

# Office of Pesticide Programs and the ESA



## Protecting Endangered Species

Presentation to the Pesticide Program Dialogue Committee  
May 22, 2008



# Overall Objectives

- Full compliance with ESA
- Efficient use of resources
- Effective, quality decisions



# Overall goals

- Protection of listed species from potential effects of pesticides
- While minimizing burden on agricultural production and other pesticide users



# Process

- Assess potential risks to listed species during course of overall ecological risk assessment for registration review
- Consult with Services on LAA determinations



# What this Achieves

- Decisions address potential risk to all listed species
- Provides pesticide users with certainty
- Takes advantage of existing public participation processes
- Provides broadest protection



# Consultation

## Under Executive Order 12812, Secretarial Regulation

- “no effect” - consultation is not required
- “not likely to adversely affect” - ~~informal consultation~~ 50 CFR part 402, subpart D- no further consultation needed
- “likely to adversely affect” - formal consultation
- Section 18s viewed as any ~~other agency “action”~~ emergency for purposes of consultation under ESA sometimes

# Chronological by Action





# Litigation

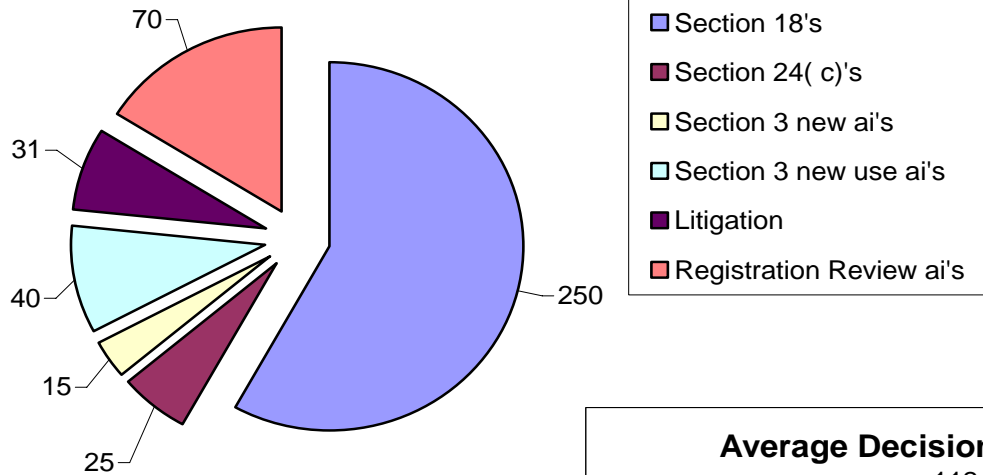
- San Francisco Bay area
  - 43 pesticide active ingredients
  - 11 listed species
  - Various taxa including
    - Fish
    - Birds
    - Salamanders
    - Mammals
    - Insects



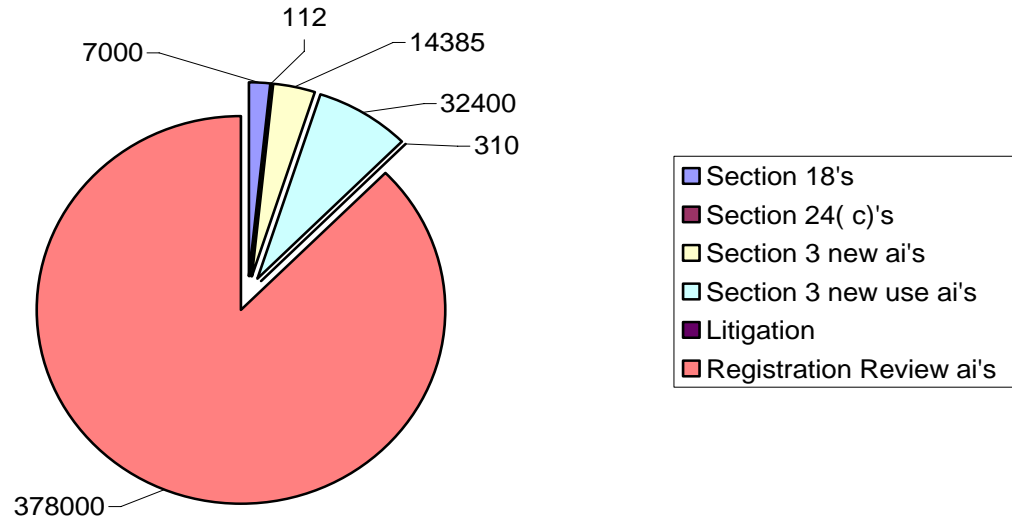
## Litigation (cont.)

- 60 day NOI relative to ethoprop, methidathion, methamidophos and oxydemeton-methyl
  - Both FIFRA and ESA claims
- 60 day NOI relative to failure to consult on endosulfan

**Average Actions Per Year by Type of Action**



**Average Decision Points Per Year by Type of Action**



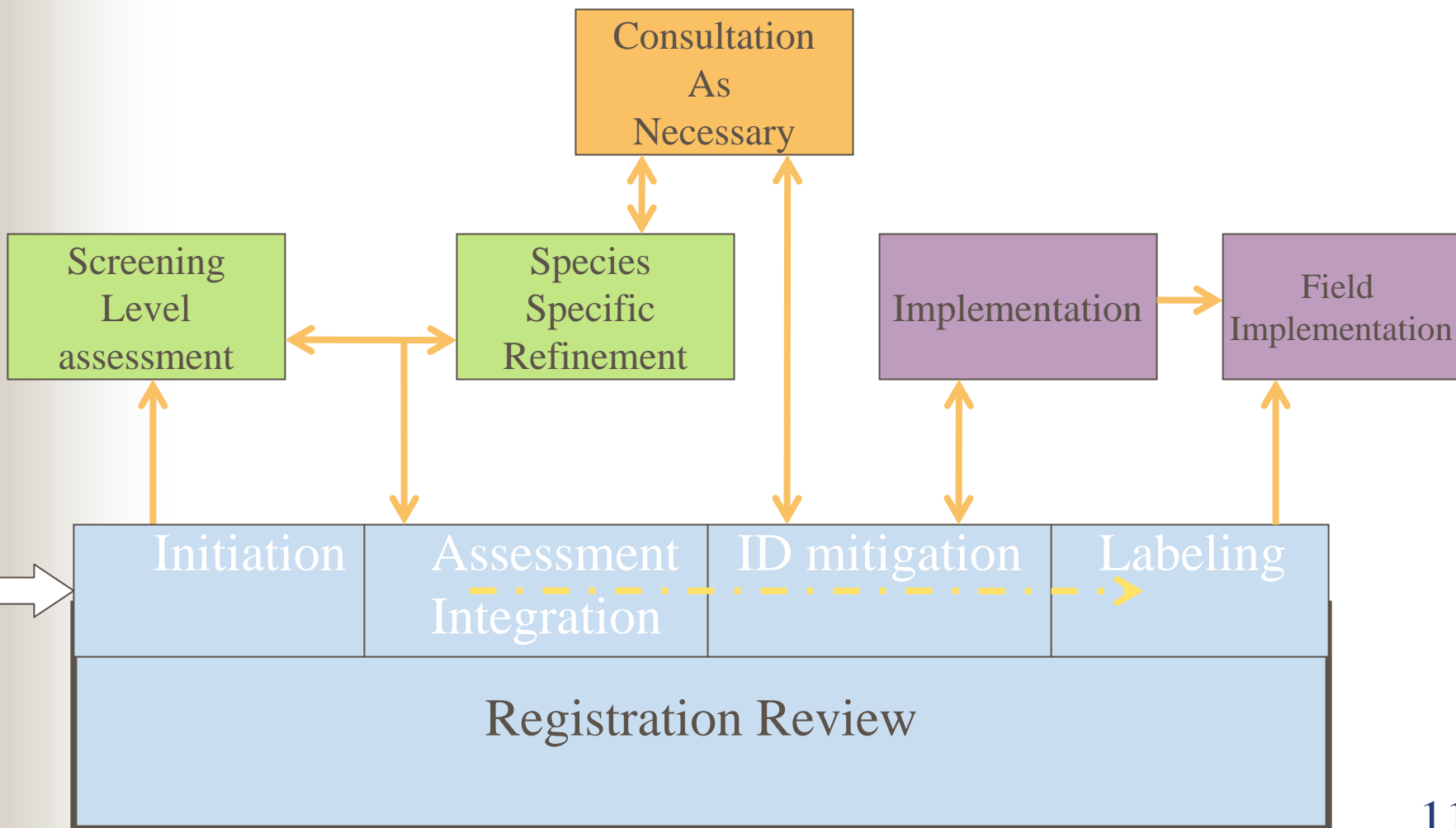
Derived using example scenarios. Actual # of decision points may vary based on number of taxa potentially affected and geographic scope of use sites.

# ES stages in relation to registration review

ASSESSMENT

CONSULTATION

IMPLEMENTATION





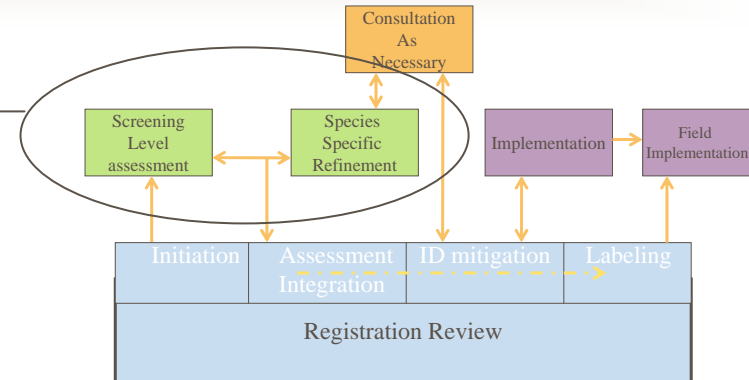
# Making it work

- Efficient
- Useful tools
- Effective information gathering and management

# Assessment

## ■ Efficiency

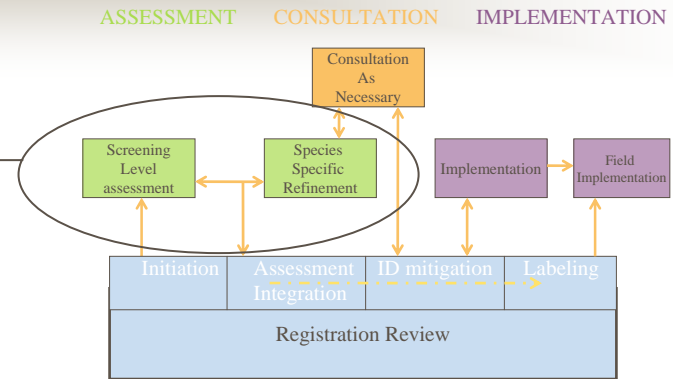
- Template development
- Internal peer review committee
- Considering intensity of Overview Document
- Discussions with registrants of two early Reg. Review cases to help define possible roles



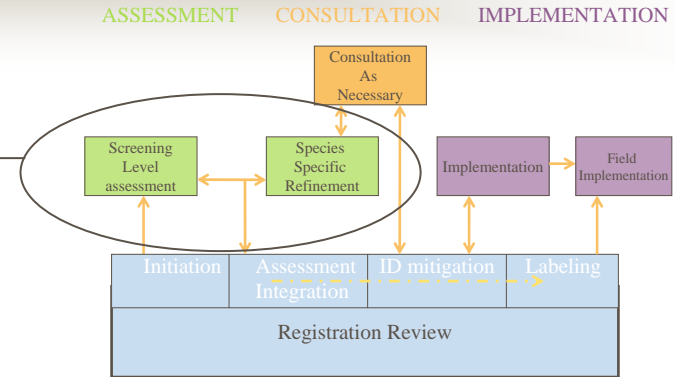
# Assessment

## ■ Tools

- Terrestrial Action Area Development tool
- Use Site Development Tool
  - Linked with NASS Census of Agriculture and NLCD to identify areas of potential agricultural use
- Aquatic action area development tool
- Spatial framework for PRZM/EXAMS

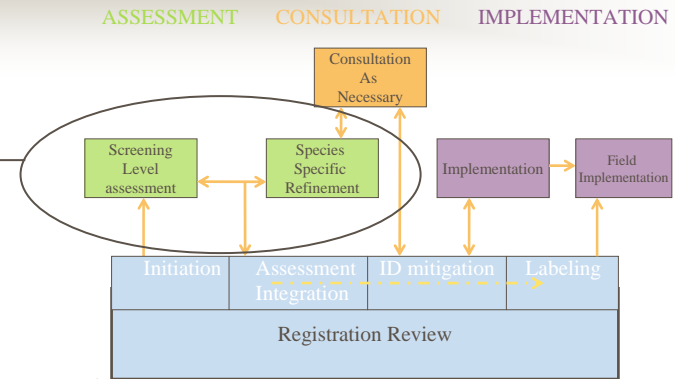


# Assessment



- Information gathering and management
  - OPP/OEI collaboration on ~1 TB hub of national geospatial data used by OPP
  - Developing tracking system for ES actions including status and timelines
  - ~ \$1m last year to conduct requirements analysis and now to build knowledge repository to contain documents used for assessments and discrete pieces of relevant information
  - Exploring how best to populate the system

# Assessment

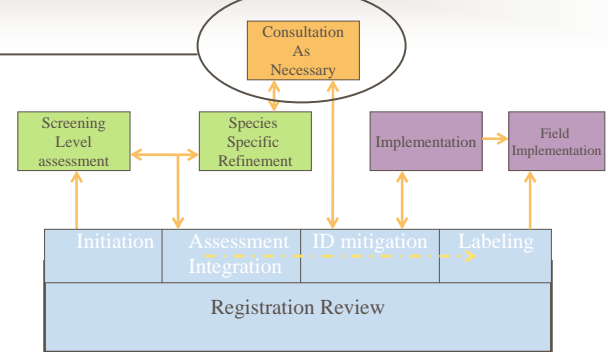


## ■ Information gathering and management (cont).

- Environmental baseline – status of the species within the action area and factors affecting the species within the action area
- Cumulative effects – the effects of future State, Tribal, local and private actions that are reasonably certain to occur within the action area.

# Consultation

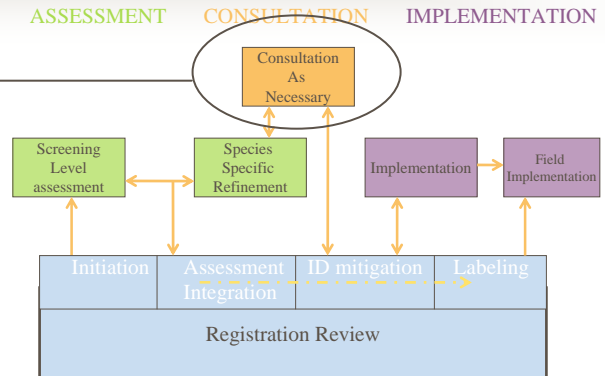
ASSESSMENT      CONSULTATION      IMPLEMENTATION



## ■ Efficiency

- Week long Services/EPA workshop
  - Learned about organizational structures and resources and how these influence workflow
  - Identified several areas of EPA's assessments where some changes would assist Services in their reviews
- Observers at week long kaizen session among Services and EPAs Office of Water to identify process enhancements

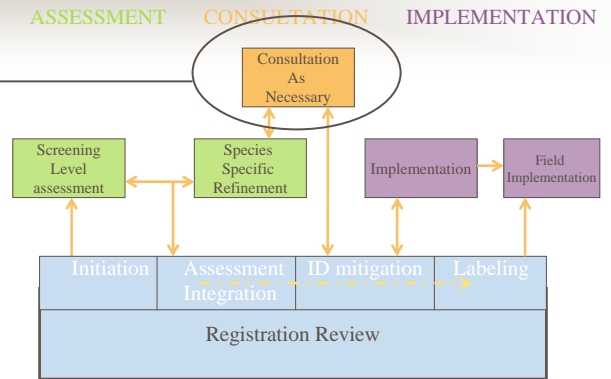
# Consultation



## ■ Tools

- Routine interaction at various management levels to keep processes moving and resolve process issues

# Consultation



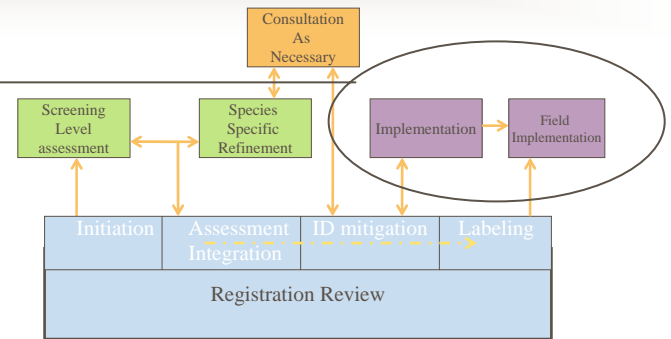
## ■ Information gathering and management

■ FWS building web-based “mapper” that will contain critical habitat locations and species location information at a county level and links to relevant documentation (in process)

- Will ultimately assist in assessments and make consultation more efficient

# Implementation

ASSESSMENT      CONSULTATION      IMPLEMENTATION



## ■ Efficiency

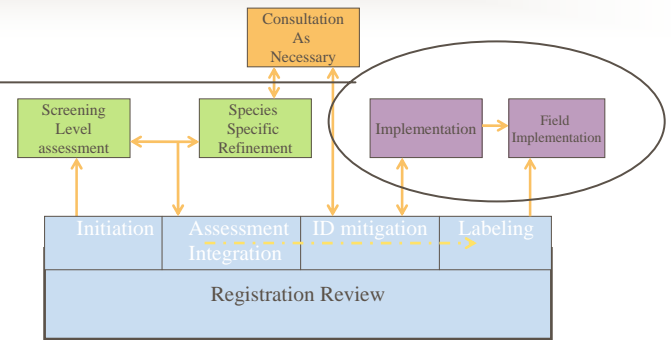
- Using Registration Review takes advantage of public participation in risk assessment and finalizing any needed use limitations
- Electronic system to relay use limitations (Bulletins Live!)
  - allows semi-automated creation of bulletins
  - Provides for QA review prior to “publication” to the web

# Implementation

## ■ Tools

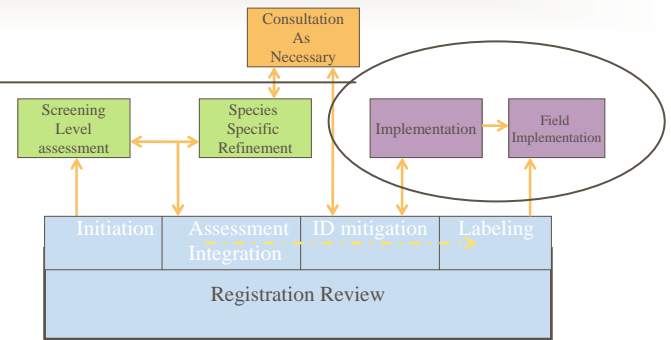
- Bulletins Live! system
- 800 phone number established
- States and EPA Regional offices briefed and trained on field implementation
- Training presentation developed for States and Regions to use with growers

ASSESSMENT      CONSULTATION      IMPLEMENTATION



# Implementation

ASSESSMENT    CONSULTATION    IMPLEMENTATION



- Information gathering and management
  - Bulletin program tracks every iteration of a Bulletin
  - Password protected access that allows retrieval of historic bulletins for enforcement purposes.
  - Allows users to directly write to EPA relative to issues with the system, enhancement recommendations, etc.



# How do we move forward?

## ■ Process

- Engage groups such as PPDC for input
- Considering government/non-government/stakeholder process to dialog on path forward



# Next priorities ?

## ■ Assessment process

- Identify methods to decrease intensity represented by Overview Document process while maintaining scientifically robust assessments
- Continue to seek ways to obtain national scale species information routinely and reliably

## ■ Consultation process

- Assist Services in identifying ways they will be positioned to undertake and complete consultations on the schedule we are anticipating requesting consultation

## ■ Implementation process

- We are ready to go – need to identify and implement mitigation where appropriate



# Questions for PPDC

- What other areas relative to assessment, consultation and implementation should OPP consider as priorities?
- What are your thoughts on processes for engaging in discussions about the path forward?