

EPA and Pesticide Laws



November 11, 2008

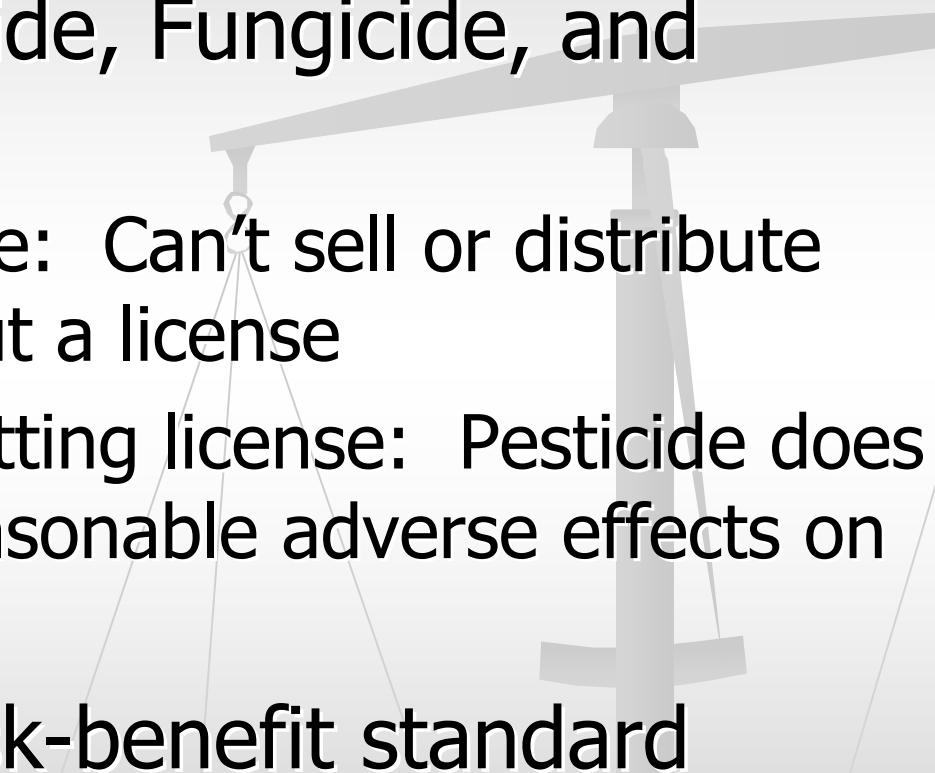
Laurel Celeste

Pesticide Laws



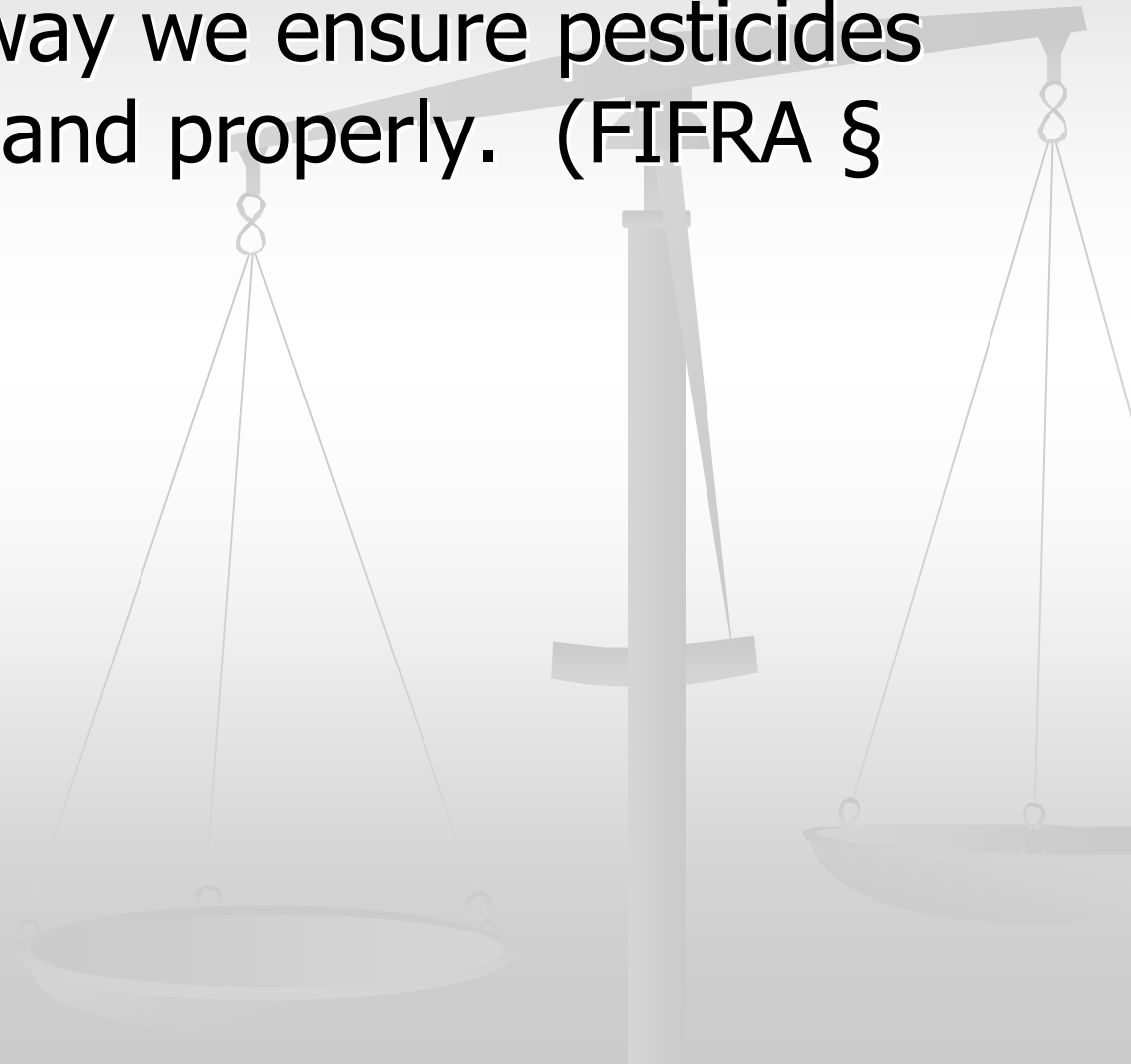
- FIFRA
 - Federal Insecticide, Fungicide, and Rodenticide Act
 - Governs the sale, distribution, and use of pesticides
- FFDCA
 - Federal Food, Drug, and Cosmetic Act
 - Food Quality Protection Act/FQPA (amended FFDCA)
 - Governs allowable pesticides in/on food

FIFRA

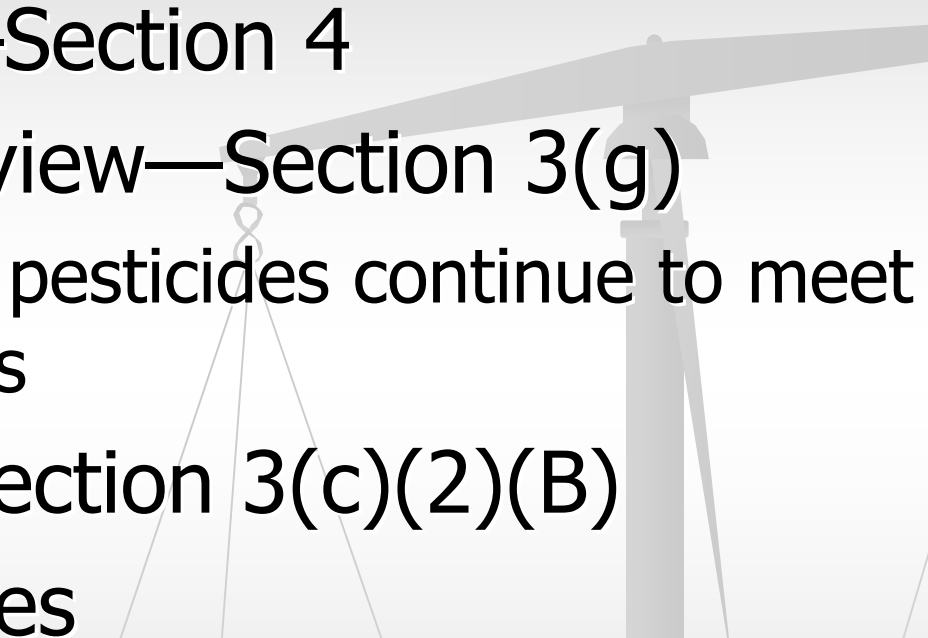
- Federal Insecticide, Fungicide, and Rodenticide Act
 - Licensing statute: Can't sell or distribute pesticide without a license
 - Standard for getting license: Pesticide does not cause unreasonable adverse effects on environment.
 - Standard is a risk-benefit standard
- 

FIFRA

- Labels are the way we ensure pesticides are used safely and properly. (FIFRA § 12(a)(2)(G))



FIFRA—Keeping a License

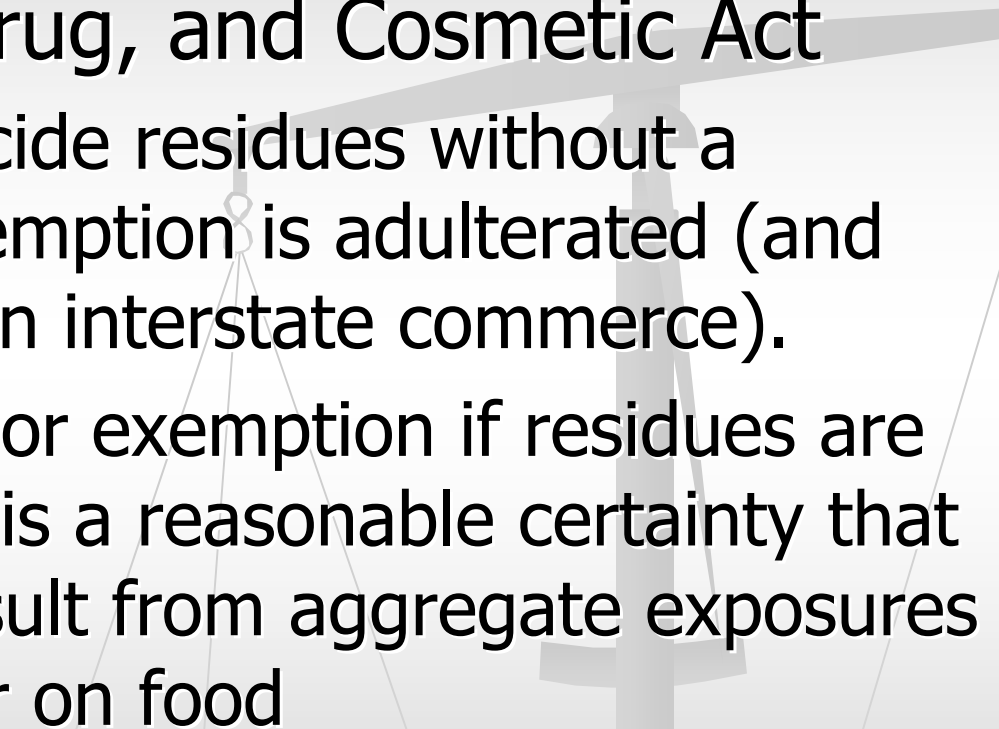
- Reregistration—Section 4
 - Registration Review—Section 3(g)
 - Ensure existing pesticides continue to meet FIFRA standards
 - Data call-ins—Section 3(c)(2)(B)
 - Maintenance Fees
- 

FIFRA—Losing a License



- Canceling pesticides
 - Section 6(f)—Voluntary cancellation
 - Section 6(b)—Cancellation for pesticides that cause unreasonable adverse effects on environment
 - Section 6(c)—Suspension
- Failure to pay maintenance fees—Section 4(i)(5)(G)

Section 408 FFDCA

- Federal Food, Drug, and Cosmetic Act
 - Food with pesticide residues without a tolerance or exemption is adulterated (and cannot be sold in interstate commerce).
 - Issue tolerance or exemption if residues are safe, i.e., there is a reasonable certainty that no harm will result from aggregate exposures to residues in or on food
- 

FFDCA



- FFDCA Pre-1996
- FFDCA as amended by the Food Quality Protection Act (FQPA)
 - Making FFDCA a risk-only statute
 - Adding children's safety factor—10X
 - Requiring consideration of aggregate and cumulative exposure
 - Tolerance reassessment—section 408(q)
 - Endocrine screening—section 408(p)

Tolerances and Exemptions



- Who can apply for tolerance/exemption?
- How are tolerances/exemptions issued?
 - Risk-only standard
 - Tolerance—specific level that is safe and reflects legal use of pesticide
 - Exemption—no limits
 - Rulemaking
- Revoking tolerances

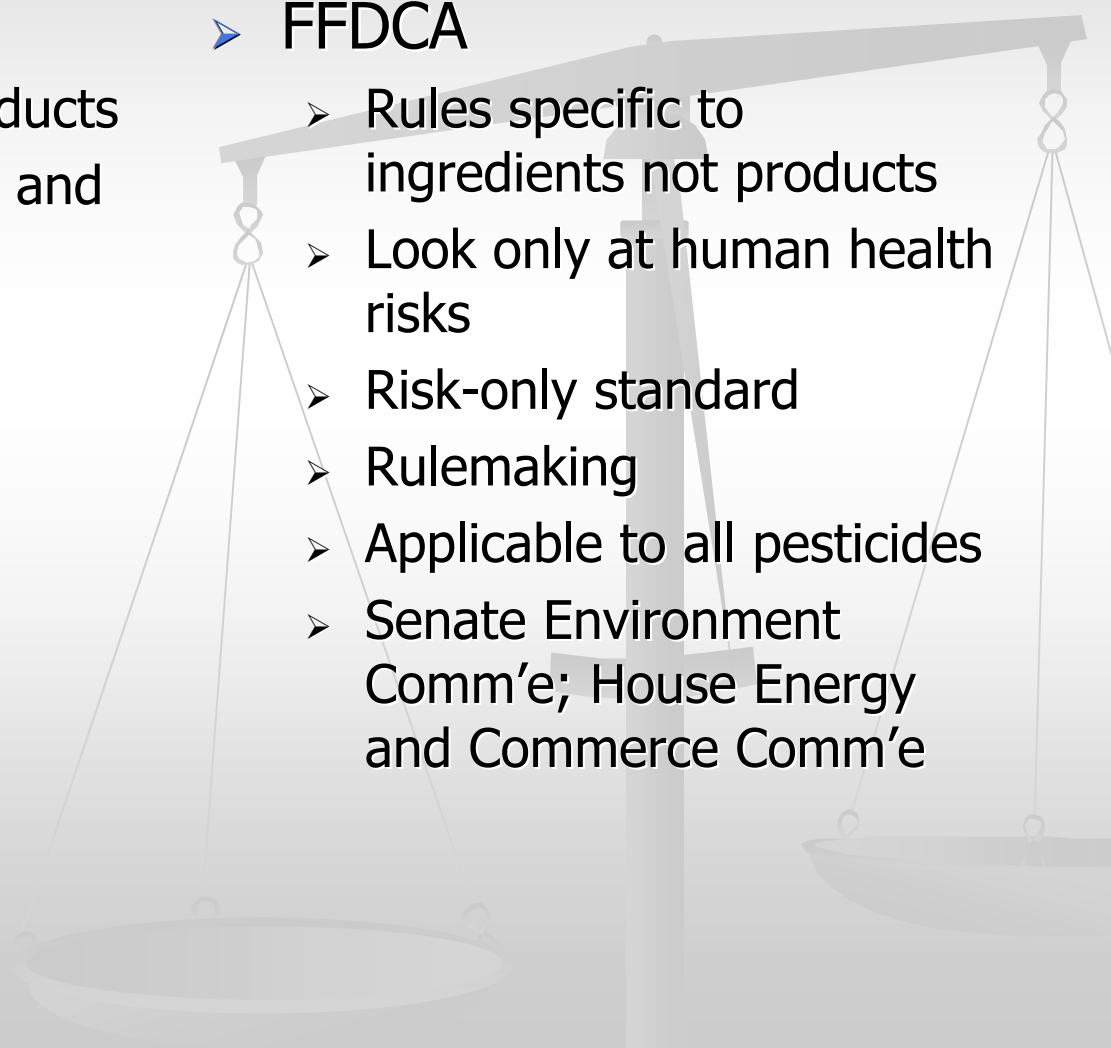
Summary of Key Differences

➤ FIFRA

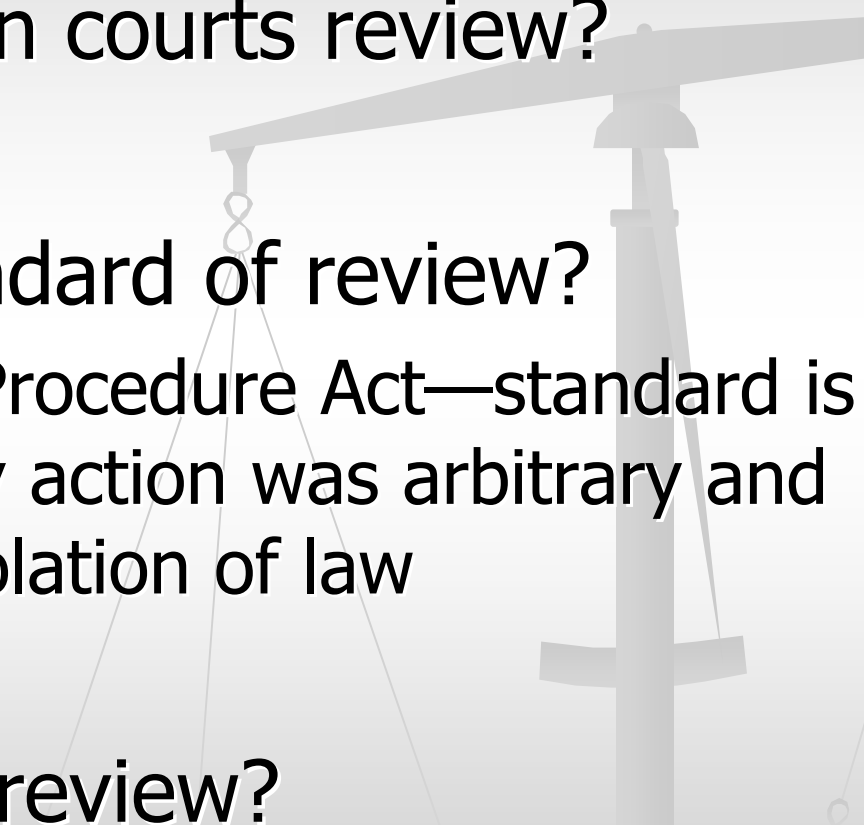
- Register pesticide products
- Look at human health and environmental risks
- Risk-Benefit Standard
- License to sell and distribute a pesticide
- Owned by registrant
- House and Senate Ag Committee

➤ FFDCA

- Rules specific to ingredients not products
- Look only at human health risks
- Risk-only standard
- Rulemaking
- Applicable to all pesticides
- Senate Environment Comm'e; House Energy and Commerce Comm'e



Court Review of Agency Actions

- ❖ What actions can courts review?
 - ❖ What is the standard of review?
 - ❖ Administrative Procedure Act—standard is whether Agency action was arbitrary and capricious or violation of law
 - ❖ What do courts review?
- 

Questions?

