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
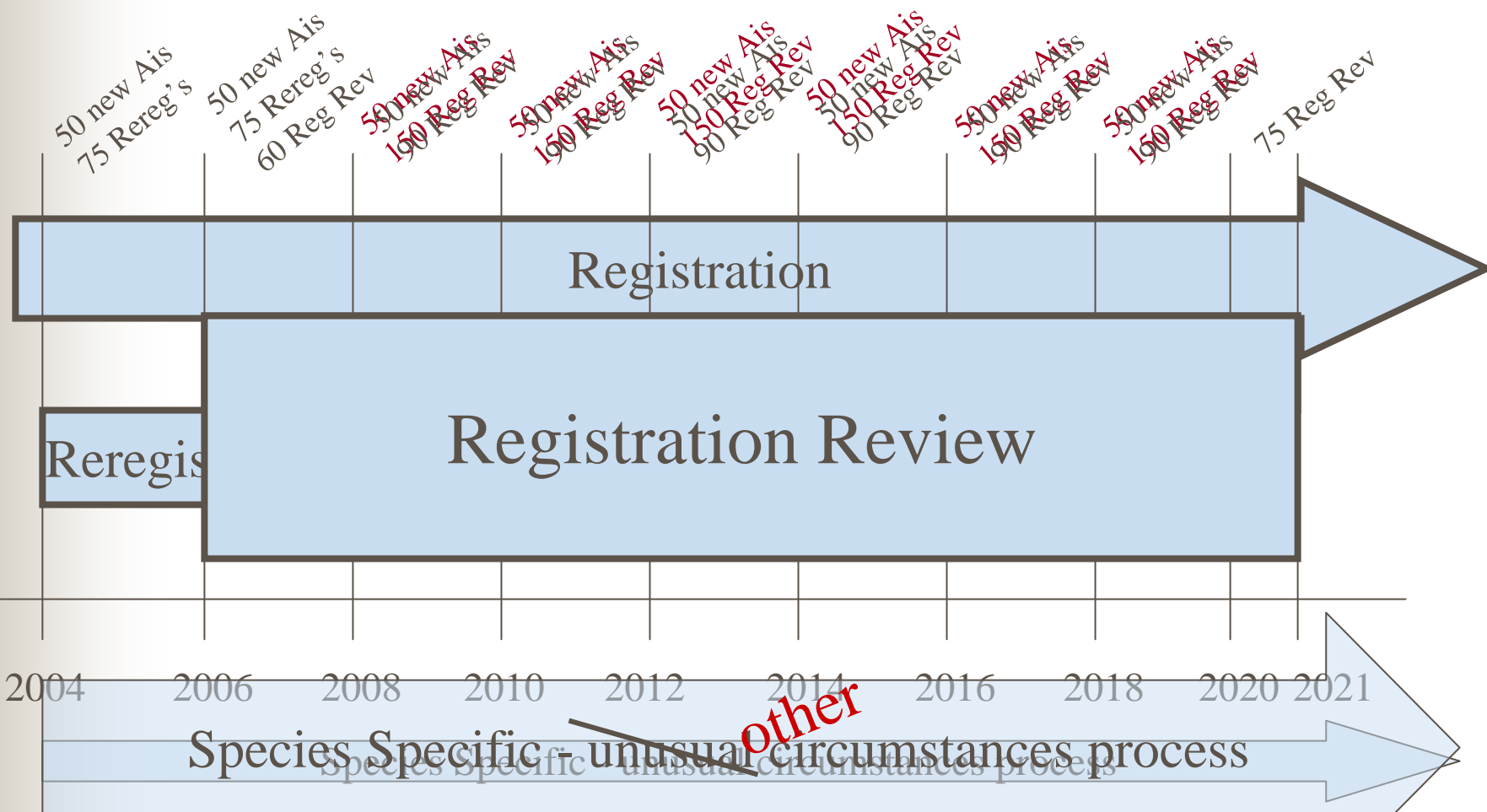- Provides broadest protection

Consultation

Under Endangered Species Regulations

- "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

50 new Ais
75 Rereg's

50 new Ais
75 Rereg's
60 Reg Rev

50 new Ais
150 Reg Rev

50 new Ais
150 Reg Rev

50 new Ais
150 Reg Rev
90 Reg Rev

50 new Ais
150 Reg Rev
90 Reg Rev

50 new Ais
150 Reg Rev

50 new Ais
150 Reg Rev

75 Reg Rev

Registration

Reregis

Registration Review

2004   2006   2008   2010   2012   2014   2016   2018   2020 2021

Species Specific – unusual circumstances process

other

Species Specific – unusual circumstances process
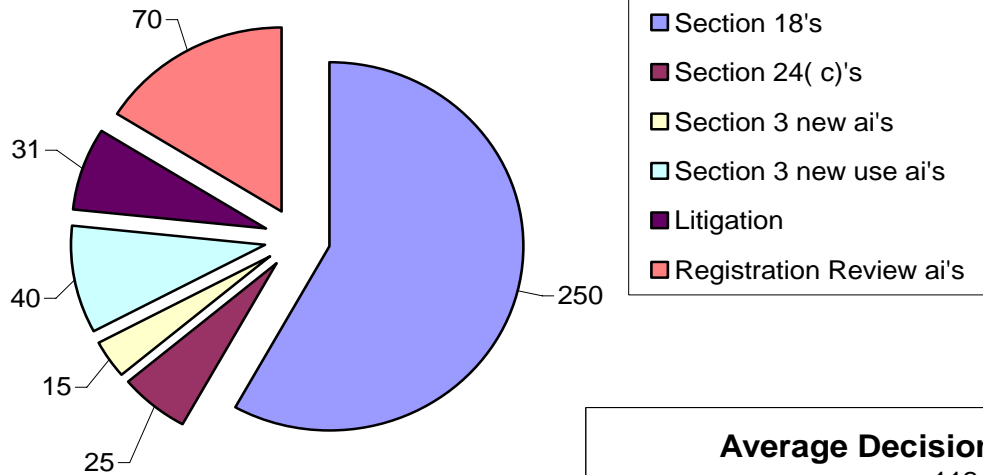
Litigation

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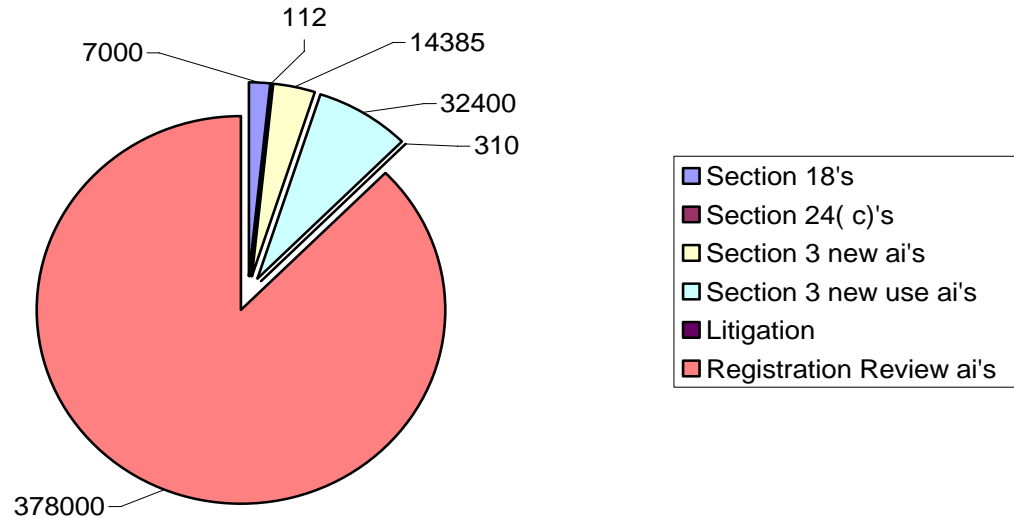   - Mammals
    - Insects

Litigation (cont.)

- 60 day NOI relative to ethoprop, methidathion, methamidophos and oxydemoton-methyl
    - Both FIFRA and ESA claims

- 60 day NOI relative to failure to consult on endosulfan

Average Actions Per Year by Type of Action

70
31
40
15
25
250

- Section 18's
- Section 24(c)'s
- Section 3 new ai's
- Section 3 new use ai's
- Litigation
- Registration Review ai's

Average Decision Points Per Year by Type of Action

112
7000
14385
32400
310
378000

- Section 18's
- Section 24(c)'s
- Section 3 new ai's
- Section 3 new use ai's
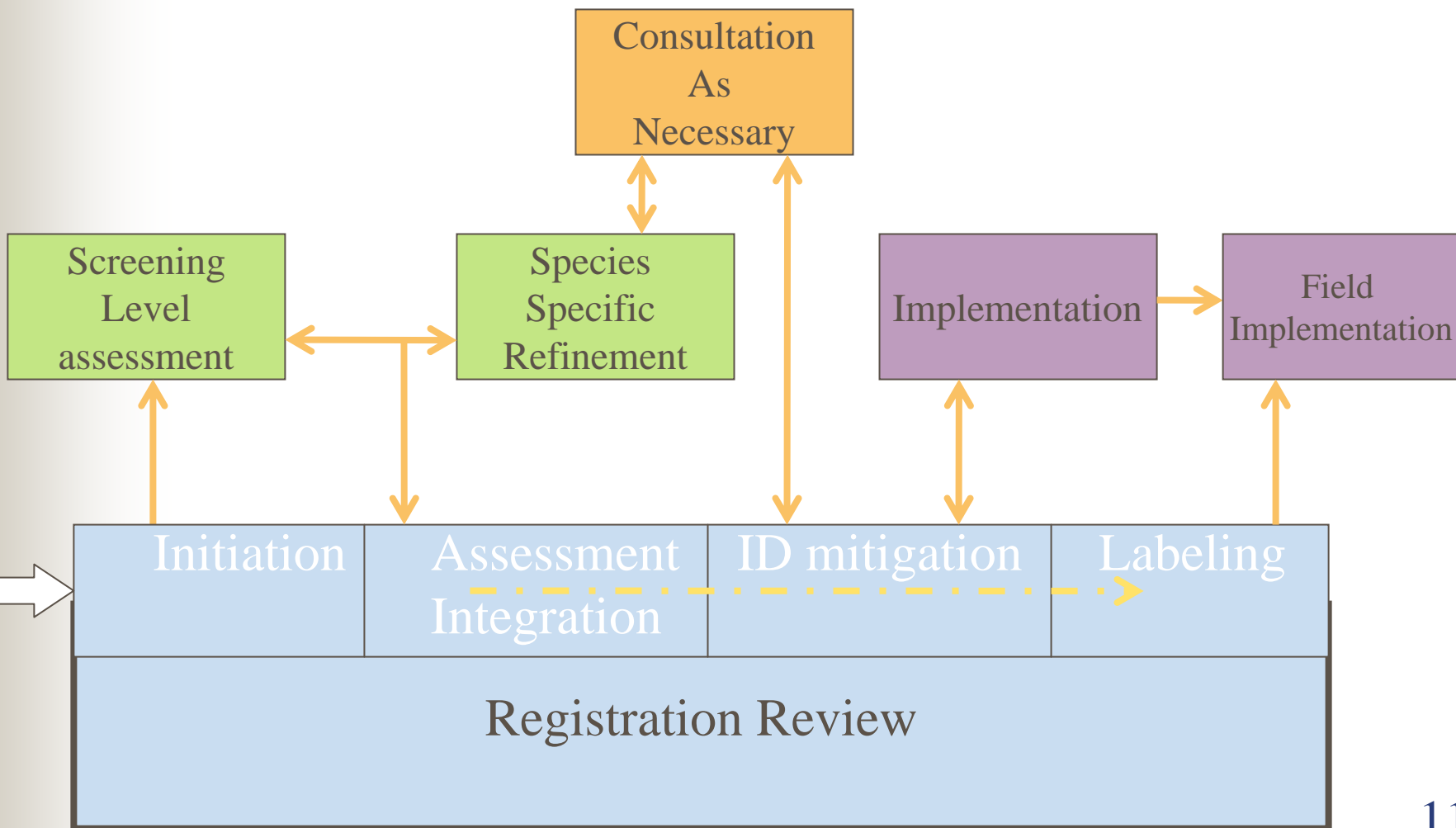- Litigation
- Registration Review ai's

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

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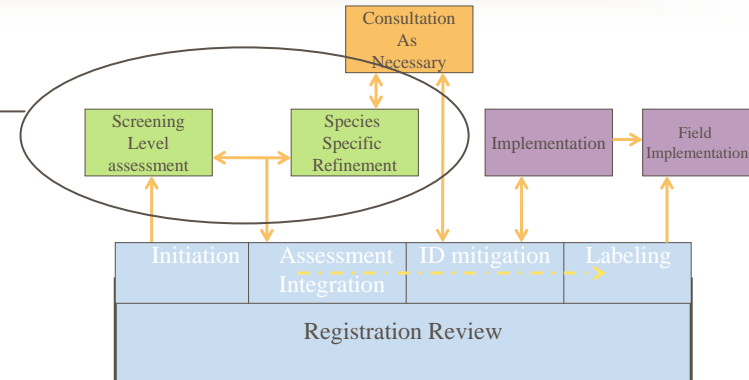ES stages in relation to registration review

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Making it work

- Efficient

- Useful tools

- Effective information gathering and management
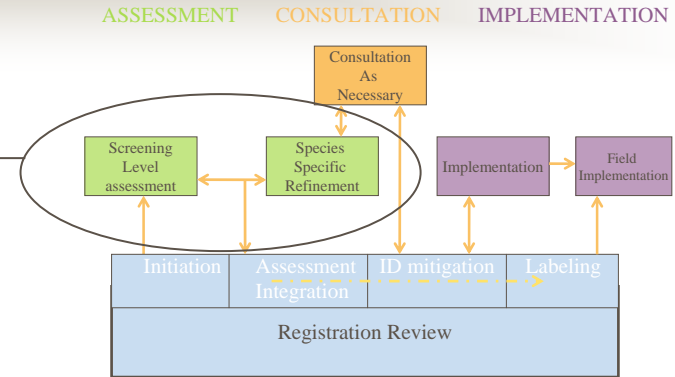
Assessment

- 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
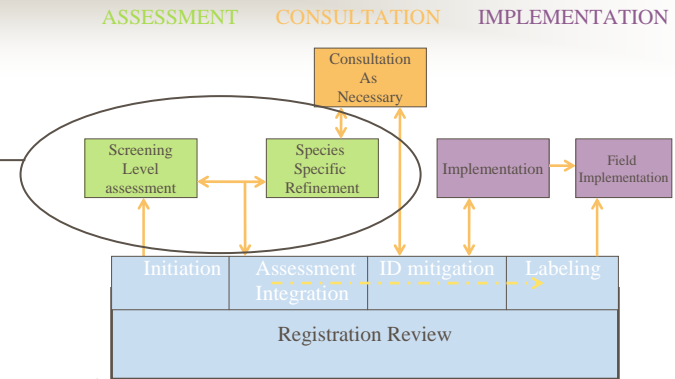
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Assessment

- ## 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
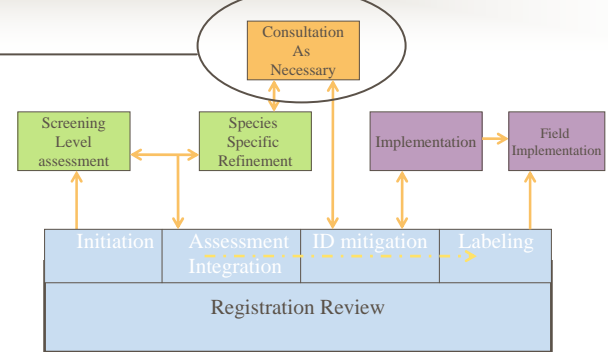 - Exploring how best to populate the system

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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.
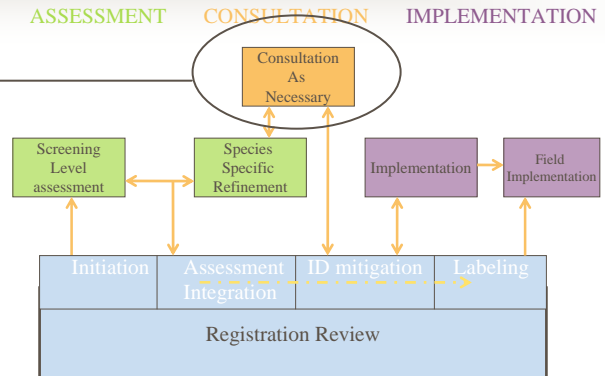
Consultation

- ## 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
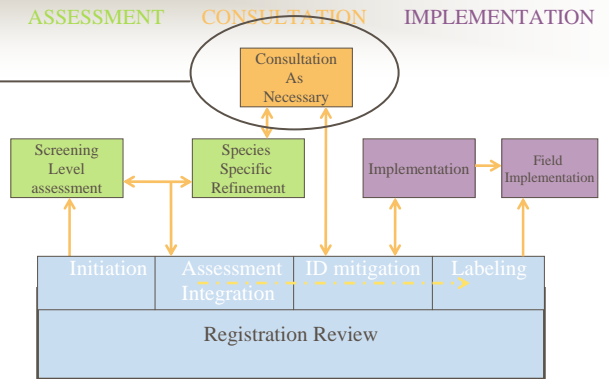
Consultation

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

Consultation

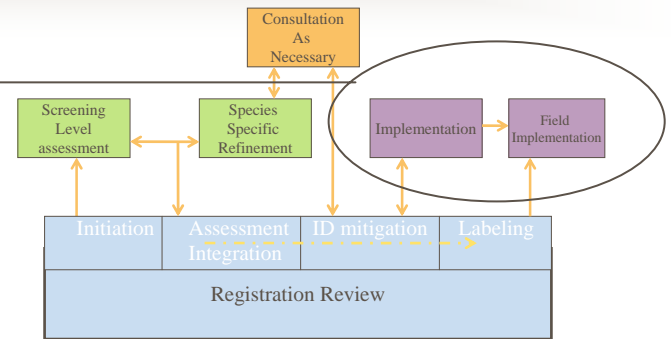| Consultation As Necessary				
Screening Level assessment	Species Specific Refinement		Implementation	Field Implementation
Initiation	Assessment Integration	ID mitigation	Labeling	
Registration Review				

- 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

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Implementation

Consultation As Necessary

Screening Level assessment

Species Specific Refinement

Implementation

Field Implementation

Initiation | Assessment Integration | ID mitigation | Labeling
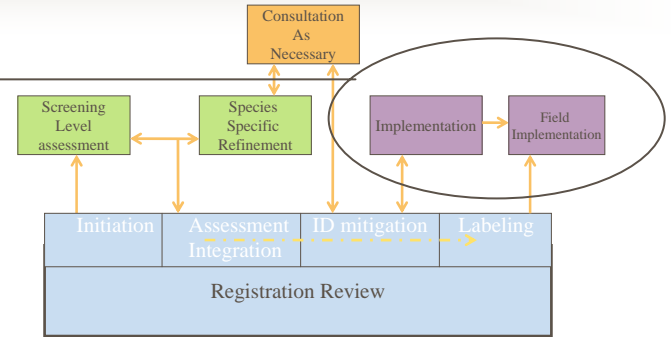
Registration Review

- **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
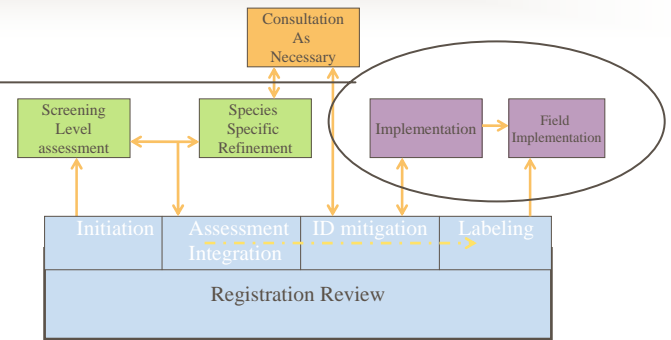
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Implementation

- **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

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Implementation

Consultation As Necessary		

| Screening Level assessment | Species Specific Refinement | | Implementation | Field Implementation |

Initiation	Assessment Integration	ID mitigation	Labeling
Registration Review			

- 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.

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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?