



The Anatomy of a Pesticide Investigation

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Why should pesticides be regulated?

- Possible adverse effects on human health
- Possible adverse effects on the environment
- Consumer Protection



History of Federal Pesticides Regulation

- 1910 - Insecticide Control Act
- 1947 - Federal Insecticide, Fungicide and Rodenticide Act
- 1960s
 - Silent Spring
 - Environmental Movement

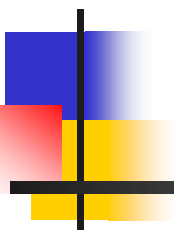


History of Federal Pesticides Regulation

- 1972 - Federal Pesticide Control Act (FIFRA, as Amended)
- 1978 – FIFRA amended
- 1996 - Food Quality Protection Act

FIFRA

Section 12(a)(2)(G)



It shall be unlawful for any person to use any pesticide in a manner inconsistent with its labeling.



Enforcement Options

- Criminal
- Civil/Administrative



Burden of Proof

- Criminal

Beyond a Reasonable Doubt

- Civil/Administrative

Preponderance of the
Evidence



Penalties

- Civil - \$5500 (\$10,000 FDACS)
- Criminal – 1 year in jail per count and/or \$25,000 - \$50,000 fine



Statute of Limitations

5 Years



Elements of Proof – Misuse

- Person – Individual, Company or Corporation
- EPA Registered Pesticide
- Use Contrary to Label Directions



Apopka Investigation

- Farmland since late 1940s
- Background levels of organochlorines, in particular – Toxaphene
- Hundreds of dead pelicans and allegedly other piscivores
- No fish kill
- Last use of toxaphene in mid-1980s



Possible Pesticide Crimes

- Misuse
 - Statute of Limitation had tolled and toxaphene not EPA registered
- Violation of Cancellation Order
 - Toxaphene stockpiled and used?
- Illegal Disposal (Dumped)?



Investigatory Activities

- Interview Growers, Applicators, Agency Officials, Audubon Agents, Wildlife Agents, etc.
- Review Toxicity Data and Known Sampling Results
- Coordinate with Oversight Committee (EPA)
- Identify Unknowns and Collect Evidence



Impediments

- **Playing Field “Contaminated”**
- History of Area & Flooding
- Witnesses
- Sampling
- Pelicans
- Fish & Wildlife Service (Frank Kuncir)



MY Conclusions

- No violations of federal pesticide law
- No Clean Water Act Violations
- No RCRA Violations
- Incident inconsistent with toxaphene-related bird kills
- Likely disease



After-Action Confirmations

- EPA Oversight Committee + Regional Administrator
- EPA CID Investigation at Request of FWS
- Exponent Report
- Natalie Steckler Exam



Thank you!

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