
THE PESTICIDE REVIEW

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Protective Eyewear

What does the Ag. Dept. look for?

All employees, at the minimum, are required to wear gloves and safety glasses whenever they handle pesticides. A common question we are asked is whether wrap-around sunglasses can qualify as safety glasses.

§6738(2)(A) states that regular eyeglasses, including sunglasses, do not meet the protective eyewear requirement. This is due to the fact that normal glasses do not provide adequate protection. Some styles of wrap-around sunglasses however, are not like average eyeglasses because they can provide great temple and brow protection. Many manufacturers have even styled their safety gear to look like sunglasses so they are not only more comfortable to wear, but are also practical. When we are in the field, we look for eyewear that provides proper protection. If your eyewear, including wrap-around glasses, is covering your eyebrows and temples, your safety gear is doing its job.

Are all safety glasses the same?

NO. There are many professions that require the use of safety glasses. Just because a pair of glasses is sold as safety glasses, doesn't mean they are appropriate for pest control. Determine that they will provide temple and brow protection before purchasing them. For example, some safety glasses will provide temple protection but won't cover the brow.

Further, everyone's face is shaped differently; some safety glasses will work great for some workers, but may not provide adequate protection for others. Each worker needs to be fitted for their safety eyewear before going out into the field.

Pesticide Use Reporting

A Reminder...

We are sure you all enjoy the ritual of submitting your monthly pesticide usage to each County. Even though this can be an arduous task, it is an important tool the State uses to monitor pesticide use. The following are some reminders regarding use reports.

- 1) Unless you fax us your use report, please provide two copies. We need one for your file and one for inputting the information into the State's computer system.
- 2) If your company turns in a late use report, a violation notice will be issued. A second offense within two years could result in a \$50 fine. A third offense has the potential to jump to \$200+ .

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Pesticide Use Reporting

- 3) Please make a concerted effort to report as accurately as possible. Errors in reporting can be traced back to you. We also perform dealer audits, and if the need arises, we will match up your purchases, with your storage and use reports.

Structural Written Notice to Occupants

In recent inspections our staff have found a few problems with the Structural Written Notice to Occupants. It is important to periodically review your company's notice and ensure the contact information is up to date and accurate. Please check your notices for the following:

- 1) Make sure you have our new phone number:
Santa Clara Department of Agriculture
(408) 918-4600
- 2) Current numbers for Poison Control and the County Health Department.
Poison Control: (800) 876-4766
Santa Clara County Health: (408) 299-6060
- 3) If you are a Branch I Company and the Branch III will be notifying the homeowner, make sure the notice they provide has the correct information and phone numbers.



Administrative Civil Penalties & Due Process

A look at the process

To help ease the caseload of the court system, the Legislature granted Agricultural Commissioners the ability to take administrative civil penalty actions in 1984. Prior to this, the Commissioner's only recourse for enforcement was to send a respondent to the District Attorney's Office.

What is Due Process?

It is the process government agencies must follow to ensure fairness in the legal process. For administrative civil penalties:

- 1) The person charged with the violation must be given a written notice of the proposed action, which states the nature of the violation and amount of the fine. The person must also be given the opportunity to review the evidence against them.
- 2) The person must be given the opportunity to contest the charges against them in a hearing.
- 3) If the person requested and appeared at the hearing, the person then has the right to appeal the Commissioner's decision. Appeals for agricultural civil penalties are made to the Director of Pesticide Regulation within 30 days of receiving the Commissioner's decision. Appeals for structural civil penalties must be made within 10 days to the Disciplinary Review Committee.
- 4) If the person disagrees with the appeal decision, they then have the right to seek review through the courts.

What are some of the common misconceptions about the hearing process?

- 1) Hearings occur before an impartial hearing officer and follow a structured format, including being tape-recorded. Prior to the commencement of the hearing, the hearing officer will discuss the hearing process with those that are unfamiliar with the proceedings.

What are some of the common misconceptions about the hearing process?

- 2) Some individuals request a hearing to contest the level of a fine. Fines are based on state regulation and on departmental guidelines, which are available for review at our office.
- 3) A lawyer is not required to be present at a hearing, but if you wish to be represented by legal counsel, you may.

District Attorney Actions

When does the Commissioner refer a case to the district attorney?

Most violations and penalty actions are addressed administratively by the Department rather than by the District Attorney. However, in cases where an individual or company's action creates a serious health or environmental hazard, or if their actions give them an unfair business advantage over those companies that comply with all the rules and regulations, it is appropriate for us to refer the case to the D.A.

What are some of the violations that would qualify?

These are from actual cases that were sent to the D.A.

- 1) Fraud. In this case, the company tried to cover up a serious violation. We investigated the incident and sent it straight over to the D.A. The owner of the business was convicted of a misdemeanor and was fined \$5,000 +.
- 2) Repeatedly performing pest control out of license category. An individual was performing pest control out of the scope of their license and was fined by our Department. Within a year, we found that this individual continued to perform work without the proper license. They were sentenced to community service and were fined \$2,000 +.
- 3) Certifying a fumigated house for re-occupancy without the proper use of a measuring device called an Interscan. Our Department has multiple cases currently pending with the D.A. regarding this issue.
- 4) Repeated non-compliance regarding the improper use of pesticides. One company has been repeatedly fined and subsequently warned against incurring future violations. This company faces pending charges from the D.A. for continued non-compliances and for failing to adhere to their own disciplinary program regarding employees that violate pesticide laws.
- 5) Violations that encompass several agencies. Sometimes a violation occurs and it covers the scope of several agencies. For example, a company discharged a pesticide into a waterway. The D.A. takes cases such as this one because our jurisdiction only covers the scope of pesticides, not environmental health or water laws.
- 6) Blatant disregard for the health of others. A few years ago, we had an unfortunate incident where a Structural Field Representative knowingly allowed one of our inspectors to enter a fumigated space. (This Field Representative is no longer working in the industry.) He was fined, given a jail term of 6 months, and had a felony added to his record.