OF (5)		FOR DEPOSIT ONLY TO (6) ACCOUNT	
AMOUNT AUTHORIZED \$ (7)	<input type="checkbox"/> EACH MONTH <input type="checkbox"/> EACH QUARTER <input type="checkbox"/> WITHOUT TIME LIMIT <input type="checkbox"/> _____	PRIOR AUTHORIZATION \$	THIS CHANGE Increase \$ Decrease \$

The unpaid balance of this letter of credit will remain available until you are advised in writing by the Treasury Department that this letter has been revoked.

OR

The unpaid balance of this letter of credit is revoked at the end of each period indicated and the full amount reestablished at the beginning of the following period until you are advised in writing by the Treasury Department that this letter has been revoked.

The amount of this letter of credit is hereby certified to be drawn against, upon presentation to you of Form TUS 5401, Payment Voucher on Letter of Credit, by the official(s) of the recipient organization whose signature(s) appear(s) on the Standard Form 1194, Authorized Signature Card for Payment Vouchers on Letter of Credit, attached hereto or previously or subsequently furnished you through the Treasury Department.

The amount of each payment voucher paid by a Federal Reserve Bank or branch to a designated commercial bank for credit to the account of the recipient organization shall constitute payment to the recipient organization by the United States.

I certify to the Treasury Department that the payments authorized herein are correct and proper for payment from the appropriations or funds legally committed and available for the purpose, when paid in accordance with the terms and conditions cited above.

DATE CERTIFIED _____

AUTHORIZED CERTIFYING OFFICER

TYPED NAME AND TITLE

1193-102

**AUTHORIZED SIGNATURE CARD
FOR PAYMENT VOUCHERS
ON LETTER OF CREDIT**

Letter of Credit Number
(1)
Federal Reserve Bank
(2)

Letter of Credit Issued in Favor of *(Recipient)*

(3)

Issued by *(Federal Agency)*

(4)

SIGNATURES OF INDIVIDUALS AUTHORIZED (5) ONLY ONE SIGNATURE REQUIRED ON PAYMENT VOUCHERS
TO DRAW ON THE CITED LETTER OF CREDIT (6) ANY TWO SIGNATURES REQUIRED TO SIGN OR COUNTERSIGN
OR

Typed Name and Signature

(7)

Typed Name and Signature

Typed Name and Signature

Typed Name and Signature

I CERTIFY THAT THE SIGNATURES ABOVE ARE OF THE INDIVIDUALS AUTHORIZED TO DRAW PAYMENT VOUCHERS FOR THE CITED LETTER OF CREDIT.

(8)

APPROVED:

(9)

DATE AND SIGNATURE OF AUTHORIZING OFFICIAL *(Recipient)*

DATE AND SIGNATURE OF AGENCY CERTIFYING OFFICER

FIGURE 3-2 STANDARD FORM 1194

BLOCK
NUMBER

EXPLANATION

1. Leave blank - to be completed by EPA.
2. Enter the city address of the Federal Reserve Bank or branch which services the recipient organization's selected commercial bank.
3. Enter the name, address, grant(s) number and contract(s) number of the recipient organization. If additional space is required, use the reverse side of this form for listing grant(s) and contract(s) numbers.
4. Enter U.S. Environmental Protection Agency plus the appropriate address of the applicable regional or the central office which is to issue the letter of credit.
5. Enter an "X". Only one signature will be required.
6. Leave blank.
7. Enter the typed name and signature of the officials of the recipient organization who are authorized to execute Form TFS 5401 - Payment Voucher on Letter of Credit.
8. Enter the date, typed name, title, and signature of the recipient organization's official who is authorized to certify the authenticity of the signature of individuals authorized to execute Form TFS 5401.
9. Leave Blank - to be completed by EPA.

FIGURE 3-3. PREPARATION OF STANDARD FORM 1194

CHAPTER 4 - CASH DRAWDOWNS

1. PAYMENT VOUCHERS ON LETTER OF CREDIT (FORM TFS 5401). The recipient organization shall execute a Form TFS 5401 - Payment Voucher on Letter of Credit, each time it is determined that funds are needed to meet current expenses. Figure 4-1 is a facsimile of Form (TFS 5401) and Figure 4-2 contains instructions for the preparation of the payment voucher.

2. LIMITATIONS. Drawdowns may not be for amounts less than \$5,000 or more than \$5,000,000 unless so stated on the letter of credit.

3. DISTRIBUTION OF PAYMENT VOUCHERS. The executed Form TFS 5401 shall be distributed as follows:

a. Original and Duplicate and Triplicate - The recipient organization shall present these forms to the commercial bank handling its account for forwarding to (1) the appropriate Federal Reserve Bank or branch, or (2) the Cash Division, Office of the Treasurer of the United States, Department of the Treasury, if that commercial bank is located in the District of Columbia.

b. Quadruplicate - The recipient organization shall retain this copy for its files.

4. SUPPLY OF FORM (TFS 5401). The payment vouchers which are pre-numbered by the Department of the Treasury will be obtained from the EPA office issuing the letter of credit.

5. PROJECT IDENTIFICATION. As drawdowns will be made as close as is possible to recipient disbursements liquidating project liabilities, identification of funds to individual grants or contracts will be reported on the reverse of the payment voucher (TFS 5401). Show the grant or contract number for each agreement under the letter of credit and the portion of the drawdown pertaining to each. Only show agreements with activity on the current payment voucher. As only the triplicate copy reaches the program Agency (EPA), there is no need to reflect this information on the original and duplicate copy.

Transmission to Federal Reserve Bank.

PAYMENT VOUCHER ON LETTER OF CREDIT (TO BE COLLECTED AS A NON-CASH ITEM)				2944000
1-TFRM 6-2000		<small>The drawer's bank shall be the agent of the drawer for the collection of this instrument and each subsequent collecting commercial bank shall be the subagent of the drawer.</small>		SERIAL NO. SYMBOL 17-865
VOUCHER NO. (1)	LETTER OF CREDIT NO. (2)	AGENCY LOCATION CODE (3)	DATE VOUCHER DRAWN (4)	AMOUNT \$ (5)
NAME AND ADDRESS OF DRAWER (6)		NAME AND ADDRESS OF DRAWER'S BANK (7)		FEDERAL RESERVE BANK OR BRANCH (8)
				FEDERAL FUNDS ON HAND \$ (9)
NAME AND ADDRESS OF U.S. AGENCY <i>Sample Copy</i>		I certify that this payment voucher has been drawn in accordance with the terms and conditions of the letter of credit cited and that the amount for which drawn is properly for credit to the account of the drawer at the drawer's bank.		
(10)		(12) _____ <small>(Signature)</small>	(11) _____ <small>(Title)</small>	
		(14) _____ <small>(Countersignature)</small>	(13) _____ <small>(Title)</small>	
<small>Per authorization of Fiscal Assistant Secretary, Department of the Treasury, debit the general account of the U.S. Treasury and pay to the presenting bank the amount shown above.</small>				FOR FEDERAL RESERVE BANK USE ONLY (15) _____ (16) _____ <small>(Date Debited) (Authorized Signature)</small>
TFS FORM 5401 EDITION OF 5-75. IS OBSOLETE 6-78				DEPARTMENT OF THE TREASURY - FISCAL SERVICE BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

1. Enter the payment voucher number commencing with number "1" for each letter of credit and progressing in consecutive order. Amendments to the letter of credit will not interrupt the progression.
2. Enter the letter of credit number exactly as shown on the applicable SF 1193.
3. Enter Agency Station Symbol.
4. Enter the actual date that the payment voucher is presented to the local commercial bank.
5. Enter the dollar amount of the drawdown against the letter of credit. Each grant or contract number and the amount of drawdown applicable to each shall be shown on the reverse side of Form TFS 5401.
6. Enter the name and address of the recipient organization. The information in this block shall be exactly the same shown on SF 1193 and on SF 1194.
7. Enter the name and address of the commercial bank which handles the recipient organization's bank account.
8. Enter the city location of the Federal Reserve Bank or branch which services the local commercial bank, exactly as it appears on the SF 1193.
9. Enter the total amount of unexpended Federal funds on hand.
10. Enter the "U.S. Environmental Protection Agency" and the address of the EPA office executing the applicable letter of credit.
11. & 12. The name and title of the person authorized to sign payment vouchers (as evidenced by an executed SF 1194) shall be typed in block 11 and the person so authorized shall affix his signature in ink in block 12.
13. & 14. No entries are necessary since EPA does not require a countersignature.
15. & 16. Leave blank. - to be completed by the Federal Reserve Bank.

CHAPTER 5 - REPORTING REQUIREMENTS

1. RECIPIENTS' RESPONSIBILITIES. Recipients of Federal funds by way of EPA grants or contracts are responsible for reporting to EPA as required. This chapter is concerned with the requirements when funding is obtained by the letter of credit system.

2. RECIPIENTS' RECORDS. Records must be maintained to satisfy the particular requirements of the programs awarding the grants or contracts. For the purposes of the letter of credit system, such records must enable the EPA to ascertain that the cash drawdowns are directly related to and closely timed to the actual disbursements on account of liabilities involving EPA supported projects. Moreover, the records must have the capability of providing information as to the Federal share of accrued costs.

3. REQUIRED REPORTS.

a. Financial Status Report. Form SF-269. This report, Figure 5-1, must be submitted for each project as required by the grant provision 30 days after the close of each fiscal year. In addition, final reports must be submitted 90 days after the end of the grant period or the completion of the project or program. Extensions to reporting due dates may be granted if justified. The report will be prepared in accordance with the instructions on the reverse thereof, and forwarded to the appropriate grants administration office at the addresses listed on the applicable award document.

b. Report of Federal Cash Transactions. Form SF-272. This report, Figure 5-2 and 5-3, must be submitted 15 working days following the end of each calendar quarter. The report will be prepared in accordance with the instructions on the reverse thereof, and submitted to the cognizant EPA Finance Office at the addresses listed in Chapter 2.

4. ADDITIONAL INFORMATION,

Additional information, concerning the responsibilities of grant recipients under the letter of credit financing method, may be obtained by contacting the grant recipient's servicing EPA regional financial management office or the following office:

Chief, Fiscal Policies and Procedures Branch
Division of Financial Management
401 M Street, S.W.
Washington, D.C. 20460
(202) 755-4523

FINANCIAL STATUS REPORT <i>(Follow instructions on the back)</i>		1. FEDERAL AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH REPORT IS SUBMITTED		2. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER		OMB Approved No. 80-10180		PAGE OF PAGES	
3. RECIPIENT ORGANIZATION (Name and complete address, including ZIP code)		4. EMPLOYER IDENTIFICATION NUMBER		5. RECIPIENT ACCOUNT NUMBER OR IDENTIFYING NUMBER		6. FINAL REPORT <input type="checkbox"/> YES <input type="checkbox"/> NO		7. BASIS <input type="checkbox"/> CASH <input type="checkbox"/> ACCRUAL	
		8. PROJECT/GRANT PERIOD (See instructions) FROM (Month, day, year) TO (Month, day, year)		9. PERIOD COVERED BY THIS REPORT FROM (Month, day, year) TO (Month, day, year)					
10. STATUS OF FUNDS									
PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	(d)	(e)	(f)	TOTAL (g)		
a. Net outlays previously reported	\$	\$	\$	\$	\$	\$	\$		
b. Total outlays this report period									
c. Less: Program income credits									
d. Net outlays this report period (Line b minus line c)									
e. Net outlays to date (Line a plus line d)									
f. Less: Non-Federal share of outlays									
g. Total Federal share of outlays (Line e minus line f)									
h. Total unliquidated obligations									
i. Less: Non-Federal share of unliquidated obligations shown on line h									
j. Federal share of unliquidated obligations									
k. Total Federal share of outlays and unliquidated obligations									
l. Total cumulative amount of Federal funds authorized									
m. Unobligated balance of Federal funds									
11. INDIRECT EXPENSE	a. TYPE OF RATE (Place "X" in appropriate box) <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> PREDETERMINED <input type="checkbox"/> FINAL <input type="checkbox"/> FILED		13. CERTIFICATION I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.			SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		DATE REPORT SUBMITTED	
	b. RATE	c. PERCENT								d. TOTAL AMOUNT	e. FEDERAL SHARE	TYPED OR PRINTED NAME AND TITLE		TELEPHONE (Area code, number and extension)
12. REMARKS: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.									

FIGURE 3-1 FINANCIAL STATUS REPORT

EPA FORM 269

STANDARD FORM 269 (7-73)
 Prescribed by Office of Management and Budget
 Cir. No. A-110

FEDERAL CASH TRANSACTIONS REPORT

(See instructions on the back. If report is for more than one grant or assistance agreement, attach completed Standard Form 272-A.)

1. Federal sponsoring agency and organizational element to which this report is submitted

2. RECIPIENT ORGANIZATION

Name :

Number and Street :

City, State and ZIP Code :

4. Federal grant or other identification number	5. Recipient's account number or identifying number
6. Letter of credit number	7. Last payment voucher number
Give total number for this period	
8. Payment Vouchers credited to your account	9. Treasury checks received (whether or not deposited)
10. PERIOD COVERED BY THIS REPORT	
FROM (month, day, year)	TO (month, day, year)

3. FEDERAL EMPLOYER IDENTIFICATION NO. ▶

11. STATUS OF FEDERAL CASH (See specific instructions on the back)	a. Cash on hand beginning of reporting period	\$
	b. Letter of credit withdrawals	
	c. Treasury check payments	
	d. Total receipts (Sum of lines b and c)	
	e. Total cash available (Sum of lines a and d)	
	f. Gross disbursements	
	g. Federal share of program income	
	h. Net disbursements (Line f minus line g)	
	i. Adjustments of prior periods	
	j. Cash on hand end of period	\$

12. THE AMOUNT SHOWN ON LINE 11J, ABOVE, REPRESENTS CASH REQUIREMENTS FOR THE ENSUING Days

13. OTHER INFORMATION	
a. Interest income	\$
b. Advances to subgrantees or subcontractors	\$

14. REMARKS (Attach additional sheets of plain paper, if more space is required)

15. CERTIFICATION

I certify to the best of my knowledge and belief that this report is true in all respects and that all disbursements have been made for the purpose and conditions of the grant or agreement

AUTHORIZED CERTIFYING OFFICIAL	SIGNATURE	DATE REPORT SUBMITTED
	TYPED OR PRINTED NAME AND TITLE	
	TELEPHONE (Area Code) (Number)	(Extension)

THIS SPACE FOR AGENCY USE

FIGURE 5-2 REPORT OF FEDERAL CASH TRANSACTION SF-272

Please type or print legibly. Items 1, 2, 3, 6, 7, 9, 10d, 10e, 10g, 10i, 10l, 11a, and 12 are self-explanatory, specific instructions for other items are as follows:

Item	Entry	Item	Entry
4	Enter the employer identification number assigned by the U.S. Internal Revenue Service or FICE (institution) code, if required by the Federal sponsoring agency.	10c	Enter the amount of all program income realized in this period that is required by the terms and conditions of the Federal award to be deducted from total project costs. For reports prepared on a cash basis, enter the amount of cash income received during the reporting period. For reports prepared on an accrual basis, enter the amount of income earned since the beginning of the reporting period. When the terms of conditions allow program income to be added to the total award, explain in remarks, the source, amount and disposition of the income.
5	This space is reserved for an account number or other identifying numbers that may be assigned by the recipient.	10f	Enter amount pertaining to the non-Federal share of program outlays included in the amount on line e.
8	Enter the month, day, and year of the beginning and ending of this project period. For formula grants that are not awarded on a project basis, show the grant period.	10h	Enter total amount of unliquidated obligations for this project or program, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations are: Cash basis—obligations incurred but not paid; Accrued expenditure basis—obligations incurred but for which an outlay has not been recorded. Do not include any amounts that have been included on lines a through g. On the final report, line h should have a zero balance.
10	The purpose of vertical columns (a) through (f) is to provide financial data for each program, function, and activity in the budget as approved by the Federal sponsoring agency. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the totals of all programs, functions or activities should be shown in column (g) of the first page. For agreements pertaining to several Catalog of Federal Domestic Assistance programs that do not require a further functional or activity classification breakdown, enter under columns (a) through (f) the title of the program. For grants or other assistance agreements containing multiple programs where one or more programs require a further breakdown by function or activity, use a separate form for each program showing the applicable functions or activities in the separate columns. For grants or other assistance agreements containing several functions or activities which are funded from several programs, prepare a separate form for each activity or function when requested by the Federal sponsoring agency.	10j	Enter the Federal share of unliquidated obligations shown on line h. The amount shown on this line should be the difference between the amounts on lines h and i.
10a	Enter the net outlay. This amount should be the same as the amount reported in Line 10e of the last report. If there has been an adjustment to the amount shown previously, please attach explanation. Show zero if this is the initial report.	10k	Enter the sum of the amounts shown on lines g and j. If the report is final the report should not contain any unliquidated obligations.
10b	Enter the total gross program outlays (less rebates, refunds, and other discounts) for this report period, including disbursements of cash realized as program income. For reports that are prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and subgrantees. For reports prepared on an accrual expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contractors, subgrantees, and other payees.	10m	Enter the unobligated balance of Federal funds. This amount should be the difference between lines k and l.
		11b	Enter rate in effect during the reporting period.
		11c	Enter amount of the base to which the rate was applied.
		11d	Enter total amount of indirect cost charged during the report period.
		11e	Enter amount of the Federal share charged during the report period. If more than one rate was applied during the project period, include a separate schedule showing bases against which the indirect cost rates were applied, the respective indirect rates the month, day, and year the indirect rates were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

INSTRUCTIONS

Please type or print legibly. Items 1, 2, 8, 9, 10, 11d, 11e, 11h, and 15 are self explanatory, specific instructions for other items are as follows:

<i>Item</i>	<i>Entry</i>	<i>Entry</i>	<i>Item</i>
3	<p>Enter employer identification number assigned by the U.S. Internal Revenue Service or the FICE (institution) code.</p> <p>If this report covers more than one grant or other agreement, leave items 4 and 5 blank and provide the information on Standard Form 272-A, Report of Federal Cash Transactions—Continued; otherwise:</p>	11g	<p>employee's share of benefits if treated as a direct cost, interdepartmental charges for supplies and services, and the amount to which the recipient is entitled for indirect costs.</p> <p>Enter the Federal share of program income that was required to be used on the project or program by the terms of the grant or agreement.</p>
4	<p>Enter Federal grant number, agreement number, or other identifying numbers if requested by sponsoring agency.</p>	11i	<p>Enter the amount of all adjustments pertaining to prior periods affecting the ending balance that have not been included in any lines above. Identify each grant or agreement for which adjustment was made, and enter an explanation for each adjustment under "Remarks." Use plain sheets of paper if additional space is required.</p>
5	<p>This space reserved for an account number or other identifying number that may be assigned by the recipient.</p>	11j	<p>Enter the total amount of Federal cash on hand at the end of the reporting period. This amount should include all funds on deposit, imprest funds, and undeposited funds (line e, less line h, plus or minus line i).</p>
6	<p>Enter the letter of credit number that applies to this report. If all advances were made by Treasury check, enter "NA" for not applicable and leave items 7 and 8 blank.</p>	12	<p>Enter the estimated number of days until the cash on hand, shown on line 11j, will be expended. If more than three days cash requirements are on hand, provide an explanation under "Remarks" as to why the drawdown was made prematurely, or other reasons for the excess cash. The requirement for the explanation does not apply to prescheduled or automatic advances.</p>
7	<p>Enter the voucher number of the last letter-of-credit payment voucher (Form TUS 5401) that was credited to your account.</p>	13a	<p>Enter the amount of interest earned on advances of Federal funds but not remitted to the Federal agency. If this includes any amount earned and not remitted to the Federal sponsoring agency for over 60 days, explain under "Remarks." Do not report interest earned on advances to States.</p>
11a	<p>Enter the total amount of Federal cash on hand at the beginning of the reporting period including all of the Federal funds on deposit, imprest funds, and undeposited Treasury checks.</p>	13b	<p>Enter amount of advance to secondary recipients included in item 11h.</p>
11b	<p>Enter total amount of Federal funds received through payment vouchers (Form TUS 5401) that were credited to your account during the reporting period.</p>	14	<p>In addition to providing explanations as required above, give additional explanation deemed necessary by the recipient and for information required by the Federal sponsoring agency in compliance with governing legislation. Use plain sheets of paper if additional space is required.</p>
11c	<p>Enter the total amount of all Federal funds received during the reporting period through Treasury checks, whether or not deposited.</p>		
11f	<p>Enter the total Federal cash disbursements, made during the reporting period, including cash received as program income. Disbursements as used here also include the amount of advances and payments less refunds to subgrantees or contractors, the gross amount of direct salaries and wages, including the</p>		

STANDARD FORM 272 (BACK) (7-76)

GPO : 1974 O - 219-176

FEDERAL CASH TRANSACTIONS REPORT CONTINUATION

Approved by Office of Management and Budget No. 80-RO182

This form is completed and attached to Standard Form 272 only when reporting more than one grant or assistance agreement.

2. RECIPIENT ORGANIZATION (Give name only as shown in item 2, SF 272)

1. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

3. PERIOD COVERED BY THIS REPORT (As shown on SF 272)

FROM (month, day, year) TO (Month, day, year)

List information below for each grant or other agreement covered by this report. Use additional forms if more space is required.

FEDERAL GRANT OR OTHER IDENTIFICATION NUMBER <i>Show a subdivision by other identifying numbers if required by the Federal Sponsoring Agency</i> (a)	RECIPIENT ACCOUNT NUMBER OR OTHER IDENTIFYING NUMBER (b)	FEDERAL SHARE OF NET DISBURSEMENTS	
		NET DISBURSEMENTS (Gross disbursements less program income received) FOR REPORTING PERIOD (c)	CUMULATIVE NET DISBURSEMENTS (d)
		\$	\$

TOTALS (Should correspond with amounts shown on SF 272 as follows: column (c) the same as line 11h; column (d) the sum of lines 11i and 11j of this SF 272 and cumulative disbursements shown on report. Attach explanation of any differences.)

TOTALS (Should correspond with amounts shown on SF 272 as follows: column (c) the same as line 11h; column (d) the sum of lines 11i and 11j of this SF 272 and cumulative disbursements shown on report. Attach explanation of any differences.)

STANDARD FORM 272-A (9-76)
Prescribed by Office of Management and Budget
CIR. NO. A-110

FIGURE 5-3 REPORT OF FEDERAL CASH
TRANSACTIONS -
CONTINUATION - 272A

REQUEST FOR FUNDS

FOR FINANCIAL INSTITUTION USE ONLY

PAID

DATE _____

REJECTED DUE TO: _____

SECTION I—MESSAGE FORMAT

O	TYPE
21030059	1031

ROM	CL	REF	AMOUNT
86500634			\$ 20,000.00

SPECIAL HANDLING INSTRUCTIONS
REQUEST FOR FUNDS

ENDER
Central Bank
 RO FINANCIAL INSTITUTION

RECEIVER	TDO	FPA	LCN	ACN	RQN	BOH	OLR
REAS LOC	/ 312	/ 68128707	/ 68130722	/ 152005	/ 047	/ \$ 18,783.55	/ 3-25-91

ON
 Department of Agriculture
 THIRD PARTY INFORMATION
 007442-01-0\$15,000.00 & 007436-01-0\$5,000.00

SECTION II—CERTIFICATION (Must Be Completed By Drawer)

I certify that this Request for Funds has been drawn in accordance with the terms and conditions of the Letter of Credit cited and that the amount for which drawn is proper for payment to the account of the drawer at the drawer's financial institution. I also certify that the data reported is correct and that the amount of the Request for funds is not in excess of immediate disbursement needs.

DATE	SIGNATURE	TITLE
March 25, 1991	<i>[Handwritten Signature]</i>	Director

DATE	COUNTERSIGNATURE	TITLE
March 25, 1991	<i>[Handwritten Signature]</i>	Admin Secretary

ORIGINAL—SUBMIT TO FINANCIAL INSTITUTION

FINANCIAL STATUS REPORT

(Short Form)

(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report is Submitted	2. Federal Grant or Other Identifying Number Assigned By Federal Agency	OMB Approval No. 0348-0039	Page of pages
---	---	--------------------------------------	---

3. Recipient Organization (Name and complete address, including ZIP code)

4. Employer Identification Number	5. Recipient Account Number or Identifying Number	6. Final Report <input type="checkbox"/> Yes <input type="checkbox"/> No	7. Basis <input type="checkbox"/> Cash <input type="checkbox"/> Accrual
-----------------------------------	---	---	--

8. Funding/Grant Period (See instructions) From: (Month, Day, Year) To: (Month, Day, Year)	9. Period Covered by this Report From: (Month, Day, Year) To: (Month, Day, Year)
---	---

10. Transactions:	I Previously Reported	II This Period	III Cumulative
a. Total outlays			
b. Recipient share of outlays			
c. Federal share of outlays			
d. Total unliquidated obligations			
e. Recipient share of unliquidated obligations			
f. Federal share of unliquidated obligations			
g. Total Federal share (Sum of lines c and f)			
h. Total Federal funds authorized for this funding period			
i. Unobligated balance of Federal funds (Line h minus line g)			

11. Indirect Expense	a. Type of Rate (Place "X" in appropriate box) <input type="checkbox"/> Provisional <input type="checkbox"/> Predetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed			
	b. Rate	c. Base	d. Total Amount	e. Federal Share

12. Remarks. Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation

13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.

Typed or Printed Name and Title	Telephone (Area code, number and extension)
---------------------------------	---

Signature of Authorized Certifying Official	Date Report Submitted
---	-----------------------

FINANCIAL STATUS REPORT

(Short Form)

Please type or print legibly. The following general instructions explain how to use the form itself. You may need additional information to complete certain items correctly, or to decide whether a specific item is applicable to this award. Usually, such information will be found in the Federal agency's grant regulations or in the terms and conditions of the award. You may also contact the Federal agency directly.

Item	Entry	Item	Entry
1, 2 and 3.	Self-explanatory.		
4.	Enter the employer identification number assigned by the U.S. Internal Revenue Service.		
5.	Space reserved for an account number or other identifying number assigned by the recipient.		
6.	Check yes only if this is the last report for the period shown in item 8.		
7.	Self-explanatory.		
8.	Unless you have received other instructions from the awarding agency, enter the beginning and ending dates of the current funding period. If this is a multi-year program, the Federal agency might require cumulative reporting through consecutive funding periods. In that case, enter the beginning and ending dates of the grant period, and in the rest of these instructions, substitute the term "grant period" for "funding period."		
9.	Self-explanatory.		
10.	The purpose of columns I, II and III is to show the effect of this reporting period's transactions on cumulative financial status. The amounts entered in column I will normally be the same as those in column III of the previous report in the same funding period. If this is the first or only report of the funding period, leave columns I and II blank. If you need to adjust amounts entered on previous reports, footnote the column I entry on this report and attach an explanation.		
10a.	Enter total program outlays less any rebates, refunds, or other credits. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to sub-recipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions		contributions applied, and the net increase or decrease in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subgrantees and other payees, and other amounts becoming owed under programs for which no current services or performances are required, such as annuities, insurance claims, and other benefit payments.
		10b.	Self-explanatory.
		10c.	Self-explanatory.
		10d.	Enter the amount of unliquidated obligations, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they are obligations incurred, but for which an outlay has not yet been recorded. Do not include any amounts on line 10d that have been included on lines 10a, b or c. On the final report, line 10d must be zero.
		10e, f, g, h and i.	Self-explanatory
		11a.	Self-explanatory.
		11b.	Enter the indirect cost rate in effect during the reporting period.
		11c.	Enter the amount of the base against which the rate was applied.
		11d.	Enter the total amount of indirect costs charged during the report period.
		11e.	Enter the Federal share of the amount in 11d.
		Note:	If more than one rate was in effect during the period shown in item 8, attach a schedule showing the bases against which the different rates were applied, the respective rates, the calendar periods they were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

U.S. ENVIRONMENTAL PROTECTION AGENCY EPA ASSISTANCE AGREEMENT/AMENDMENT PART I - ASSISTANCE NOTIFICATION INFORMATION				1. ASSISTANCE ID NO.		2. LOG NUMBER	
				3. DATE OF AWARD		4. MAILING DATE	
5. AGREEMENT TYPE			6. PAYMENT METHOD				
<input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Grant Agreement <input type="checkbox"/> Assistance Amendment			<input type="checkbox"/> Advance <input type="checkbox"/> Reimbursement <input type="checkbox"/> Letter of Credit _____ Send Payment Request To:				
8. RECIPIENT			9. PAYEE				
RECIPIENT ORGANIZATION	EIN NO.		CONGRESSIONAL DISTRICT		10. RECIPIENT TYPE		
	11. PROJECT MANAGER AND TELEPHONE NO.			12. CONSULTANT (WWT Construction Grants Only)			
EPA CONTACT	13. ISSUING OFFICE (City/State)			14. EPA PROJECT/STATE OFFICER AND TELEPHONE NO.			
	15. EPA CONGRESSIONAL LIAISON & TEL. NO.		16. STATE APPL ID (Clearinghouse)		17. FIELD OF SCIENCE	18. PROJECT STEP (WWT CG Only)	
19. STATUTORY AUTHORITY			20. REGULATORY AUTHORITY		21. STEP 2 + 3 & STEP 3 (WWT Construction Only)		
					a. Treatment Level		
					b. Project Type		
					c. Treatment Process		
					d. Sludge Design		
22. PROJECT TITLE AND DESCRIPTION							
23. PROJECT LOCATION (Area Impacted by Project)							
City/Town			County		State	Congressional District	
24. ASSISTANCE PROGRAM (CFDA Program No. & Title)				25. PROJECT PERIOD		26. BUDGET PERIOD	
27. COMMUNITY POPULATION (WWT CG Only)			28. TOTAL BUDGET PERIOD COST		29. TOTAL PROJECT PERIOD COST		
FUNDS		FORMER AWARD		THIS ACTION		AMENDED TOTAL	
30. EPA Amount This Action							
31. EPA in-Kind Amount							
32. Unexpended Prior Year Balance							
33. Other Federal Funds							
34. Recipient Contribution							
35. State Contribution							
36. Local Contribution							
37. Other Contribution							
38. Allowable Project Cost							
39. FISCAL	Program Element	FY	Appropriation	Doc. Control No.	Account Number	Object Class	Obligation/Debiting Amount

PART II-APPROVED BUDGET

ASSISTANCE IDENTIFICATION NO. _____

TABLE A - OBJECT CLASS CATEGORY
(Non-construction)

TOTAL APPROVED ALLOWABLE
BUDGET PERIOD COST

1. PERSONNEL	
2. FRINGE BENEFITS	
3. TRAVEL	
4. EQUIPMENT	
5. SUPPLIES	
6. CONTRACTUAL	
7. CONSTRUCTION	
8. OTHER	
9. TOTAL DIRECT CHARGES	
10. INDIRECT COSTS: RATE % BASE	
11. TOTAL (Share: Recipient _____ % Federal _____ %)	

12. TOTAL APPROVED ASSISTANCE AMOUNT \$

TABLE B - PROGRAM ELEMENT CLASSIFICATION
(Non-construction)

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	

12. TOTAL (Share: Recipient _____ % Federal _____ %)

13. TOTAL APPROVED ASSISTANCE AMOUNT \$

TABLE C - PROGRAM ELEMENT CLASSIFICATION
(Construction)

1. ADMINISTRATION EXPENSE	
2. PRELIMINARY EXPENSE	
3. LAND STRUCTURES, RIGHT-OF-WAY	
4. ARCHITECTURAL ENGINEERING BASIC FEES	
5. OTHER ARCHITECTURAL ENGINEERING FEES	
6. PROJECT INSPECTION FEES	
7. LAND DEVELOPMENT	
8. RELOCATION EXPENSES	
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES	
10. DEMOLITION AND REMOVAL	
11. CONSTRUCTION AND PROJECT IMPROVEMENT	
12. EQUIPMENT	
13. MISCELLANEOUS	
14. TOTAL (Lines 1 thru 13)	
15. ESTIMATED INCOME (If applicable)	
16. NET PROJECT AMOUNT (Line 14 minus 15)	
17. LESS: INELIGIBLE EXCLUSIONS	
18. ADD: CONTINGENCIES	
19. TOTAL (Share: Recipient _____ % Federal _____ %)	

20. TOTAL APPROVED ASSISTANCE AMOUNT \$

PART III-AWARD CONDITIONS**a. GENERAL CONDITIONS**

The recipient covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this agreement, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The recipient warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFP Part 30, and (2) any special conditions set forth in this assistance agreement or any assistance amendment pursuant to 40 CFR 30.425.

b. SPECIAL CONDITIONS.

(For cooperative agreements include identification or summarization of EPA responsibilities that reflect or contribute to substantial involvement.)

ASSISTANCE IDENTIFICATION NO. _____

b. SPECIAL CONDITIONS (Continued)

PART IV

NOTE: The Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters awards and to the appropriate Grants Administrations Office for State and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the recipient subsequent to the document being signed by the EPA Award Official which the Award Official determines to materially alter the Agreement shall void the Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers assistance/amendment to the _____
RECIPIENT ORGANIZATION
 for _____% of all approved costs incurred up to and not exceeding \$ _____
ASSISTANCE AMOUNT
 for the support of approved budget period effort described in application (including all application modifications) _____ included herein by reference.
DATE AND YEAR

ISSUING OFFICE (Grants Administration Office)	AWARD APPROVAL OFFICE
ORGANIZATION/ADDRESS	ORGANIZATION/ADDRESS

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL	TYPED NAME AND TITLE	DATE

This Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2) the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE	TYPED NAME AND TITLE	DATE

Figure 15-4C

GENERAL INSTRUCTIONS FOR EPA FORM 5700-208, ASSISTANCE AMENDMENT
(EPA Personnel Only)

1. Use of this Assistance Amendment. Required for all Assistance Amendments entered into pursuant to 40 CFR 30.900-1. This form is not applicable to fellowships.

2. Preparation of the Assistance Amendment.

- a. The Assistance Amendment will be prepared by Grants Administration Division for Headquarters Assistance Amendments and by the Regional Grants Administration Office for regional awards.
- b. All approved amounts should be rounded downward to the nearest dollar.
- c. If an item is not applicable to the Assistance Agreement, place "N/A" in the corresponding block. DO NOT LEAVE ITEMS BLANK.
- d. Amendments should be numbered consecutively under each award.

3. Transmittal. Upon approval of an amendment award and 5 days after the Grants Information Branch, PM-216, is notified, the amendment document will be transmitted by certified mail (return receipt requested) to the applicant for execution. An additional copy of the Assistance Amendment will be transmitted to the State agency for Wastewater Treatment Works Construction projects.

4. Return Address. The recipient should be instructed in the transmittal letter to return Headquarters Assistance Amendments to the Grants Operations Branch, Grants Administration Division, and regional Assistance Amendments to the Grants Administration Office of the appropriate regional office. It should be recommended that return transmittal be made by certified mail.

5. Distribution. The final distribution of the executed Assistance Amendment copies shall be performed by the Grants Administration Division for Headquarters awards and by the appropriate Grants Administration Office for regional awards.

PREPARATION INSTRUCTIONS BY ITEM

Appropriation and Accounting Data. Supply appropriation accounting and object class data as indicated.

Description of Amendment. Supply concise description of amendment indicating all deletions and additions to the Assistance Agreement. (Use and attach additional sheets if necessary.)

NOTE: Any change in the approved project work, approved budget, or the approved commencement and completion dates for the approved project or major phases thereof must be stated in the Assistance Amendment. Example: Assistance Agreement, Page 1, Part 1, Item 5, entitled "PROJECT MANAGER" is deleted in its entirety. The following Item 5, entitled "PROJECT MANAGER" is substituted in lieu thereof:

- PROJECT MANAGER**
- a. Name (John Smith)
 - b. Title (Project Manager)
 - c. Phone Number 123-4567
 - d. Address 100 Main St., Midtown, USA

Award Approval Office. Indicate the EPA program organization title of the Award Approving Official and complete address.

Issuing Office. Indicate the Grants Administration Office (Headquarters or Regional) and complete address.

Recipient Organization. Indicate the legal organization title and complete address of the Recipient.

PESTICIDE APPLICATOR TRAINING

Evaluation Format

Evaluator _____

Date _____

Type _____

Location _____

Instructor/Extension Agent _____

Number of Trainees _____

Did the presentation include the approved topics? Any "no" answer must be explained.

A.

	Topics	Presentation Method	Requirements Adequately Met		Comments
			Yes	No	
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					

- B. Could all trainees see or hear adequately?
- C. Did the trainer require full attendance?
- D. Did the trainer require workbook completion?
- E. Type of participation (exam, worksheet, open discussion, etc.) _____
- F. Did the trainer provide information on completion of certification form?

Yes	No

REVIEW FORM for PRIVATE APPLICATOR TRAINING SESSION

/ 23/81

Reviewer's Name(s): _____ Date of Session: _____
 Affiliation: _____
 Session Title: _____ Location/State: _____

Purpose of Training Program: a) For Initial Certification Only _____ d) Also serves as commercial core session _____
 b) For Initial Certification OR Renewal of Certification _____ e) Also serves as commercial category session _____
 c) Optional training session which applicator may attend if he/she so chooses in addition to completing the required examination _____

Length of session: _____ Agency/Organization conducting training: _____
 # applicators participating: _____
 Other key participants/organizations associated with training session: _____

A. ELEMENTS INCLUDED AS PART OF TRAINING SESSION

	Open Book	Closed Book	Submitted to State for Review	Pass/Fail	Specific Grade Assigned	Ungraded	Reviewed during Session
1. Pre-training exams	_____	_____	_____	_____	_____	_____	_____
2. Post-training exams	_____	_____	_____	_____	_____	_____	_____
3. Worksheet	_____	_____	_____	_____	_____	_____	_____
4. Attestation Form			Yes _____	No _____			
5. Attendance Roster			Yes _____	No _____			
6. Monitored Sign In/Sign Out Sheet			Yes _____	No _____			
7. Is the applicator required to obtain specific training material/study guides prior to attending the session?			Yes _____	No _____			
8. Are handouts used in the training session?			Yes _____	No _____			

(If yes to #7 or #8, attach list of titles & brief description if appropriate.)

B. ISSUES ADDRESSED IN CURRENT FEDERAL REGULATIONS ON PRIVATE APPLICATOR COMPETENCY

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Needs to be Strengthened; NA = Not Addressed.

How well does the training session address the following? Evaluation term: _____

1) Recognizing common pests to be controlled and damage caused by them _____

- o Common features of pest organisms and characteristics of damage/traces needed for pest recognition _____
- o Recognition of relevant pests _____
- o Pest development & biology as may be relevant to problem identification and control _____

Notes: _____

Attach sheets as necessary -- This applies to every "notes" section.

B. ISSUES ADDRESSED IN CURRENT FEDERAL REGULATIONS ON PRIVATE APPLICATOR COMPETENCY (con.

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Needs to be Strengthened; NA = Not Addressed.

How well does the training session address the following?

Evaluation term:

2) Reading and understanding the label and labeling information - including:

- Requirement/necessity for use consistent with label
- General format of labels & labeling
- Understanding of product vs. chemical vs common names, names, signal words and symbols, and precautionary statements commonly appearing on label/ing
- Classification of product (general vs. restricted)
- Protective clothing and equipment statements
- Environmental hazard statements
- Preharvest or reentry restrictions
- Storage and disposal instructions
- Directions for use section:
 - crop/animal/site
 - dosage instructions
 - timing & methods of application
 - mixing directions (if applicable)
 - pests to be controlled
- When to read different sections of label/ing

Notes: _____

3) Recognizing local environmental situations that must be considered during application to avoid contamination

- Weather factors which affect pesticide applications and why
- Factors which affect drift
- Factors which affect runoff and other aquatic contamination (including formulation, site, amount of pesticide, soil type, rainfall, drainage, direct application to waterways)
- Presence of wildlife, aquatic areas, bees and other non-target areas

Notes: _____

4) Recognizing poisoning symptoms and procedures to follow in case of a pesticide accident

- Signs and symptoms of pesticide poisoning
- First aid (including recognition of pertinent information on label) and other procedures to be followed in case of a pesticide accident

Notes: _____

B. ISSUES ADDRESSED IN CURRENT FEDERAL REGULATIONS ON PRIVATE APPLICATOR COMPETENCY (cc

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Needs to be Strengthened; NA = Not Addressed.

How well does the training session address the following?

Evaluation term:

- 5) Storage of Pesticides/Containers _____
 - Appropriate storage facility characteristics _____
 - Storage facility supplies _____
 - Proper storage and identification of pesticide containers _____

Notes: _____

- 6) Disposal of Pesticides, Containers and Rinseate _____
 - Proper methods of disposing of excess pesticides _____
 - Proper methods of disposing of pesticide rinseate _____
 - Proper methods of disposing of used pesticide containers. _____
 - Consequences of improper disposal (including health, environmental and legal precautions) _____

Notes: _____

- 7) Legal Responsibility, Laws and Regulations (and Liability Information) _____
 - Pertinent state/federal pesticide laws and regulations not previously discussed _____
 - Types of situations in which applicator could be held liable _____
 - Liability/penalties as yet another reason for following information on labels/labeling and other laws and regulations _____
 - The need for recordkeeping and how to keep records _____
 - Other federal laws that affect pesticide applicators (such as RCRA, FFDCA, CWA, SDA) _____

Notes: _____

OTHER ISSUES ADDRESSED IN EPA/SFIREG C&T TASK FORCE & ELSEWHERE

Certain issues which follow may have been mentioned briefly under one of the headings in the preceding section.

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Needs to be Strengthened; NA = Not Addressed.

How well does the training session address the following?

Evaluation term:

8) Safety

- Acute toxicity
- Chronic effects
- Concept of accumulative effects
- Concept that risk is a function of both toxicity and exposure
- Common routes of pesticide exposure (oral, dermal, inhalation)
- Protective clothing and equipment (including body covering, aprons, gloves, hat, foot coverings, goggles/face shields, respirators)
- Care and maintenance of protective clothing and equipment
- Personal hygiene
- Proper mixing/loading of concentrated pesticides
- Closed handling systems

Notes: _____

9) Reentry and Worker Protection

- Definition & importance of reentry intervals
- Types of reentry intervals
- Warnings to workers of reentry intervals
- Content of warnings to workers
- Early reentry
- Other worker protection rules

Notes: _____

10) Pesticides

- Types of pesticides
- Choosing the correct pesticide
- Typical formulations (characteristics, advantages, disadvantages, main uses)
- Pesticide compatibility
- Adjuvants
- Factors which influence effectiveness or lead to such problems as resistance to pesticides

Notes: _____

OTHER ISSUES ADDRESSED IN EPA/SFIREG C&T TASK FORCE REPORT & ELSEWHERE (continued)

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Needs to be Strengthened; NA = Not Addressed.

How well does the training session address the following?

Evaluation term:

11) Pest Control Strategies

- Insect and insect-like pests
 - Insect control strategies
 - Importance of accurate pest i.d. & timing in the pest's life cycle in chemical control strategies
- Plant disease pests
 - Plant disease control strategies
 - Types of chemical control strategies
 - Importance of timing & coverage
- Weeds
 - Weed control strategies
 - Types of chemical control strategies
 - Importance of timing in chemical weed control strategy
- Mollusk control strategies (if appropriate)
- Vertebrate control strategies (if appropriate)

Notes: _____

12) Application Equipment

- Typical agricultural pesticide spray equipment (characteristics, advantages, disadvantages, and main uses)
- Nozzle patterns and materials
- Sprayer selection, use and care
- Granular applicators (characteristics, advantages, disadvantages, main uses, selection, use and care)
- Chemigation equipment (characteristics, advantages, disadvantages, main uses, selection, use and care)
- Cleanup of equipment after use

Notes: _____

13) Calibration

- Mixing soluble and wettable powders
- Mixing liquid concentrate formulations
- Determining size of area to be treated
- Considerations before calibration of sprayer
- Selecting nozzle tips
- Adjusting nozzle output
- Swath width & how to calculate it
- Field calibration of sprayers (as applicable)
- Calibration of granular applicators (as applicable)

Notes: _____

OTHER ISSUES ADDRESSED IN EPA/SFIREG C&T TASK FORCE REPORT & ELSEWHERE (continued)

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Needs to be Strengthened; NA = Not Addressed.

How well does the training session address the following?

Evaluation term:

14) Proper Transportation of Pesticides

Notes: _____

15) Groundwater Contamination

- Nature of groundwater
- Factors that affect groundwater contamination such as properties of pesticides, properties of soil, conditions of site, management
- Local groundwater conditions
- Applicator Practices/Preventive Measures (How applicator practices impact on groundwater contamination.)
- Laws and Regulations (Legal consequences of contaminating groundwater)

Notes: _____

16) Endangered Species

- Definition & importance
- Endangered Species Act
- Ways pesticides may harm endangered species
- Concept of habitat
- Label/ing changes to initiate endangered species use restrictions
- Sources of further information

Notes: _____

17) Responsibility of applicator to use pesticides properly in order to protect such products for future use and supervision responsibilities of certified applicators.

Notes: _____

C. TRAINING AIDS

Evaluation terms used in part for this section are: O = Outstanding; S = Strong; SA = Sufficiently Addressed; NS = Need to be Strengthened; NA = Not addressed.

- 1) Is there a question/answer period? Yes No
 Did the audience actively participate in the session? Yes No

Notes: _____

- 2) Are slides or videotapes used in the training session? Yes No
 If yes, for what subject areas?

How well do the slides/videos relay the intended message? Evaluation Term: _____
 (Attach list of slides/tapes/materials etc. used & brief description as appropriate)

Notes: _____

- 3) Is there any "hands-on" training incorporated into the training session? Yes No

If so, please briefly explain.

How effective is the hands-on training? Evaluation term: _____
 Notes _____

Notes: _____

- 4) If worksheets or exams are used in the training session, are the answers to the questions reviewed before the training session ends? Yes No

- 5) If handouts are used, are they referred to in the training session? Yes No

Do the handouts provide information relayed during the session? Yes No

Does the information in the handouts go beyond that provided in the session? Yes No

Notes: _____

- 6) Was the audience given an opportunity to evaluate the training session at its conclusion? Yes No

Is trainee feedback used in the session? Yes No
 Notes: _____

C. TRAINING AIDS (continued)

7) Are there breaks provided during the training session if appropriate?

Yes ___ No ___

Notes: _____

8) Was the overall setting for the training session conducive to the receipt of training?

Yes ___ No ___

Was the following adequate?

Lighting Yes ___ No ___

Temperature Yes ___ No ___

Seating (No./Arrangement) Yes ___ No ___

Accoustics Yes ___ No ___

Was there a limit set on the maximum number of trainees allowed to attend the session?

Yes ___ No ___

Notes: _____

SUMMARY EXPLANATION OF EXAM EVALUATION WORKSHEETS

The Pesticide Examination Evaluation Worksheets should provide a mechanism for evaluating exams with relative ease and guidance for persons when constructing exams.

The numbers in parentheses on the right margins indicate the percentage of the total questions which should fall into the various categories and subcategories of the standards of competency. Slight variations are to be expected but they should not be to the degree that the subject is inadequately covered. A rule of thumb should be that each percentage not deviate more or less than 25%. For example, if a category has (40) percent designated, the percent of questions should range between 30 and 50 percent. The 20 percent given to "other" should not be exceeded but may be zero. Any percentage more than 20 for "other" should be equally distributed in the remaining category standards.

Any person who constructs exams which deviate beyond the given percentages may submit a written explanation as to why in his opinion such is warranted. The grant manager will review and provide approval or disapproval to the proposal within 15 days of such a request.

When a question falls into two or more categories, enter at each appropriate line and circle each entry (5). Questions directly related to needs identified through enforcement activities will be identified by marking a box around the question number [5]. Other questions dealing with national priorities should be identified with an asterisk 5*.

In very few cases the approved state standards of competence go beyond 40 CFR 171.4. In such cases, the evaluator should list these category standards and provide a footnote explanation.

In the event the state has a subcategory or category specific to a particular use the evaluation key percentages may need to be adjusted. For example, a subcategory such as stored grain pests (fumigation) may need only about 15% under applicable pests as there are a smaller number of pest species in this category. Also, an argument could probably be made that a subcategory dedicated to household pest control may need a greater percentage of questions under applicable pests. All deviations should be coordinated with the lead agency and agreed upon by the evaluator in advance of exam construction or revision if at all possible.

Questions which directly address measures intended to prevent pest infestations and/or pesticide applications may be considered as indirectly related to exposure since such practices are expected to result in less or no pesticide use and thus little or no potential for such exposures.

GENERAL STANDARDS

Label and Labeling Comprehension

(10)

Question Number

General format and terminology
Understanding of instructions, warnings, and
other commonly appearing information
Classification
Necessity for use consistent w/label
Other (identify)

Safety

(15)

Toxicity, hazard to man and exposure routes
Common types and causes of accidents
(includes chronic health effects)*
Precautions to protect applicators and
others nearby from injury
Protective clothing and equipment
(includes proper use and disposal)*
Symptoms of pesticide poisoning
First aid and other procedures
Identification, storage, transport, handling
and mixing
Pesticide and container disposal
(includes disposal methods)*
Prevention of childrens access to pesticides
and containers
Other (identify)

Environment

(20)

Potential consequences of use/misuse
Weather and climate factors
Types of terrain, soil or other substrate
Presence of fish, wildlife, and other
non-target organisms (includes endangered species)*
Drainage patterns (includes surface and groundwater)*
Other (identify)

Pests

(10)

Features and damage characteristics
Recognition of relevant pests
Biology relevent to problem I.D. and control
Other (identify)

*national enforcement priorities

Pesticides

(10)

Types
Formulations
Compatibility, synergism, persistence
and animal and plant toxicity
Use hazards and residues
Factors influencing effectiveness or
leading to resistance
Dilution procedures
Other (identify)

Equipment

(10)

Types:
Advantages
Limitations
Use, maintenance, calibration *
Other (identify)

Application Techniques

(15)

Methods of procedure used to apply various
formulations, solutions and gases and which
technique to use
Proper use, unnecessary use and misuse
Drift prevention and other loss into the
environment
Other (identify)

Laws and Regulations

(10)

Federal
State
Other

*national enforcement priorities

<u>Forest</u>	<u>Question No:</u>	<u>Total</u>	<u>%</u>
Knowledge of forests, forest nurseries and seed production	(10)	.....	....
Pests:			
Identification	(30)	.....	....
Cyclic Occurrence		.....	....
Population dynamics		.....	....
Programming applications	(10)	.....	....
Biotic agents and their vulnerability to pesticides	(10)	.....	....
Practical knowledge of methods minimizing effects on aquatic habitats and wildlife	(10)	.....	....
Proper use of specialized applic. equip. as relates to weather and adjacent land use	(10)	.....	....
Other (Identify)	(20)	.....	....
	
	
	

Ornamental and/or Turf (circle us appropriate)

Question No.

Total %

Pest problems associated with ornamental: (35)

Trees

Shrubs

Plantings

Turf

Recognition of potential phytotoxicity (5)

Drift (15)

Persistence beyond the intended period (5)

Methods to minimize or prevent hazards to:

Humans (includes applicators) (20)

Pets

Other domestic animals

Other (Identify) (20)

Greenhouse

Pest problems associated with:

(45)

- Trees
- Shrubs
- Plantings

Potential phytotoxicity

(10)

Persistence

(5)

Methods to minimize or prevent hazards:

Humans (includes applicators)

(20)

Pets

Other domestic animals

(20)

Other (identify)

Seed - Treatment

Types of seeds requiring chemical protection

(15)

Factors which influence binding and may affect germination:

Seed coloration

(20)

Carriers

Surface active agents

Hazards associated with:

(35)

Handling

Sorting and mixing

Misuse of treated seed by introduction into food or feed channels

Disposal of unused treated seed

(10)

Other (identify)

(20)

Question No.

Total %

Question No.	Total	%
(45)		
(10)		
(5)		
(20)		
(20)		
(15)		
(20)		
(35)		
(10)		
(20)		

Aquatic

Question No.

Total 8

Knowledge of secondary effects caused by

Improper rates

(20)

Incorrect formulations

Faulty application

Practical knowledge of:

Water use situations

(10)

Potential downstream effects

(10)

Practical knowledge of effects on:

Plants

(40)

Fish

Birds

Beneficial insects

Other organisms

Other (identify)

(20)

Industrial, Institutional, Structural and
Health Related

	<u>Question No.</u>	<u>Total</u>	<u>%</u>
	(Identify subcategory as appropriate)		
Applicable pests:	(30)	.....	....
Identification		.....	....
Life cycles		.....	....
Pesticide types and formulations	(5)	.....	....
Exposure and contamination of:			
Food	(15)	.....	....
Pets		.....	....
Habitat		.....	....
Human exposure hazards to:			
Babies	(30)	.....	....
Children		.....	....
Elderly		.....	....
Applicators		.....	....
Other (Identify)	(20)	.....	....
	
	
	

Public Health

Vector/disease transmission

(20)

Pests:

(30)

Recognition

Life cycles

Habitats

Practical knowledge of a wide variety of environments: (Streams, Buildings, etc.)

(20)

Non-chemical methods:

Sanitation

(10)

Waste disposal

Drainage

Other (identify)

(20)

Regulatory

Practical knowledge of:

Regulated pests

(35)

Applicable quarantine laws and regulations

(10)

Environmental impact of pesticides used for suppression and eradication

(20)

Factors influencing introduction, spread and population dynamics of pests

(10)

Knowledge of problems in areas beyond normal duty areas

(5)

Other (identify)

(20)

Question No.

Total

%

Demonstration and Research

Problems:

Bioaccumulation

Biomagnification

Persistence

Pests

Population levels

Pesticide-organism interaction

Integrating pesticide use with other control methods

Other (Identify)

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Question No.

Total X

(30)

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POLICY AND PROGRAM REQUIREMENTS
TO IMPLEMENT THE MANDATORY QUALITY ASSURANCE PROGRAM

1. PURPOSE. This Order establishes policy and program requirements for the conduct of quality assurance (QA) for all environmentally related measurements performed by or for this Agency.
2. BACKGROUND. Agency policy requires participation in a centrally managed QA program by all EPA organizational units supporting environmentally related measurements. Under Delegation of Authority 1-41, "Mandatory Quality Assurance Program" (dated 4/1/81), the Office of Research and Development (ORD) is the focal point in the Agency for quality assurance policy and is responsible for developing QA requirements and overseeing Agencywide implementation of the QA program. ORD established the Quality Assurance Management and Special Studies Staff (QAMSS) to serve as the central management authority for this program. The QAMSS activities involve the development of policies and procedures; coordination for and direction of the implementation of the Agency QA program; and review, evaluation, and audit of program activities involving environmental monitoring and other types of data generation.

The Agency QA program embraces many functions including: establishing QA policy and guidelines for development of program and project operational plans; establishing criteria and guidelines for assessing data quality; serving as a QA information focal point; auditing to ascertain effectiveness of QA implementation; and identifying and developing QA training programs.

3. GOALS AND POLICY. The primary goal of the QA program is to ensure that all environmentally related measurements supported by the EPA produce data of known quality. The quality of data is known when all components associated with its derivation are thoroughly documented, such documentation being verifiable and defensible. It shall be the policy of all EPA organizational units to ensure that data representing environmentally related measurements are of known quality. Decisions by management rest on the quality of environmental data; therefore, program managers shall be responsible for: 1) specifying the quality of the data required from environmentally related measurements and 2) providing sufficient resources to assure that an adequate level of QA is performed. All routine or planned projects or tasks involving environmentally related measurements shall be undertaken with an adequate QA project plan that specifies data quality goals acceptable to the data user and assigns responsibility for achieving these goals.

In discharging its responsibility for implementing the Agency-mandated Quality Assurance Program, the ORD/QAMSS will strive for consensus by submitting for review proposed policies and procedures to affected program offices and regions. Responsibility for adjudication of unresolved issues, with respect to the above and QAMSS conducted audits, will be at the lowest level of authority consistent with the scope of the issues. The QAMSS will refer issues which remain unresolved at lower levels of authority to the AA/ORD for decision, after consultation with the appropriate AA or RA.

REGION VII
MODEL STATE QUALITY ASSURANCE PROGRAM PLAN

1.0 Quality Assurance Program Plan

Identification Form

2.0 Background

The Environmental Protection Agency (EPA) is making quality assurance one of the highest priorities in the area of environmental monitoring. EPA policy requires all EPA-supported monitoring programs to develop and implement QA plans which cover all monitoring and measurement activities within their purview and which ensure that all intra- and extramural monitoring activities are consistent with Agency policies and guidelines.

All Environmental data generated and processed such as the following are included:

- 1. Air
- 2. Drinking Water
- 3. Water Quality
- 4. Solid and Hazardous Wastes
- 5. Toxic Substances
- 6. Pesticides
- 7. Radiation

This document is the Quality Assurance Program Plan for the State of _____. The State of _____ is implementing the Quality Assurance Program on a state-wide basis and will insure that the QA program will have sufficient resources and authority to support the EPA national program effort.

3.0 Quality Assurance Policy

3.1 Goals

The goal of the QA program within the State of _____ is to ensure that all environmental data obtained within the state for EPA will be scientifically valid, defensible, and of known precision and accuracy. This goal can be achieved by ensuring that adequate QA steps and procedures are used throughout the entire monitoring process (from initial study planning through data usage).

3.2 Policy

It is the policy of the State of _____ that:

- (a) All environmental data generated for the EPA will be of known quality and will meet the needs of each program's intended use(s) of the data. The data quality information developed with all environmental data will be documented and will be available to EPA and other data users.
- (b) The intended use(s) of the data (and associated level of needed data quality) will be defined before the data collection effort begins, when feasible, and will take into account the needs of secondary users, as appropriate. The intended data uses, level of quality, specific QA activities, and data acceptance criteria needed to meet the data quality needs of these uses, will be described in each monitoring activity's QA Project Plan.
- (c) An acceptable and cost-effective program of QA activities will be developed and implemented at the onset of each data collection effort to help ensure that the necessary level of data quality is achieved.
- (d) All state monitoring activities will ensure that acceptable QA requirements are included and implemented in all applicable extramural procurements funded by EPA.
- (e) Each program which generates environmental data will develop a Quality Assurance Project Plan following the guidance provided in EPA's Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans" QAMS-005/80, December 29, 1980, and will ensure that adequate resources (both monetary and staff) are provided to support the quality assurance effort, and will be responsible for implementing the plan. The QA Project Plan will specify the mechanism by which timely corrective action can be taken when data quality becomes degraded. The Project Plan will specify the detailed procedures to be followed to assure quality data.
- (f) Each program will designate a person who is responsible for QA activities within the program. This QA coordinator will be responsible for maintaining documentation for all QA plans, and communication with EPA.

4.0 Quality Assurance Management

Line managers have overall responsibility for the implementation of all quality assurance requirements.

4.1 Responsibilities of the QA Coordinators (QAC)

- (a) The QA coordinators are responsible for coordination of all aspects of QA activities within their purview. They will keep upper level management and the EPA Regional Office informed of QA needs, problems, and overall status.
- (b) The development and maintenance of state QA programs will be integrated into the overall State/EPA Agreement (SEA) process.

4.2 Communication/Reporting

Lines of communication and reporting of QA program status/needs will be maintained to ensure that effective QA programs are implemented within the state. All QAC's will have direct access to the Program Managers or Laboratory Division Directors on specific QA matters as problems arise. It is important that the QAC's keep responsible management informed, at all times, of the performance of the data-production systems and of any program problems and needs. It is also important for the responsible management to adequately respond to identified program problems and needs (including needs for resources) and to ensure their resolution.

By May 1 of each year, the QAC's will submit a QA Status Report to EPA Region VII, Environmental Services Division Director. These reports shall contain at least the following types of information:

Status of QA Plans,

Data quality assessments, to include:

- Accuracy
- Precision
- Completeness
- Representativeness
- Comparability

Significant QA problems, corrective actions, progress, plans and recommendations,

Results of performance audits,

Results of system audits,

Summary of QA-related training, and

Other information specifically requested by state management and EPA Region VII.

4.3 QA Program Review and Audit

Several activities are necessary to ensure an adequate program operation, review, audits, and QA plan approval outlined below.

(a) Review of QA Program and Project Plans:

As part of each QAC's responsibility for QA of existing programs, future program plans, study/experimental designs, and extramural procurement for adequacy, and be modified as necessary. They ensure that acceptable QA/QC activities and requirements included, that proper QA was considered at the time and that the project will be able to produce data of quality in a reliable and cost-effective manner.

(b) External Reviews/Audits of Performance:

Effective management of the QA activities requires program assessment, on which corrective actions are based. Therefore, all state programs will allow their extramural monitoring programs to be subjected to external reviews or audits of performance:

- Systems and performance audits and inter-laboratory comparison studies shall be conducted on each extramural (e.g., contractor laboratories) monitoring program within the state as arranged by the appropriate agency. These audits will assess the adequacy of, and the implementation of, respective QA plans.

5.0 Personnel Qualifications

All monitoring personnel shall possess adequate experience and knowledge to perform satisfactorily all technical tasks.

6.0 Facilities, Equipment, and Services

The state ensures that the following are maintained:

- (a) acceptable facilities (e.g., lighting, ventilation, noise levels, etc.) in their laboratory.
- (b) acceptable utility services (e.g., electricity, gas, purity, pressure, and supply of water and air, etc.) in their laboratory.

- (c) acceptable general laboratory equipment (e.g., air conditioners, furnaces, generators, refrigerators, incubators, laboratory hoods, sinks, counters, etc.) in their laboratory.
- (d) acceptable monitoring equipment

The above applies to any contractor receiving State/EPA funds for monitoring.

In order to ensure consistently high data quality in the state programs, plans for routine inspection and preventive maintenance will be developed and followed for all facilities and equipment.

7.0 Data Generation: General QA Requirements

Adequate QA must be applied throughout the entire monitoring process to ensure that the data which is produced is of known and acceptable quality. It is important that essential QA "elements" be incorporated into the several major activities/steps of the monitoring process (as appropriate). Those QA elements which will be incorporated into monitoring activities (both in-house and extramurally procured) by all program offices are outlined in EPA's Guidance documents "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans, QAMS-005/80, December 29, 1980. The specific requirements and level(s) of effort applicable to these QA elements will be described in the QA Project Plans which will be prepared for each monitoring program.

8.0 Data Processing: Reduction, Manipulation, and Storage of Data

Adequate precautions must be taken during the reduction, manipulation, and storage of data in order to prevent the introduction of errors, or the loss or misinterpretation of the data:

- (a) Proper checks will be made at all data handling points between the analyst (who determines the data values) and the individual who enters the data into the data storage system, inclusively.
 - All data must be recorded clearly and accurately on all field or laboratory bench data sheets, and be periodically checked.
 - All data must be transferred and reduced from field and bench sheets completely and accurately, and be periodically checked.
 - All field and bench sheets will be retained in permanent files for a reasonable time period.

(b) An acceptable data storage and information system will be used. This system will be capable of:

- Receiving all properly reduced data.
- Screening and validating all data to identify and reject outliers, errors, or otherwise unacceptable data.
- Preparing, sorting, and inputting all acceptable data into the data storage files (which are either computerized or manual).
- Providing all stored data points with associated data quality descriptions.
- Making all data readily available to potential users.

9.0 Data Quality Assessment

The quality of all data must be assessed after it is generated and before it is used in order to ensure that it is satisfying the intended data user's needs and QA Project Plan requirements. This assessment should focus on five basic aspects of the data:

- (a) Accuracy - Can the data's accuracy be determined, how was it determined, and is it acceptable for the planned use?
- (b) Precision - Can the data's precision be determined, how was it determined, and is it acceptable for the planned use?
- (c) Completeness - Is a sufficient amount of data available for the planned use?
- (d) Representativeness - Generally, how well does the data represent actual conditions at the sampling location, considering the original study design, sampling methods, analytical methods, etc., which were used?
- (e) Comparability - Generally, how comparable is the group of data with respect to several factors, including:
 - consistency of reporting units
 - standardized siting, sampling, and methods of analysis
 - standardized data format relative to applicable criteria and standards

All of these factors will initially be considered when designing a study, and will be addressed in all QA Project Plans.

10.0 Corrective Action

As described in Section 4 ("Quality Assurance Program Coordination/ Management"), line managers are responsible for **overviewing all aspects of QA activities within their realm of responsibility, including both identifying, and responding to (and resolving) identified, QA program problems and needs.** It is important that all supervisors (with sufficient support by upper management) take appropriate corrective action when, how, and where necessary to resolve the problem(s). Also, upper level management as well as the Region VII Quality Assurance Office should always be kept adequately informed of all program problems, needs, and overall status.

Each QA plan will specify system control limits that will indicate the need for corrective action when they are exceeded, and will also describe procedures and requirements for establishing and maintaining QA reporting or feedback channels to the appropriate individual (including the program manager) to ensure that early and effective corrective action can be and is taken when data quality falls below required limits.

11.0 Implementation Requirements and Schedule

In order to effectively and satisfactorily implement the mandatory QA program, several on-going actions are required.

<u>ACTION</u>	<u>DATES</u>
1. Prepare and submit QA Program Status Report.	5/1/each year
2. Preparation of QA Project Plans not previously addressed.	on-going
3. Review and update of QA Program and Project Plans.	on-going
4. Participation in sample performance or system audits.	annually

Attachment 3

GENERAL GUIDANCE FOR EVALUATING QUALITY ASSURANCE PROJECT PLANS

The information provided in this section summarizes the requirements set forth in the document entitled, "Interim Guidelines for the Preparation of Quality Assurance Project Plans".

1. Title Page
 - a. project title
 - b. names of principal investigators
 - c. approval/signature lines for appropriate authorities
 - d. document control format
2. Table of Contents
 - a. the 16 essential elements
 - b. list of Appendices
 - c. distribution list
3. Project Description
 - a. statement of purpose/objectives
 - b. overview of project activities
 - c. background information/site history
 - d. statement of intended data usage
 - e. schedule of events
4. Project Organization and Responsibilities
 - a. identity of key organization / individuals responsible for:
 - overall QA/QC
 - sampling operations and sampling QC
 - laboratory analyses and lab QC
 - data review and validation
 - performance and systems audits
 - b. line authority for all referenced organizations
5. QA Objectives and Criteria
 - a. for each method/technique and matrix, quantitative DQOs for precision, accuracy (bias), and completeness
 - b. DQOs for representativeness and comparability
 - c. DQOs consistent with the intended use of the data, capability of the measurement process, resources and cost.
6. Sampling Procedures
 - a. sample types
 - b. map of locations to be sampled
 - c. sample locations and frequency
 - d. technique or guidelines used to select sampling sites
 - e. field QC samples
 - f. specific sample collection methods
 - g. description of sampling devices
 - h. containers

- i. preparation of sampling equipment and containers
- j. analytes of interest
- k. holding times
- l. preservatives
- m. transport and storage
- n. coordination with the laboratory
- o. sampling records

7. Sample Custody

- a. field custody procedures for recording:
 - the sample number
 - the exact location where the sample was collected
 - date and time of sampling
 - specific preservation method
 - other considerations associated with sample acquisition
 - transfer of custody and shipment
 - labels containing all necessary information
 - examples of forms, tags, records, etc.
- b. lab custody procedures
 - transfer of custody and receipt of samples
 - sample custodian
 - custody within the lab
 - lab storage, handling and disposal

8. Calibration Procedures and Frequency

- a. methods/procedures for calibrating field and laboratory equipment
- b. frequency of calibration
- c. equipment log books for maintenance and repair
- d. calibration documentation procedures for recording:
 - dates of calibration
 - standards used
 - personnel performing calibration
 - pertinent environmental conditions
 - results of calibration (raw data)
 - corrective actions taken

9. Analytical Procedures

- a. full written procedure including all steps and options or reference to approved method and regulatory requirement
- b. laboratory capability consistent with method requirements
- c. method consistent with DQOs

10. Data Reduction, Validation and Reporting

- a. units for all determinations
- b. equation used to calculate concentrations (may be in method reference)
- c. raw data requirements and storage
- d. blank data handling procedures
- e. criteria used to accept or reject data
- f. QC sample data
- g. data deliverables
- i. action levels against which to compare results

1. Internal QC Checks
 - a. type and frequency of field and laboratory QC samples (replicates, spiked samples, split samples, blanks)
 - b. calibration standard, internal standard, reagents checks
 - c. acceptance or control limits are specified for both field and lab checks
2. Performance and System Audits
 - a. audits for field and lab activities
 - b. individual conducting audits
 - c. audit checklist
 - d. acceptance criteria
 - e. schedule of audits
3. Preventive Maintenance
 - a. schedule of preventive maintenance tasks
 - b. list of critical spare parts
4. Specific SOPs Used to Assess Data Precision, Accuracy, Representativeness and Completeness
 - a. method of collecting QC data
 - b. equations used to calculate precision, accuracy and completeness
 - c. statistical procedures for analyzing QC data
5. Corrective Actions
 - a. a plan to detect out-of-control situations
 - b. pre-determined limits for data acceptability
 - c. individual responsible for initiating and approving corrective actions
6. QA Reports to Management
 - a. type and frequency of reports
 - b. report content

1. COMPLAINANT

Confidentiality Requested Yes No

Name, Address of Complainant

Telephone | Agency/Company

Complainant Identity:
 Resident Worker
 Gov't Official Other

2. LOGGING DATA

Date Received | Time | Log #

Received by | Referred by

via Phone Visit
 Letter Other

Special Response Instructions

3. DESCRIPTION OF INCIDENT

General Description/Amount of Pesticide | Exact Location of Problem

Name, EPA Establishment No. of:

Manufacturer:

Distributor:

Applicator: Name and Address

Name of Pesticide Product(s) involved, EPA Registration No:

Date of Incident | Ongoing since

4. HUMAN EXPOSURE

Direct Human Exposure
 Actual Potential None

Site Location
 Residential Workplace
 Remote Other

Area Accessible Inaccessible

Public Water Supply
 None nearby Unknown
 Nearby (distance)

Details of Human Exposure

5. ENVIRONMENTAL EXPOSURE

Waterway/Surface Water None nearby
 Nearby (distance)

Animal or Bird Exposure
 Actual Potential Unknown

Groundwater Contamination
 Actual Potential
 None Unknown

Agriculture/Food Processing in Area
 No Yes (Describe)

Details of Environmental Exposure

6. NOTIFICATION/CLEANUP

Responsible Company Notified | Corrective Action Taken | Problems Remaining
 No Yes (Date) | No Yes (Describe)

7. EPA RESPONSE

Pesticides Enforcement Responsibility | Refer to Other EPA Program | Refer to Other Agency

Pesticides Enforcement Action Indicated | Referred to (Name, Agency/Program)

Date Referred | State Response Due

Copies to

Followup Priority: High Low

Action Taken | Follow-up to Referral

Incident	Date of Incident	Log #
Use this worksheet to assist in determining the type and level of response. Assign points to each category based on evaluation of incident. Worst case: 200 points. Suggested response levels: 100-200 points=Priority 0-100 points=Routine	Evaluator	
	Date of Evaluation	

<u>FACTORS</u>	<u>POINT OPTIONS</u>	<u>POINTS ASSIGNED</u>
<u>Public Health Effects</u> o Likelihood of exposure to human population: <div style="margin-left: 200px;"> Actual. . . . Probable Potential. . . . Unknown </div>	Up to <u>100</u> points based on level of exposure 80 to 100 points 60 to 80 points 40 to 60 points 20 to 30 points	
<u>Environmental Health Effects</u> o Likelihood of exposure to the environment: <div style="margin-left: 200px;"> Actual. . . . Probable Potential. . . . Unknown </div>	Up to <u>50</u> points based on level of exposure 40 to 50 points 30 to 40 points 20 to 30 points 10 to 20 points	
<u>Enforcement Considerations</u> o Need for legal action o Enforceability o Immediate action to obtain evidence that otherwise would be lost or destroyed o Other:	<u>Up to 20 points</u>	
<u>Public Concern</u> o Need to respond to expressions of concern from the public	<u>Up to 10 points</u>	
<u>Judgmental Factors</u> o Type, quantity, toxicity of material o History of responsible party o Remedial actions taken by party o Frequency of occurrence o Reliability of information source o Other:	<u>Up to 20 points</u>	
State Enforcement Priority	100 Points	
----- TOTAL >		

RESPONSE DETERMINATION

<u>ROUTINE PROGRAM ACTIVITY</u> <input type="checkbox"/> Inspection (as part of neutral inspection scheme) <input type="checkbox"/> Telephone, letter to responsible party <input type="checkbox"/> Other:	<u>PRIORITY RESPONSE</u> Comments:
---	---------------------------------------

Exhibit 7-8



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
324 EAST ELEVENTH STREET
KANSAS CITY MISSOURI - 64106

Date _____

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Hagan
Federal/State Coordinator
Bureau of Pesticide Control
Plant Industries Division
Missouri Department of Agriculture
P.O. Box 630
Jefferson City, Missouri 65101

Dear Mr. Hagan:

In accordance with Section 27(a) of the Federal Pesticide Act of 1978,
we are referring the following complaint(s) of pesticide misuse to your
office:

Sincerely yours,

Leo J. Alderman
Chief, Toxics and Pesticides Section
Air and Waste Compliance Branch
Air and Waste Management Division

Enclosure(s)

Original _____
Update _____

FTTS TRACKING SYSTEM FOR
26/27 REFERRALS

Request Date ___/___/___ (Date Referral Received by EPA)

Referral Type 27

Origin 07

Referral Sequence _____ (Federal Number 01,02, etc.)

Destination (State) _____ (IA,KS,MO)

Legislation E

Complainant Name: _____ Site Name: _____

Address: _____ Address: _____

City: _____ City: _____

Referral Date ___/___/___ (Date Referral Called to State)

Inspection Target ___/___/___ (Add Five Days to Referral Date)

Inspection Conducted ___/___/___ (Date Inspection Initiated)

*Inspection Completed ___/___/___ (All Reports Submitted)

*Analysis Received ___/___/___ (Date Received by SLA)

Enforcement Warranted: Y

Enforcement Target ___/___/___ (Thirty Days After All
Documentation Collected)

Enforcement Issued ___/___/___ (Date Action Issued or Completed,
Referral to County Attorney, etc.)

*Action Taken 1___, Action 2___, Action 3___

Remarks (Include Fine(s)/Cannot Exceed 35 spaces) _____

WL=Warning Letter, ACC= Administrative Civil Complaint,
RCA=Refer to Co. Atty., S.C.=Settlement Conference,
LM=License Modification, LS=License suspension, LR=License
revoked, CM=Certification modified, CS=Certification suspended,
CR=Certification Revoked, REPA=Referred to EPA.
ENW=Enforcement Not Warranted

Exhibit 7-10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

This is to certify that

an employee of the State of _____

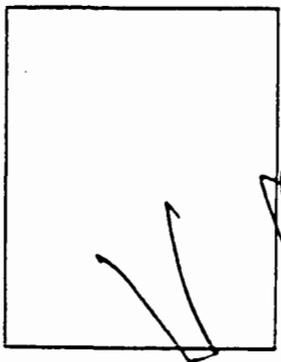
whose signature and photograph appear below, is a duly designated inspector for the Environmental Protection Agency.

DATE ISSUED

EPA FORM 3540-28 (REV. 4-75)

STATE INSPECTOR'S CREDENTIAL

REPLACES EPA FORM 8520-8 WHICH MAY BE USED



This person is authorized to draw samples, secure information and records, and otherwise make investigations in connection with the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act.

SIGNATURE OF INSPECTOR

NO. _____

REGIONAL ADMINISTRATOR

EPA FORM 3540-24 (REV. 4-78)

Printed on Recycled Paper

NAME (last,first,m.i.)	CREDENTIAL ACKNOWLEDGEMENT STATEMENT
CREDENTIAL NO.	

I acknowledge receipt of the above-referenced EPA Credential. I understand that it is to be used only in the performance of my official duties for the U.S. Environmental Protection Agency, and that in the event I am reassigned, transferred, terminated, or otherwise no longer require this credential, it is to be surrendered to CREDENTIAL OFFICER, OCM (EN-342).

I also understand that I am not to use this credential for other than official purposes and any misuse could result in disciplinary action.

DATE	SIGNATURE
------	-----------

WORKER PROTECTION SCHEME

States have begun conducting worker protection activities funded in part by OPP ("program") and OCM ("enforcement"). The grant guidance distinguishes between program activities and enforcement activities but seems to ask for similar activities within each section; and, in some cases, allows states to decide whether those activities will be funded with program money or enforcement money.

The following is an attempt to outline activities under the whole worker protection scheme and identify for the states and the regions which activities are "program" and which are "enforcement". Activities are arranged in a chronological order of anticipated occurrence.

- (ENFORCEMENT) I. Ensure compliance with current worker protection requirements.
- (PROGRAM) II. Compile mailing list of regulated community and other persons who should receive copies of the final rule.
- (ENFORCEMENT) III. Between effective date of the rule and effective dates for compliance, and during routine inspections, notify prospective constituents of the provisions of the rule.
- (PROGRAM) IV. Develop an implementation strategy.
 - (PROGRAM) A. Establish interagency coordination.
 - (PROGRAM or ENFORCEMENT or (a combination w/ (state determinations)) B. Outreach/communications (= compliance communication strategy).
 - a. Maintain and use mailing lists.
 - b. Disseminate outreach materials.
 - c. Identify and present programs to regulated sector; may be in cooperation with other agencies.
 - d. Other.
 - (PROGRAM) C. Design a training program or adopt requirements for employers to develop a training/education program.
 - (ENFORCEMENT) D. Develop, submit, and implement a compliance monitoring strategy.
 - a. Identify any communications (refer to B, above) to be supported with enforcement funds.
 - b. Describe and document interagency co-

ordination for worker protection en-
forcement.

c. Develop an inspection targeting
scheme.

(ENFORCEMENT) V. Conduct inspections, investigate complaints &
tips, track, use National Checklists.

(ENFORCEMENT) VI. Send personnel to EPA-sponsored training on
the new Worker Protection Rule. State may also
develop training if Region VII approves.

(PROGRAM and VII. Reporting as required by guidance.
(ENFORCEMENT)

9/10/93 5-1



United States Environmental Protection Agency
Washington, DC 20460

**Pesticides Enforcement and Applicator Certification
Cooperative Agreement Output Projections**

Form Approved
OMB No. 2070-0113
Expires 2-29 93

Form to be completed by State agency and submitted with application for Cooperative Agreement

Enforcement Projections		Agricultural		Nonagricultural		Experi- mental Use	Producer Estab- lishment	Market- Place	Imports	Export	Certified Applicator Records	Restricted Use Pesticide Dealers	Total
		Use	Followup	Use	Followup								
Inspections Projected Per Quarter	1												
	2												
	3												
	4												
Inspections Projected for Fiscal Year													
Physical Samples Projected Per Quarter	1												
	2												
	3												
	4												
Samples Projected for Fiscal Year													



United States Environmental Protection Agency
Washington, DC 20460

Pesticides Enforcement and Applicator Certification Cooperative Agreement Quarterly Accomplishment Report

Form Approved
OMB No. 2070-0113
Expires 2-29-93

Public reporting burden for this collection of information is estimated to average 6.3 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, and to Management and Budget, Paperwork Reduction Project (2070-0113), Washington, D.C. 20503.

State	Fiscal Year	Reporting Period				<input type="checkbox"/> Cooperative Agreement Only <input type="checkbox"/> State Activities Only							
Enforcement Accomplishments This Quarter		Agricultural		Nonagricultural		Experi- mental Use	Produc- ing Estab- lishment	Manu- facture	Imports	Export ↓	Certified Applicator Records	Use Restricted Pesticide Dealers	Total
		Use	Followup	Use	Followup								
Total Inspections Conducted													
Federal Facilities													
How many addressed the following *										/	/		
a) Worker Protection										/	/		
b) Ground Water										/	/		
c) Endangered Species										/	/		
d) Cancellations/Suspensions										/	/		
Samples Collected													
Physical													
Documentary													
Civil Complaints Issued													
Criminal Actions Referred													
Administrative Hearings Conducted													
License/Certificate Suspension													
License/Certificate Revocation													
License/Certificate Conditioning or Modification													
Number of Warnings Issued													
Stop-Sale, Seizure, Quarantine, or Embargo													
Cases Forwarded to EPA for Action													
Other Enforcement Actions													
Number of Cases Assessed Fines													

EPA Form 5700-33H (Rev. 9-90) Previous editions are obsolete.

→ * Comprehensive inspections shall be conducted. Of the "inspections conducted" which are reported on the first line, please verify how many addressed the elements listed above as a-d.

→ / It is expected that nationally elements a-d would not be routinely addressed for export and record inspections only. However, if a state finds it necessary to report compliance monitoring for these elements under these inspections, they can do so in the blocks indicated above.

ANNUAL CERTIFICATION AND TRAINING PROJECTIONS

Certification Projections (Annual)	Private Applicators	Commercial Applicators	Agricultural		Forest	Orna-mental and Turf	Seed -Treat-ment	Aquatic	Right of Way	Industrial, Insti-tutional, Structural, Health	Public Health	Regula-tory	Demon-stration and Research	Other
			Plant	Animal										
Training Sessions To Be Participated In or Monitored														
Applicators To Be Certified														
Applicators To Be Recertified														

CERTIFICATION AND TRAINING ACCOMPLISHMENTS THIS QUARTER

Certification Accomplishments This Quarter	Private Applicators	Commercial Applicators	Agricultural		Forest	Orna-mental and Turf	Seed Treat-ment	Aquatic	Right of Way	Industrial, Insti-tutional, Structural, Health	Public Health	Regula-tory	Demon-stration and Research	Other
			Plant	Animal										
Training Sessions Participated In or Monitored														
Applicators Certified														
Applicators Recertified														
NOTE - Report the information below only with the End-of-Year Report														
Total Applicators Holding a Valid Cer-tification as of September 30th														
Recertification Period (in years)														

STATE CASE EVALUATION WORKSHEET

Yes No Number
 Sec. 26/27 Referral _____

State I.D. Number _____
 Complainant _____
 Applicator _____
 Case Type _____
 Chemical _____
 Date Case Reviewed _____

Enforcement Status: Pending _____ Days,
 Dismissed _____, W/L _____, Inf. Hearing _____,
 Formal Hearing _____, Referral to attorney _____.
 Other _____
 Investigator _____

Investigation:	Yes	No	NA	Adequate	Inadequate
Narrative					
Forms					
Sampling Proc.					
Formula					
Use Dilution					
Residue					
Control					
Statements					
Photographs					
Maps/Sketches					
Records					
Labeling					
Case Review					
Narrative/Form					
Copy of					
Proceedings					
Copy of Action					

	Date	Time Lapse (Days)
First Knowledge	_____	_____
Insp. Initiated	_____	_____
Insp. Completed (Est.)	_____	_____
Insp. Report	_____	_____
Sample(s)* Collected	_____	_____
To Lab	_____	_____
Lab Rec'd	_____	_____
Analysis	_____	_____
Rec'd Back	_____	_____
Enf. Proceedings: Initiated	_____	_____
Completed	_____	_____
TOTAL TIME - First Knowledge To Action Completed	_____	_____ (Days)

Final Enforcement Action Appropriate _____ Yes No
 (No requires discussion)

Remarks and Discussion (Include all inadequacies) _____

*For PEI Samples, specify in REMARKS above if greater than 30 days.

EPA EVALUATOR _____
 Date _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Exhibit 9-1

JUN 16 1988

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: Federal Register Publication of Amendments to
State Plans

FROM: *Chuck Reese*
Chuck Reese, Director
Pesticide Applicator Certification and
Training Program

TO: Regional Pesticide Division Directors
Regional Pesticide Branch Chiefs

I have incorporated the recommendations that I received from Regions 1, 3, 8, and 10. Most of the comments were similar in nature. Thus, I feel comfortable in providing you with a finalized copy of this guidance document. If you have any problems please call me at FTS-475-9582.

Attachment

RECEIVED
JUN 16 1988
TOXICS & PESTICIDES
BRANCH

POLICY AND PROCEDURAL DETAILS
FOR
FEDERAL REGISTER PUBLICATION OF AMENDMENTS
TO
STATE PLANS

- Attachment I - Types of changes which would and would not justify publication in The Federal Register
- Attachment II - Process for submitting amendments to the Plans and Federal Register Notice
- Attachment III- Authority and Limitations to signing of Federal Register Notices by Regional Administrators

Attachment I

Column I lists the changes in state plans which, as proposed, would necessitate: a) publication of a Federal Register Notice announcing the Agency's intent to approve such amendments to a State Certification Plan; and b) publication of a subsequent FR Notice announcing the Agency's approval of the amendments.

Column II lists the changes which would not necessitate publication of a notice in the Federal Register.

Column I

Column II

- | <u>Column I</u> | <u>Column II</u> |
|--|--|
| 1) Establishment of a recertification program. | 1) Changes in personnel/titles. |
| 2) Establishment of a new or additional mechanism for certification and/or recertification within a state. (For example, a state may have previously allowed certification only by training and may now offer the option of training <u>or</u> examination.) | 2) Changes in a state plan which would simply update the document to reflect changes in the program which had occurred by September 20, 1988 <u>and had been reviewed previously by EPA.</u> |
| 3) State significantly changes its method of tracking recertification training sessions attended by the applicator. | 3) Changes in the passing grade for exams. |
| 4) Deletion of a mechanism for certification and/or recertification within a state. | 4) Changes in competency standards for existing categories or changes in sub-categories. |
| 5) Establishment of a passing grade for an examination (where a grade did not previously exist). | 5) Introduction of worksheets into training. |
| 6) Changes that are expected to generate substantial public interest. | 6) Changes in length/type of exams or training. |
| 7) Change in a renewal period. | |
| 8) The establishment of licensing provisions for those previously covered under "the direct supervision" provisions. | |
| 9) Any change that subjects new applicators to the certification process (for example, to require that all government employees using any pesticide must be certified, a South Dakota requirement). | |
| 10) Establishment of a new commercial applicator category and accompanying competency standards. | |

70%
*

kch
*

* Civil penalty authority

Attachment II

A. Proposed process for submitting/approving amended state plans.

- 1) State Lead Agency (SLA) submits a draft of the amended State plan for review to the Regional Pesticides Branch. Regional Pesticides Branch provides Agency's comments, if any, to the SLA. The SLA addresses the comments, if any, received from EPA.
- 2) SLA submits the amended State Plan to the Regional Administrator for approval. (The submittal should be made by whomever in the SLA is authorized to submit an amended State Plan to EPA for approval. The submittal should at least be made by the Pesticide Administrator in the SLA.) The SLA should send a copy to the Regional Pesticides Branch.
- 3) The assumption is made here that the Agency reviews the Plan and is ready to grant approval to the amended State Plan. If the changes to the State Plan are such that they do not require publication in the Federal Register, then a letter would be signed by the Regional Administrator and addressed to whomever in the SLA submitted the amended State Plan. The letter would indicate the Agency's approval of the amended State Plan.

If the changes to the State Plan require publication of a FR Notice, then go to section B. *

- 4) Copy of the amended State Plan would be sent to the C&T Program at Headquarters.

B. Proposed process for drafting/publishing FR Notices

- 1) If a Federal Register Notice is needed, the Regional Pesticides Branch drafts an FR Notice announcing the Agency's intent to approve the amended State Plan.
- 2) A copy of the draft notice is sent for review to the C&T Program. Any changes agreed upon are made.
- 3) A copy of the FR Notice, plus a disc containing the Notice, should then be sent to the Federal Register Office at Headquarters for a format review. The Federal Register Office would make necessary format changes to the disc and pouch mail the disc back to the Region.
- 4) The Pesticides Branch drafts a letter for the Regional Administrator to the Assistant Administrator for Pesticides and Toxic Substances to request concurrence on the proposed publication of the notice (announcing the Agency's intent to approve the amended State Plan). (This is based on the information from Attachment III, taken from the EPA Delegations Manual.) The AA has 5 days to concur or non-concur.
- 5) The AA concurs. The Regional Administrator signs the FR Notice. The original is sent to the Federal Register Office, along with a completed typesetting request.

- 6) The Federal Register office publishes the FR Notice.
- 7) The Pesticides Branch addresses any comments received on the FR Notice.
- 8) It is assumed here that comments are not received which change the intent of the Agency to approve the amended State Plan. After comments are examined and appropriately addressed, the Pesticides Branch drafts an FR Notice announcing the Agency's approval of the amended State Plan.
- 9) Steps 2-6 are then followed again except that this time, they refer to the publication of a FR Notice announcing the Agency's approval of (instead of the intent to approve) the amended State Plan.
- 10) Copy of the amended State Plan would be sent to the C&T Program at Headquarters.

ATTACHMENT III

DELEGATIONS

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

5-2. Certification of Applicators

1. AUTHORITY. To perform the EPA functions and responsibilities relative to the Federal certification of applicators and the approval, disapproval and withdrawal of approval of State certification plans, as set forth in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 4; and to sign Federal Register notices pertaining thereto.

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. Regional Administrators will forward for review copies of all State plans to the Assistant Administrator for Pesticides and Toxic Substances or his designee upon receipt, and copies of all Federal plans upon development, and will notify the Assistant Administrator or his designee five days prior to signing a Federal Register notice pertaining to intended or final action thereon.

b. Regional Administrators will notify the Assistant Administrator for Pesticides and Toxic Substances five days prior to signing any notice or order pursuant to Section 4(b).

c. The authority to prescribe standards for the certification of applicators of pesticides as set forth in Section 4(a)(1) is reserved to the Administrator.

4. REDELEGATION AUTHORITY. Authority to approve, disapprove or withdraw approval of State plans and to sign Federal Register notices may not be redelegated. All other authorities may be delegated to the Division or Staff Director level.

STATE FIFRA ISSUES
RESEARCH AND EVALUATION GROUP (SFIREG) -
STATEMENT OF FUNCTION, ORGANIZATION, ROLES
AND RESPONSIBILITIES

I. INTRODUCTION

This document provides a brief history of the State FIFRA Issues Research and Evaluation Group (SFIREG) and discusses its general function and organization and the roles and responsibilities of the members of SFIREG and its Working Committees. The document also describes participation with SFIREG at the full committee level and Working Committee level, of EPA representatives in Headquarters and in the Regional Offices.

This document is not intended to be all encompassing, but instead, is intended to provide the reader with a better understanding of SFIREG and how it operates. It is the hope of EPA and SFIREG representatives who participated in the development of this paper, that it may serve to clarify various aspects of the cooperative effort between the states and EPA.

SFIREG plays a valuable role in maintaining information exchange and cooperation between EPA and the States. However, it is not EPA's intention to use the SFIREG mechanism as the sole or primary means of communication between individual states and the Agency. EPA's Regional Offices have the expertise and experience necessary to perform the role of primary Agency contact and maintaining such direct contact is strongly supported.

II. HISTORY

Initially, a formal advisory committee was in existence to advise the Agency on state, FIFRA issues. Subsequently, under a Congressional order to disband many advisory committees, the State FIFRA Issues Advisory Committee was abolished. In 1978, in an effort to fulfill the Office of Pesticide Programs' (OPP) need for input from state regulatory officials, a cooperative agreement was entered into by OPP and the Association of American Pesticide Control Officials (AAPCO). That cooperative agreement created the State FIFRA Issues Research and Evaluation Group (SFIREG) as an independent, but related body, to advise OPP on pesticide matters affecting the states.

III. GENERAL FUNCTION

As an independent, but related body of AAPCO, SFIREG identifies, analyzes and recommends courses of action to the Office of Pesticide Programs on matters relating to pesticide registration, enforcement, training and certification, ground water protection, disposal, and other areas of environmental concern.

IV. SCOPE OF ISSUES

SFIREG may operate rather independently of AAPCO when addressing issues that must receive attention in a time frame that does not permit direct AAPCO involvement. However, it is expected that SFIREG will inform AAPCO of discussions and decisions in which AAPCO has not been directly involved. Two areas of issues will consistently be routed through AAPCO rather than resulting in recommendations or positions from SFIREG: issues resulting in AAPCO policy changes, and legislative or other matters addressed in the Congress of the United States.

Issues outside the scope of these two areas may also, at the discretion of SFIREG or at the request of EPA, be submitted for approval, endorsement, etc. by the AAPCO.

The issues on which SFIREG focuses may be identified from any number of sources. Issues identified through AAPCO may be referred to the SFIREG for consideration, issues may be identified by SFIREG independent of AAPCO, OPP may identify issues, or other sources may suggest that SFIREG focus on a particular issue. Normally, complex issues which have been identified by AAPCO, EPA, or full SFIREG will be referred to the appropriate Working Committee for consideration and development.

V. ORGANIZATION, ROLES, AND RESPONSIBILITIES

A. FULL SFIREG

ORGANIZATION

The full SFIREG is headed by a Chairperson who is appointed by the President of AAPCO. The Chairperson serves a term of 2 years in length.

The Chairperson is aided by the Executive Secretary. The Executive Secretary may be a hired position for an undefined term of office.

Membership consists of ten state representatives, each representing the states within an EPA region. These representatives are selected by the states within each EPA region. The length of their term is two (2) years, but members may be appointed for subsequent terms.

The following participate in SFIREG meetings as non-voting members:

Office of Pesticide Programs' Senior
Intergovernmental Liaison
Office of Compliance Monitoring SFIREG Liaison
Association of State and Territorial Health
Officials (ASTHO) representative
Association of Structural Pest Control Regulatory
Officials (ASPCRO) representative
Extension Service (ECOP) representative
State Fish and Game Association representative
EPA Regional Offices (one from each
SFIREG Working Committee)

ROLES AND RESPONSIBILITIES

CHAIRPERSON

The Chair of SFIREG is generally responsible for conducting meetings of the group, ensuring that appropriate issues are addressed through development of the meeting agendas, and appointing chairs of standing Working Committees (see Working Committees, below). The Chair is also responsible for approving, in consultation with the OPP Senior Intergovernmental Liaison, all travel charged to SFIREG for purposes other than scheduled SFIREG, pre-SFIREG, or working committee meetings.

VOTING MEMBERS

The Members of SFIREG are responsible for ensuring representation of the states within their region at meetings of the group, determining and raising the issues of importance to those states by suggesting issues as agenda items, and relaying information back to the states represented by the Member.

Each Member is encouraged to coordinate with the EPA Regional Office, a meeting of the states within the region prior to SFIREG meetings to identify issues, develop issue papers, etc. The Members are also encouraged to include in all or part of these "pre-SFIREG" meetings, representatives from the cooperative extension service and other state agencies, as appropriate. These meetings should be held far enough in advance of the SFIREG meeting, to allow inclusion of important issues on the agenda. NOTE - Agendas must be drafted at least one month prior to the actual meeting for publication in the Federal

Register by the OPP Senior Intergovernmental Liaison. Pre-SFIREG meetings should be held at a place agreeable to the participants. Locations near the EPA Regional Office pose advantages since other EPA offices (i.e., water, air, etc.) will be more accessible. This is particularly important given the cross media nature of ongoing and developing programs.

It is the responsibility of the Member to provide to the SFIREG, an issue paper for any issue on which the Member or the states the Member represents, request EPA action. Issue papers should clearly state the issue, identify and analyze any options available to address the issue, and recommend a course of action. In addition, all issue papers should indicate whether the states within the region believe the item should receive high, medium or low priority. Action items, in the form of issue papers, will be discussed at the SFIREG meetings, either accepted or rejected by vote, and if accepted, a priority status (either high, medium or low) will be designated by the full membership of SFIREG.

Issue papers developed by a SFIREG Member should be provided to the Chair of SFIREG and the Executive Secretary in advance of the SFIREG meeting. The Executive Secretary will provide copies to all members (voting and non-voting) in advance of the meeting.

NON-VOTING MEMBERS

Executive Secretary

The Executive Secretary is specifically responsible for arranging meeting facilities; ensuring receipt by members of issue papers, background materials, etc.; coordinating agenda topics with the OPP Senior Intergovernmental Liaison; recording and producing minutes of all meetings; and ensuring that minutes are forwarded to all AAPCO, SFIREG, and Working Committee members (voting and non-voting) in a timely manner. The Executive Secretary's responsibilities to the SFIREG Working Committees are identical to those expressed here. Therefore, they will not be repeated under "Working Committee Roles and Responsibilities".

OPP Senior Intergovernmental Liaison

The OPP Senior Intergovernmental Liaison is responsible for administering the cooperative agreement between EPA and AAPCO. In addition, the Liaison assists in the preparation of meetings by collecting issues from EPA Headquarters, preparing the agenda in consultation with the SFIREG Chairperson and Executive Secretary, and announcing the meeting in the Federal Register. The Liaison also is the official representative from the Office of Pesticide Programs at SFIREG meetings and is responsible for ensuring states' understanding of OPP positions and ensuring that OPP management understand states' positions. The OPP Senior Intergovernmental Liaison is also responsible for coordinating EPA Headquarters participation in meetings and for

coordinating the resolution of issues. The roles and responsibilities of the OPP Senior Intergovernmental Liaison to the SFIREG Working Committees are identical to those expressed here. Therefore, they will not be repeated under "Working Committee Roles and Responsibilities".

Office of Compliance Monitoring Liaison

The OCM Liaison is responsible for representing the Office of Compliance Monitoring to SFIREG, ensuring the states' understanding of that office's positions, and ensuring that the Office of Compliance Monitoring understands the states' positions on matters related to enforcement and compliance. The OCM Liaison is also responsible for coordinating with the OPP Senior Intergovernmental Liaison, OCM related agenda topics, OCM participation in meetings and resolution of issues. The roles and responsibilities of the OCM Liaison to the SFIREG Working Committees are identical to those expressed here. Therefore, they will not be repeated under "Working Committee Roles and Responsibilities".

EPA Regional Representatives

EPA Regional representatives to SFIREG are responsible for ensuring that the "Regional perspective" is brought to the meetings. The Regional participants are responsible for ensuring that all EPA Regions are kept informed of the issues, decisions, etc. discussed at the meetings and for ensuring that issues arising in the Regional Offices are raised for inclusion on the meeting agendas.

Other Participants

All other participants may participate as appropriate by ensuring that the position of the group they represent is taken into consideration at the meetings and by relaying back to the group they represent, the positions of the SFIREG.

B. WORKING COMMITTEES

ORGANIZATION

There are currently three standing Working Committees of SFIREG: Registration and Classification, Enforcement and Certification, and Ground Water and Disposal.

The Chairs of each Working Committee are appointed by the Chair of SFIREG, serve a term of two (2) years, and can serve no more than two terms consecutively. However, the same individual may be appointed to other committees as the chair or as a member.

Each Working Committee is comprised of 7 or 8 state representatives. *The Chair of the Working Committee selects, in consultation with the states, members of the Working Committees.* Working Committee Members are appointed for a term of four (4) years. Two members' terms should expire each year. A rotational expiration of term such as this will enable the committee to maintain some consistency while providing other individuals an opportunity to become more involved.

In selecting members for Working Committees, States should strive for regional balance to the extent possible taking into consideration and acknowledging the expertise of individuals in the states.

The following participate in Working Committee meetings as non-voting members:

OPP Senior Intergovernmental Liaison
OCM SFIREG Liaison
EPA Regional Offices

The Lead EPA Region coordinates the selection of Regional representatives to the SFIREG and its Working Committees. In general, the sub-lead Region for enforcement will serve as the primary Regional representative to the Enforcement and Certification Working Committee; the sub-lead Region for ground water will serve as the primary Regional representative to the Ground Water and Disposal Working Committee; and the sub-lead Region for core FIFRA will serve as the primary representative to the Registration and Classification Working Committee. In addition, each of the remaining Regions will be designated as an additional representative to one of the three Working Committees. Attachment 2 outlines the Regional participation for FY '91.

The Regions should consider rotating primary participation at least every four years (consistent with the terms of Working Committee members) to promote distribution of responsibilities.

ROLES AND RESPONSIBILITIES

CHAIRPERSON

The Chair of each Working Committee is generally responsible for conducting meetings of the group, ensuring that appropriate issues are addressed through development of the meeting agendas, and *selecting Working Committee members in consultation with the other states.* The Chair is responsible for ensuring that appropriate issues are referred to full SFIREG or EPA for consideration. The Chair is also responsible for reporting at full SFIREG meetings, the activities of the Working Committee and presenting any issue papers developed by the Working Committee.

VOTING MEMBERS

The Members of Working Committees are responsible for ensuring that issues are raised for inclusion on the meeting agendas, representing the state perspective on issues being discussed, resolved, etc. Members of the Working Committees also may, from time to time, be requested to serve on special task groups comprised of members of the Working Committees or SFIREG, or serve on EPA working groups, to address issues related to the Working Committees' area of expertise. Any cooperative agreement funds used for participation in these special groups must receive advance approval from the SFIREG Chairperson.

NON-VOTING MEMBERS

Executive Secretary

The roles and responsibilities are the same as those described under "Full SFIREG" for this position.

OPP Senior Intergovernmental Liaison

The roles and responsibilities are the same as those described under "Full SFIREG" for this position.

OCM Liaison

The roles and responsibilities are the same as those described under "Full SFIREG" for this position.

EPA Regional Representatives

The primary EPA Regional Representative to the Working Committee is responsible for attending the appropriate meetings and representing the "regional perspective" to the SFIREG, ensuring that appropriate issues from all the regions are raised by contributing to the agenda items, and ensuring that the EPA regions are informed of any issues of interest to the regions.

The additional Regional representatives are encouraged to attend the appropriate meetings with the primary Regional representative. They too are responsible for ensuring that the regional perspective is considered. Further, the additional Regional representatives will serve as alternates to the primary Regional representative in the event that the primary representative can not attend a full SFIREG meeting or a meeting of the working committee to which they are the Regional representative.

Register by the OPP Senior Intergovernmental Liaison. Pre-SFIREG meetings should be held at a place agreeable to the participants. Locations near the EPA Regional Office pose advantages since other EPA offices (i.e., water, air, etc.) will be more accessible. This is particularly important given the cross media nature of ongoing and developing programs.

It is the responsibility of the Member to provide to the SFIREG, an issue paper for any issue on which the Member or the states the Member represents, request EPA action. Issue papers should clearly state the issue, identify and analyze any options available to address the issue, and recommend a course of action. In addition, all issue papers should indicate whether the states within the region believe the item should receive high, medium or low priority. Action items, in the form of issue papers, will be discussed at the SFIREG meetings, either accepted or rejected by vote, and if accepted, a priority status (either high, medium or low) will be designated by the full membership of SFIREG.

Issue papers developed by a SFIREG Member should be provided to the Chair of SFIREG and the Executive Secretary in advance of the SFIREG meeting. The Executive Secretary will provide copies to all members (voting and non-voting) in advance of the meeting.

NON-VOTING MEMBERS

Executive Secretary

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OPP Senior Intergovernmental Liaison

The OPP Senior Intergovernmental Liaison is responsible for administering the cooperative agreement between EPA and AAPCO. In addition, the Liaison assists in the preparation of meetings by collecting issues from EPA Headquarters, preparing the agenda in consultation with the SFIREG Chairperson and Executive Secretary, and announcing the meeting in the Federal Register. The Liaison also is the official representative from the Office of Pesticide Programs at SFIREG meetings and is responsible for ensuring states' understanding of OPP positions and ensuring that OPP management understands states' positions. The OPP Senior Intergovernmental Liaison is also responsible for coordinating EPA Headquarters participation in meetings and for

VI. MEETING SCHEDULES

The following is the meeting schedule of AAPCO, SFIREG and the Working Committees:

<u>ORGANIZATION</u>	<u>APPROXIMATE TIME</u>	<u>PLACE</u>
AAPCO	March August	Washington D.C. Determined by AAPCO
SFIREG	July December	Washington D.C. Washington D.C.
Enf. & Reg. Wrkg. Comms.	June October	West 1/2 of U.S. East 1/2 of U.S.
Gr. Water Wrkg. Comm.	three times/yr.	Washington D.C.

VII. SETTING AGENDA TOPICS

The OPP Senior Intergovernmental Liaison will work with the appropriate Chairperson, the Executive Secretary, the Office of Compliance Monitoring and the EPA Regions as appropriate to establish the agenda for meetings. Prior to the scheduled meeting, the Executive Secretary will issue to members of the group (voting and non-voting), a call for agenda topics. At the same time, the OPP Senior Intergovernmental Liaison will solicit agenda topics from EPA Headquarters and will coordinate with the OCM Liaison to ensure OCM topics are considered.

The OPP Senior Intergovernmental Liaison will publish in the Federal Register, a notice of Full SFIREG and Working Committee meetings 15 days prior to the scheduled meeting date.

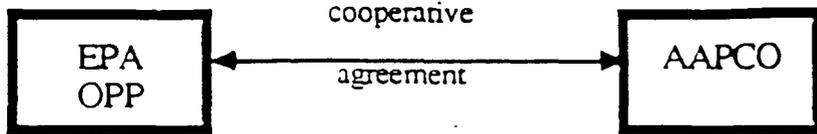
VIII. PUBLIC PARTICIPATION

While not a formal advisory committee and therefore, not subject to the requirements for public notification of meetings and public participation, the Office of Pesticide Programs will announce all open meetings to encourage such participation.

The public is invited to attend the meetings and participate as the Chair of the meeting deems appropriate and as recognized by the Chair, to address the group.

While the Office of Pesticide Programs and the State FIFRA Issues Research and Evaluation Group believe in the process of open meetings and discussion, they may, from time to time, hold meetings that will be closed to the public to discuss matters related to the cooperative agreement between AAPCO and EPA, or matters related to regulatory, enforcement issues.

ORGANIZATION



SFIREG	
VOTING MEMBERS	NON-VOTING MEMBERS
Chair 10 Members - representing states within each EPA region	Executive Secretary ASTHO representative ASPCRO representative Extension representative Fish and Game representative OPP Intergovernmental Liaison OCM SFIREG Liaison EPA regions

WORKING COMMITTEE ENFORCEMENT & CERTIFICATION		WORKING COMMITTEE REGISTRATION & CLASSIFICATION		WORKING COMMITTEE GROUND WATER & DISPOSAL	
voting members	non-voting members	voting members	non-voting members	voting members	non-voting members
Chair 7-8 states	Executive Sec. OPP Liaison OCM Liaison EPA Region	Chair 7-8 states	Executive Sec. OPP Liaison OCM Liaison EPA Region	Chair 7-8 states	Executive Sec. OPP Liaison OCM Liaison EPA Region