

Things You Should Never Forget

Carlton R. Layne

678.773.1364

Carlton@CarltonLayne.Com

AERF

- **Have I sent my donation in this year?**
- **Don't forget to order my AERF T-shirt or cap**
- **Send Carlton some new jokes.**

FIFRA

Section 12(a)(2)(G)

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

What is “use”?

- **The site of application**
- **The rate of application**
- **Instructions for the frequency and timing of applications**
- **Restrictions and warnings**
- **Target pest**
- **Anything else to protect the public**

EXCEPTIONS - 2(ee)

- **Mixes**
- **Less than label rate**
- **Method of Application**
- **Unnamed target pest**

Penalties

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

What is the Burden of Proof?

- **Criminal:**
Beyond a Reasonable Doubt
- **Civil/Administrative:**
A Preponderance of the Evidence

When are they here to help me?

- **Routine Inspections**
- **Complaint Investigations**

Routine Inspections

- **No violation Suspected**
- **Establish a baseline**
- **Documents SOPs**
- **Identifies all the likely suspects**

What should I do?

- **Answer all general questions truthfully**
- **Don't be afraid to ask "Why?"**
- **This is your chance to show off your operation**
- **Get copies of everything – including photographs**









The following records are identified as including Drive activity: (MSD) 02 002668

Transaction Number: 3200 **Activity Date:** 02/20/01

ASSETS TRANSFERRED

Facility No.	Quantity	Items Transferred	Amount	Speed	Equipment

Amount: 1100 **Speed:** 1100 **Equipment:** 1100
Amount: 1100 **Speed:** 1100 **Equipment:** 1100
Amount: 1100 **Speed:** 1100 **Equipment:** 1100

Transaction Number: 3201 **Activity Date:** 02/20/01

ASSETS TRANSFERRED

Facility No.	Quantity	Items Transferred	Amount	Speed	Equipment

Amount: 1100 **Speed:** 1100 **Equipment:** 1100
Amount: 1100 **Speed:** 1100 **Equipment:** 1100
Amount: 1100 **Speed:** 1100 **Equipment:** 1100

Transaction Number: 3202 **Activity Date:** 02/20/01

ASSETS TRANSFERRED

Facility No.	Quantity	Items Transferred	Amount	Speed	Equipment

Amount: 1100 **Speed:** 1100 **Equipment:** 1100
Amount: 1100 **Speed:** 1100 **Equipment:** 1100
Amount: 1100 **Speed:** 1100 **Equipment:** 1100

Complaint Investigations

- **Interview complainant**
- **Collect samples & photos**
- **Interview witnesses & landowner**
- **Get weather data**
- **Interview Agent in Charge and/or the applicator**
- **Get application records**

What should I do?

- **Use Good Sense!!!**

Impediments to using good sense

- **You might know some or all of the parties (Inspector, Witnesses, Complainant, etc.)**
- **Enthusiasm, outgoing nature, professionalism**
- **Natural tendency to correct a wrong and make things right**

What is my legal obligation when I'm the target of an investigation?

- **Maintain all required records**
- **Allow the inspection of all required records**

Depositions and Court

- **Company or District will provide counsel**
- **DO NOT represent yourself – This ain't television**
- **Make sure your lawyer prepares you for direct and cross examinations**

Thank you!

Carlton R. Layne
3272 Sherman Ridge Drive
Marietta, GA 30064
678.773.1364
Carlton@CarltonLayne.com