



# The Anatomy of a Pesticide Investigation

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# Why should pesticides be regulated?

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



# History of Federal Pesticides Regulation

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



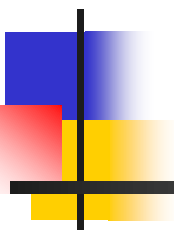
# History of Federal Pesticides Regulation

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

# FIFRA

## Section 12(a)(2)(G)



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



# Enforcement Options

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- Criminal
- Civil/Administrative



# Burden of Proof

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- Criminal

Beyond a Reasonable Doubt

- Civil/Administrative

Preponderance of the Evidence



# Penalties

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





# Statute of Limitations

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5 Years



# Elements of Proof – Misuse

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



# Apopka Investigation

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- 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

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



# Investigatory Activities

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- 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

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



# MY Conclusions

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- 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

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





Thank you!

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