

**STATE FIFRA ISSUES RESEARCH & EVALUATION GROUP
FULL COMMITTEE MEETING
JUNE 6-7, 2022
Hilton Alexandria Old Town, Alexandria, VA
MEETING MINUTES**

Called by: Gary Bahr, WA, SFIREG Chairperson
Minutes by: Amy Sullivan, AAPCO Executive Secretary

Please note: This was our first in-person/non-virtual meeting since December 2019 due to the Covid-19 pandemic.

Monday June 6, 2021 8:15 am

U.S. EPA OFFICE OF PESTICIDE PROGRAMS UPDATE

Edward Messina, EPA/OPP/

Report on status of relevant activities of OPP impacting state pesticide regulatory programs.

Please see attached PowerPoint.

During Messina's presentation he discussed the new org charts, and how the agency has fully moved into the Ariel Rios building downtown. He would like to discuss hosting the SFIREG meetings there in the future.

For registration review 96% of the draft risk assessments are done. Some will go past the deadline. The Registration Division has had record numbers of registration actions, including approval of 14 new active ingredients.

For dicamba over the top uses, the agency filed a status report on litigation to the court May 16, 2022. Evaluation in 2023 can be done without harming non-target organisms or listed species is ongoing.

Messina also touched on chlorpyrifos; the Federal Register AEZ notice from May 16; EPA's drafting of a final rule for the additional extension request should be posted by September; the California PROP 65 language on glyphosate products; codification of efficiency guidelines and product performance for products used on bed bugs, fire ants, and pets.

EPA is developing a response to SFIREG's [Managed Pollinator and Pesticide Regulations Issue Paper](#) from August 2021. The diuron PID contains some significant mitigation as well as cancellations and is especially focused on paint uses. EPA wants to add chitosan to the 25(b) list.

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE (OECA) UPDATE

Kelly Engle, EPA/OECA

Report on status of relevant activities of OECA impacting state pesticide regulatory programs.

Please see slides related to PIRT and the current Request for Proposals.

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EPA REGIONS REPORT

Courtenay Hoernemann, EPA/R3

1. Dicamba - Minnesota has had a late planting, and expects dry and hot weather going forward which will be challenging. The states want to use FIFRA Section 24(c) to expand the label. What does EPA need for that to happen?
2. C&T – the November 4th deadline may not be met. The agency is working on a rule to extend the approval time period.
3. Chlorpyrifos – states are concerned about disposal, overwhelming clean sweep programs, the absence of voluntary cancellations. The states want more engagement earlier on an issue such as this one, which is very impactful.
4. Backyard Mosquito Control – residential complaints due to the use of high-powered backpack sprayers. There are questions as to whether this application type was considered in the registration of the products used.
5. Region 5 held a national webinar on disinfectants. The recording is available. The primary intended audience was Pest Management Professionals.
6. Diuron – lots of questions about the science and modeling used to support the proposed mitigation.
7. Inspection training and Train the Trainer resources are needed.
8. Enlist – more engagement with the states is needed.
9. Golden Malrin (methomyl) – misuse, intentional harm to wildlife, and ecommerce are still issues. Michigan recently cancelled it. The product should be RUP. Ziplock bags are being sold on the internet; package size restrictions are not effective.

Lamanno (NY) agreed with the concerns related to the Mosquito Mist Blower topics brought forward and described issues in NY, and several other state representatives echoed his concerns.

Fleeson Trossbach (VA) brought up the need for EPA to deal with ecommerce issues. While the large seller cases are important and provide some deterrent, small scale ecommerce issues are widespread. Pat Jones (NC) agreed, adding that some of the misuse known to occur in beehives is bathtub flea and tick concoctions. Megan Wilkerson (DC) described seeing problematic applications on TikTok, while Friend said that there are even sellers on Etsy who are manufacturing their own pesticide products.

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PESTICIDE OPERATIONS AND MANAGEMENT (POM) WORKING COMMITTEE REPORT

Amy Brown, FL, POM Chair

Brown reviewed the POM Report – see attached. Julie Spagnoli, JM Specialty Consulting, thanked Brown for working on the 24(c) label issues related to registration review and state involvement, and said that the response has been shared widely.

ENVIRONMENTAL QUALITY ISSUES (EQI) WORKING COMMITTEE REPORT

Hotze Wijnja, MA, EQI Chair

Wijnja reviewed the EQI Report – see attached.

ASSOCIATION OF AMERICAN PESTICIDE CONTROL OFFICERS (AAPCO) REPORT

Liza Fleeson Trossbach, VA, President

Fleeson Trossbach began by discussing transitions during this time period, and emphasized the importance of communication with EPA OPP, EPA OECA, and other associations. She also addressed some of the workgroup/liaison roles that have recently changed with Megan Patterson, ME moving into AAPCO's PPDC Representative; Dwight Seal, NC taking over the technology workgroup; Kelly Friend, FL heading up the WPS Steering Committee; Jessica Pruitt, MI and Jona Verreth, MT now in the Laboratory Committee Chair and Liaison roles.

Areas of interest for AAPCO at the current time include dicamba, chlorpyrifos, chlorine gas, and the C&T plans. AAPCO will be hosting its third national C&T call with EPA in June. Looking forward Fleeson Trossbach expressed interest in state restrictions and understanding label language, EPA risk assessments, ESA, climate change (where she asked states if they were experiencing impacts or if there were activities that we should be doing). The Label Improvement Project is ongoing. PPDC is working with AAPCO now as well and a reform workgroup was created.

ASSOCIATION OF STRUCTURAL PEST CONTROL REGULATORY OFFICIALS REPORT

Allison Cuellar, TX, Vice President

Cuellar shared a PowerPoint – see attached. She mentioned some key areas of interest currently are rodenticides, structural fumigation, preemption, and that they are offering a newer inspector training on the Tuesday of their Annual Meeting in August. Alvin Harris, DC, chairs the Rodenticide Committee and they are putting out a survey to certified applicators.

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TRIBAL PESTICIDE PROGRAM COUNCIL (TPPC) REPORT

Jasmine Courville Brown, Confederated Salish and Kootenai Tribes, Chair

27 Tribal organizations have cooperative agreements with EPA. Direct implementation is a concern, especially as the tribal programs move through the C&T plan approval process, and so many tribes do not have their own pesticide programs. Some would like to opt out of the federal C&T plan.

TPPC has created an issue paper on cannabis and hemp production that is being shared with EPA, FDA and USDA. USDA also recently released a report on the Status of Pollinators in Indian Country.

TPPC has a Risk Assessment Workgroup that is working with EPA to assess tribal consumption and use data of materials utilized by tribes that are not incorporated into EPA's current risk assessment process. They also have a PFAS workgroup, and recently submitted a letter of concern to EPA.

Identified Areas of Collaboration for TPPC and SFIREG:

- Hemp/Cannabis: tribes are having trouble conducting inspections because they are prohibited from using EPA money to do so.
- Labels: tribes cannot use state labels which can cause issues with access.
- UAVs: not sure how to approach UAV inspections without label language supporting the use pattern.
- Risk Assessments: Registration Review is using old data, old drift reduction technologies, and tank mixtures. While the tribes are trying to collect data to inform the process, unacceptable exposure and risk may be occurring in tribal settings. Can the states help fill in the gaps?
- Emerging Pathogens: TPPC supports the use of List-N, but have concerns related to children's exposures with reports of rashes, flaking skin, etc., occurring due to disinfectant misuse.
- Cover Crops: TPPC supports SFIREG's efforts to address issues with cover crops and would like to see soil health in general and cover crops included in state trainings.
- State Licensing: As state licenses are often the underlying certification for tribal certifications, good communications between states and tribes are essential. Solutions for addressing reciprocity issues in these situations would be very helpful. Relatedly, many states recognize tribes within state boundaries who are not federally recognized. These tribes would like to develop relationships with the SLAs.

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**ASSOCIATION OF AMERICAN PESTICIDE SAFETY EDUCATORS (AAPSE)
REPORT**

Jolene Hendrix, UMN, President-Elect

Hendrix presented a PowerPoint – see attached.

CERTIFICATION AND TRAINING ASSESSMENT GROUP (CTAG) REPORT

Linda Johns, UMN, Co-Chair

Johns presented a PowerPoint – see attached.

AAPCO LABORATORY DIRECTORS STANDING COMMITTEE

Jona Verreth, MT, SFIREG Liaison

Verreth began saying that during this past year the AAPCO Laboratory Director's Committee structured the committee more formally and developed an Advisory Committee to oversee selection of positions and help with planning.

PFAS has been an area of interest for the laboratories, although most labs do not have the ability to acquire a dedicated Mass Spectrometer, which can cost between \$300,000-500,000.

There has been an increase for paraquat analysis in general. For instance, a lab that typically would perform analysis on 13 samples may now do 40 samples. This has put paraquat methods in the spotlight.

There have been supply issues in general, but concern about the helium supply is currently high. Friend asked if the helium shortages required prioritization, and Pruitt responded that they are reducing use and increasing hold times (We have since been told that the helium shortages are being resolved). Staff retention and recruitment is also a concern due to inflation and private sector wages have gone up compared to state laboratory salaries.

OCSPP WELCOMING REMARKS

Jake Li, Deputy Assistant Administrator, EPA/OCSPP

Li presented a PowerPoint – see attached.

Overview of Resource Challenges

Li began by describing the resource challenge that the agency is experiencing currently. They currently have a 50% renegotiation rate for PRIA and have more work and less people. Some of the factors involved include the increased numbers and complexity of biopesticide and disinfectant reviews. In the Registration Division they currently have a 60% renegotiation rate, and a 75% increase in pending actions.

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Endangered Species:

Pesticides are the most complex element of ESA. In the past EPA only met their obligations about 5% of the time. This caused a large number of lawsuits to be filed against the agency and there is significant litigation pressure. Again, it comes down to staffing versus workload. They currently have over 50 active ingredients, and 1000 products with court-enforceable deadlines. Li expects the work to go through the 2040s. That doesn't include the Biological Opinions with the US Fish and Wildlife Service, which could go through the 2050s.

Li recognizes that agency must comply with these actions, there is no merit to allow otherwise. He hopes to work with advocates to reduce the litigation moving forward.

In April 2022 EPA introduced the ESA workplan which includes strategies, describes what success looks like, policy and a focus on the most vulnerable species.

Registration Review

Registration review is also a heavy load at the moment. The best that the agency can do is issue interim decisions that do not include ESA or Endocrine Disruption. There are also delays due to registrants not providing the information or data needed to complete the decisions in a timely manner.

Within the registration review process the organophosphates (OPs) are delayed. EPA is trying to get better science. A 202 Scientific Advisory Panel on testing methods will benefit the Ops ultimately. The agency is trying to sequence for OPs that have full data available, which is more efficient than revising once the data is available.

Additional Remarks and Discussion

The Endocrine Disruptor Screening Program requires screening and data. Soon a white paper will be put out on the agency's approach to become compliant with the July 2021 Office of the Inspector General report.

PRIA: need to address shortfalls, recognizing that it is important for market availability. PRIA will be reauthorized this year and there is a workgroup forming to protect farmworkers, support e-labeling and support new approach methods. The agency is pursuing software to allow editing of labels electronically within 4-5 years.

Environmental Justice and JEDI considerations are also of importance within the scope of the agency's work.

Li stressed his commitment to increasing transparency, valuing communication with the states and increasing the frequency of communication.

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UPDATE on the POTENTIAL REGULATORY CHANGES for CHLORINE GAS PRODUCTS

Rose Kyprianou EPA/PRD; Gary Bahr, WA, SFIREG Chair; Amy Brown, FL, POM Chair

Erin Dandridge and Jose Gayoso joined Rose Kyprianou for EPA. Kyprianou thanked SFIREG and AAPCO for the letters providing background information and current regulatory framework of chlorine gas use, impacts of creating a chlorine gas restricted use category for certification and licensing, and information regarding the lack of incidents related to chlorine gas in multiple current use patterns that have been uncovered. EPA is currently going through the letters and materials provided and is aiming to have a decision on RUP status later this summer. Dandridge added that they are reviewing the RUP interim decision in terms of accessibility, required training for purchase and use, differences between RUP and GUP in practice, and said that the SFIREG information is very helpful. The main focus in the review has turned from aquatic toxicity to human health concerns and training, which is more in line with human health issues related to occupational health.

REGIONAL REPORTS

SFIREG Committee Members

All reports are included in the meeting materials. Highlights of each report out are below.

Key Points found across multiple regions: need laboratory support funding; difficult to verify dicamba training; UAVs; PFAS definition; MD has a list of alternatives to chlorpyrifos; Enlist-support for more information and education about ESA going forward; Enlist- concern about how to understand, educate and evaluate the credit system in place on the label; Mosquito misters; devices; Diuron risk assessment/modeling

Region 1: David Rousseau, NH

- Region 1 states want SFIREG to keep PFAS within its focus.
- In NH there has been a 400% increase in applicators for mosquito control, and a 300% increase in companies providing the service.

Region 2: Anthony Lamanno, NY

- NJ has restricted some neonicotinoids and has eliminated homeowner uses. NY has restricted some as well, including foliar, seed and outdoor uses.
- Glyphosate is not allowed to be used on public or state property in NY except in the case of invasive species, roadsides and areas that preclude any human health exposure.
- Puerto Rico and the U.S. Virgin Islands have limited lab capacity at this time.
- What does implementation of the C&T plans mean?
- To address special local needs, FIFRA 24(a) does not work and the states need to be able to use section 24(c). As a potential solution to this issue, the Region 2 states encourage SFIREG and EPA to explore the possibility of allowing state restrictive language to be

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added to the federal label by notification instead of the amendment process. This process potentially could be accomplished through an amendment of PR Notice 98-10.

- Devices continue to be a resource and time burden. Treated seeds and UAVs are also of concern.

Region 3: Liza Fleeson Trossbach, VA

- C&T plan approval process is still engaging most of the states.
- PFAS, Chlorine Gas, and possible Rodenticide RUP classifications, and devices are areas of concern.
- States want to enhance communication with EPA.
- Delaware has had issues with treated seed spillage in roadways. It is a fairly common issue and creates an environmental issue possibly.
- In Virginia, registered technicians now have a Spanish language Core to study from.

Region 4: Tim Drake, SC

- EPA travel budgets have been cut and they may not be able to have the mid- or end of year reviews in person.
- More interest in Spanish language training materials, especially because of the paraquat labels not allowing use ‘under the supervision of’ SC is using NC’s process and reciprocating. There may be equity issues for other languages.
- Hypochlorous acid generators in hospitals continue to be a concern.
- Beekeeper misuse in hives continues to be a concern; NC found 2000 instances of misuse in one year.
- UAVs – R4 put together a workgroup to discuss.
- Concerns about the limits on 24©
- Need a better device definition

Jolene Hendrix asked if the digital labeling Jake Li discussed could be helpful for multiple language issues. There was a general discussion of materials in non-English languages, with several expressing support for the opportunity to be more inclusive linguistically.

Region 5: Brad Beaver, IL

- There has been a hybrid return to work in the region, as well as several retirements.
- Reports of the use of pool shock to clean asphalt shingles
- Interest in UAVs
- States are still seeing large scale misuse of Golden Malrin. MI has made it a state RUP <https://www.michigan.gov/mdard/about/media/pressreleases/2022/02/14/mdard-classifies-methomyl-as-a-restricted-use-pesticide>

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- Difficulty with having applicators who work in cannabis taking online training courses due to the prevalence of security cameras in use at grow facilities.
- Still a lot of strain and burnout related to dicamba OTT enforcement issues.
- Seeing dicamba resistant weeds within some of the states.
- Mosquito mist products are also a concern in the region, including subscription services.
- Appreciated having Jake Li attend their Pre-SFIREG meeting.

Region 6: Ryan Williams, OK

- AR is still working through about 500 cases, as well as related FOIA requests.
- LA has new staff
- OK is experiencing increased workload with legalization of cannabis and hemp.
- TX has had dicamba complaints coming in for 2022.
- Still working on C&T plan revisions
- ESA – Bulletins Live! Two (BLT) <https://www.epa.gov/endangered-species/bulletins-live-two-bl-tutorial> is not up to date, and the states have had difficulty getting EPA to discuss ESA with them.
- Concerns about the diuron modeling used in the risk assessments in registration review

Region 7: Kelly Navinsky-Wenzl, KS for Gretchen Paluch, IA

- Issues related to Chlopyrifos disposal, primarily household products
- Both dicamba and Enlist changes occurred after training season, making it difficult to ensure applicators understand the label language as the product labels are complex.
- Questions about the Enlist label's enforceable statements.
- Treated articles are an issue.
- The states are interested in climate change information or trainings
- Want to keep access to POINTS historical data
- Would like better communication about Fed Talent updates.

Region 8: Kima Trayham, MT

- Interest in WOTUS and CWA
- CO preemption bill failed to pass in the legislature; a pollinator study was funded
- ND is focusing on trainings for surface water testing, wetland sediments, pollinators
- WY is concerned about the loss of chlorpyrifos for use on alfalfa, as they only have two active ingredients available now
- Concern about USA PLANTS database system transitioning to a new system
- Subregistrant labels are not being amended to match parent labels

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Region 9: Bret Allen, NV

- Concern about chlorpyrifos disposal
- They have seen a general increase in wind speeds on labels from 10 to 15 mph, and are wondering why? Not sure how many labels have increased. Is it data driven? There is concern, especially in the urban/ag interface about drift.
- C&T – how to ensure competency standards are met annually?
 - This question was answered by EPA’s Carolyn Schroeder to the effect that while programs may not train on every competency standard every year, they should be included in the trainings as appropriate and that over a period of time will continue to be included to encompass all of the standards in an iterative fashion.
- Some of the pacific territories are struggling to find laboratory support.
- Would like to see finalization of the cover crop issue.

Region 10: Bob Blankenburg, AK

- Concern about concentrating residues in oil that are higher than the allowable residues in the raw commodity
- WA collected 1600lbs of chlorpyrifos.
- Devices are of concern to the states in the region.
- Treated seed issues, including disposal of the seed treat rinsates (this concern is not currently included in the issues related to treated seed being addressed by SFIREG)
- Interest in the effects of climate change on pest pressure.

CHLORPYRIFOS REVOCATION TOPICS

Amy Brown, FL, POM Chairperson

The disposal issue is national.

Alex Feitel, EPA Chemical Review manager described the current situation:

- Petition in the 8th circuit challenging the revocation
- EPA response was due July 2nd
- In consultation with NMFS, USDA, others, June 30th BiOp is due.
- EPA will clarify existing stocks language in the NOIC, which is currently in review
 - Will coordinate with SAP and allow USDA to comment, per statute
- 400 comments in the review currently, and will continue with registration review after for non-food uses

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Inquiries:

- Crops grown for seed are non-food
- Treated seed is non-food
- Fruit and nut trees are non-food for non-bearing trees (must be non-bearing for 1 year from application)
- Ethanol is a food use and therefore prohibited
- Ear tags for cattle - beef, nonlactating cow calf pair, as long as 1 year before slaughter – the label will need to be changed to make this use non-food
- Non-food only labels are ok in the marketplace
- See the EPA FAQs page as well
- Import/export - sub part D 40 CFR part 168- users should be aware
- Exports or transport issues – contact EPA
- Product return – conversation with the registrants have begun.

Will there be other comment opportunities? Per Dana Friedman, EPA, the BiOp is final when done. It will be given to the registrants to amend their labels. The next major comment period will be the NOIC and interim decision – provided to SFIREG, but there will be no public comments.

Verreth asked if the lab directors will have a responsibility to report detections if found on food. EPA will follow up.

Bahr asked about concerns with disposal. Can EPA assist? How about transportation of revoked products? Feitel responded that the food uses are misbranded and shouldn't be moved until the label amendments are completed. Registrants can contact EPA.

- Users – it is OK to transport
- Registrants – It is NOT OK to transport. A number of registrants are interested in return programs.
- Dealers/Distributors – it is OK to transport for disposal.

Friedman said that there is no funding available now to assist states with disposal issues, but the issue has been moved up to senior management.

When the EPA FAQs are updated, Brown suggested that EPA include questions that currently do not have answers so that interested parties know they are being looked into.

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PFAS

Jeff Dawson, US EPA, OPP
See attached PowerPoint

Bahr began by asking when the container leaching study will be available? Dawson replied soon! Also it may be interested to look at test orders.

Bahr asked about the aquatic benchmarks for Office of Water that came out last week, and if it influences Dawson's work. Yes, it is still interim but part of the bigger picture.

How does EPA see states creating their own definitions? Dawson replied that the working definition is published – it may evolve or be forced to evolve. In EPA there are conversations about expanding in some sections, may create more structural categories, but this is the starting point right now. Definition issue is a constant concern, and if an entity defined it as 1 carbon, then a lot of pesticides would fall into that. Pesticides actually have a lot of data available compared to other PFAS uses.

Hendricks asked how does this information come into pesticide safety education programs? Dawson replied that at this time it is more of a grassroots/community issue related to areas such as drinking water.

Sullivan asked about the risk assessments for human health. Dawson said that they are trying to gather rigorous information for that purpose but it will take a while. Office of Water is trying to address concerns through benchmarks. There are active human health assessments and surveillance occurring.

DICAMBA

Meg Hathaway, US EPA, OPP

1. Reviewed March label changes for IA and MN.
2. Data requests – EPA values state data; please share any new or additional information from previous years
3. 2022 – incidents, impacted vegetation, impacted ESA species, state resources used, and resistance are all important areas of understanding. EPA is working with the SLAs and WSSA to gather information and review.
4. Litigation update – in progress, on May 16, 2022, a status report on the Center for Biological Diversity vs Arizona was filed.
5. For 2023, EPA is evaluating the ability to use the product without harm and all uses are being address in registration review. Eco and Human risk assessments will be published in mid-2022.

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If states wanted to change the label for state specific issues would the process be quicker/easier than it was for IA and MN? EPA anticipates that the answer would be yes.

CERTIFICATION AND TRAINING WORKPLAN REVIEW UPDATE

Matt Lloyd, US EPA, OPP
See attached PPT

Bret Allen, NV asked about part 171.107 which may state that training must address each standard annually? Carolyn Schroeder, OPP, responded that they are interested in the quality and quantity of content needed to maintain competency but not every point has to be addressed annually; a holistic approach is better for certification programs.

Lamanno asked what exactly implementation means, as there are questions surrounding that. Schroeder responded that it means everything is in place to carry out the workplans.

TREATED SEEDS

Hotze Wijnja, MA, EQI Chair

Wijnja reviewed the history of the current topics and described the breadth of the issue.

EPA said that they would not respond to questions related to the Center for Food Safety lawsuit.

Hendricks said that proper disposal is a perennial question.

Verreth asked if treated seeds are considered a formulated product? Also, has anyone qa/qc'd the amount of pesticide on the seed? Response was no, not to EPA's knowledge. Wijnja suggested a follow up with Teerlink from CDPR.

Bahr asked for a committee vote to determine if the topic should be made into an issue paper. The vote to create a formal issue paper passed unanimously.

EPA'S ENDANGERED SPECIES (ESA) WORKPLAN

Jan Matusek, US EPA, OPP
See attached PowerPoint

The goal of the workplan is to bring EPA into compliance with the ESA. Upon review, only about 5% of the pesticide actions met ESA requirements, and there has been increasing litigation.

Bahr asked how SFIREG could help. Does the agency want additional feedback? How are the species chosen? For the pilot, JM Services chose the species. Going forward EFED and PRD are picking the species by looking at the exposure routes. PIDs coming out soon include this process. They have selected about 20 species with small ranges to follow for offsets and

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mitigation. This is very important. Usage data is also helpful, as is getting more focused range information from the services.

Regarding Section 18s: communicate more/ having USFWS review in-state specific registrations would facilitate the process. There was a complete effort to standardize mitigations across the different BiOps and A.I. assessments as much as possible, while offsets may fall to the registrants.