
THE PESTICIDE REVIEW

Volume 1, Issue 1

Santa Clara County Department of Agriculture

March 2002



Supervising Employees

Every pest control company that has employees must have an active supervision program. California Code of Regulations Section 6702 (b)(3) addresses the need for a supervision program. It states: "The employer shall supervise employees to assure that safe work practices, including all applicable regulations and pesticide product labeling requirements are complied with"

What does the County consider to be a good supervision program?

- 1) Perform a ride-a-long with your employees to assure they are applying pesticides the way they were trained.
- 2) Perform periodic undisclosed oversight inspections of your employees and their equipment.
- 3) Keep records of your inspections for at least two years with the employee training records.

- 4) Have a written disciplinary program.
- 5) Clearly document all efforts taken to correct unacceptable employee actions.

Benefits of a good supervision program

- 1) It will highlight areas in need of improvement or increased focus for your annual training.
- 2) Ensures employees comply with laws, regulations, and your 'in house' company policies.
- 3) Enhances employee safety.
- 4) Employees could be held accountable when enforcement issues arise.

Who is responsible for Personal Protective Equipment (PPE) violations?

The State of California has proposed new guidelines for use by county agricultural commissioners when assigning responsibility for violations of worker protection regulations. These guidelines are designed to promote uniformity and provide accountability for employers and employees.

When a worker protection violation occurs, the action taken will depend on the circumstances of the violation and the compliance history of the employee and the company. Employers have primary responsibility for the safety of their employees in the workplace. However, this new guideline recognizes that employees sometimes

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Who is Responsible?

act independently of, and contrary to, their employer's instructions, and against their employer's best safety efforts.

In order for the County to take an action against an employee for a worker protection violation, a number of elements must be met.

Pest Control Companies:

- 1) The employee must hold a valid Qualified Applicator License, a Qualified Applicator Certificate, or a Field Representative License.
- 2) The employer must have a history of compliance. If the company has had several employees with compliance violations, the company has demonstrated that their supervision/disciplinary program is not effective.
- 3) The proper personal protective equipment was in good condition and was available at the use site.
- 4) The employer must have a written training program, which includes training employees in matters of pesticide safety with respect to their particular job assignment.
- 5) The employer must show they had informed the employee about the pesticide being used, pesticide safety hazards, protective equipment and other equipment to be used, proper work procedures to be followed, and any other applicable training requirement found in the Code of Regulations.
- 6) The employer must have a written workplace disciplinary action policy, which it enforces against employees who violate the employer's safety requirements, and the employer enforced the policy against the employee for this incident.
- 7) At the time of the incident, the employee knew the employer required them to utilize their personal protective equipment and what the consequences would be if they did not wear it.

How can employees be made more accountable for violations other than worker protection violations?

When a violation occurs, a number of factors are examined, including many of the factors listed in the preceding paragraphs addressing PPE violations. Nonetheless, when an applicator's error results in a violation, it opens up the company's training and supervision program to review by the Commissioner's office.

Something employers can do to ensure employees are more accountable for their actions is to require their applicators to become certified commercial applicators. According to 3CCR Section 6724(d), commercial applicators are considered trained. As an employer, you can augment your training by employing licensed applicators. Licensed employees are also held more accountable for their actions due to the simple fact they are licensed. A licensee will have a harder time arguing, "they didn't know better", than a non-licensed individual.

So, just what is a certified commercial applicator?

3CCR Section 6000, defines a certified commercial applicator as someone that has a Qualified Applicator License, a Qualified Applicator Certificate, Structural Operator License, or Structural Field Representative License. A Structural Applicator Licensee is not a certified commercial applicator.



What about non-licensed employees?

Not having a license does not give the person a free "get out of a fine card". The agricultural commissioner can decide to take an action against an employee if specific circumstances are met, such as the seven points previously discussed with worker protection violations.

It takes effort on the part of the company to demonstrate to the agricultural commissioner that their non-licensed employee had the experience, knowledge, and enough supervision to blame the employee. If the employee is licensed however, it removes some of the doubt as to the thoroughness of training.

County Web Site:

The Santa Clara County Department of Agriculture has a website with information you may find useful. We have links and information about pests and diseases, including Glassy winged Sharpshooter, Sudden Oak Death, Yellow Star Thistle, and Olive Fruit Fly. We also have a printable pesticide use report form, annual pesticide handler training form, and a written training form. You can access the site by going to this address:

<http://santaclaracounty.org/agweights/>

Our San Jose Office has new telephone numbers!



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General Line (408) 918-4600

On Duty Biologist: (408) 918-4610
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Our South County Office is located at 605 Tennant Avenue, Suite G. in Morgan Hill. Office hours are 8 a.m. to 12 noon. The telephone number is: (408) 779-0681.

