

Professional Conduct and Liability

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FIFRA

- Allows non-certified applicators to apply Restricted use pesticides under direct supervision of certified applicator
- Does NYSDEC?
- Must be competent.
- Certified applicator must be available if needed.
- If label does not prohibit application by an uncertified applicator
- Certified applicator is responsible for action of applicator from mixing, loading, through disposal

Topics covered in training applicators

- Pesticide laws
- Importance of pesticide label
- Pesticides and application equipment they will use
- Pest they are targeting
- Proper use of personal protective equipment
- Security and emergency response procedures
- Recordkeeping
- Need to communicate regularly with certified supervisor – cell phone, pager, internet access...

Why Recordkeeping?

- Meets legal requirements
- Good business practice
 - Include weather conditions, equipment setup, growth stage, pest populations
 - Help evaluate treatments and use to plan future applications
 - Invaluable in event of complaint or lawsuit
 - Provide info to medical staff
 - Document steps taken to prevent exposure and environmental damage
 - Document training of applicators

Never use “safe”, “environmentally friendly,” “harmless”, “safe to children and pets”

- All pesticides pose some risk and you will take precautions
- Explain what needs to be done and why
- Remember notification requirements for commercial applications
- Can use “reduced risk” or “less toxic”
- Explain risks associated with a pesticide treatment.

Damage Claims and Liability

- Drift – pesticide applicators and customer who asked for application are liable for drift damage
- Nonperformance or Injury to treated site– dealer, manufacturer, applicator
- Personal Injury – you are liable if victim can prove they were not negligent and did not assume risk of pesticide exposure
- Wrong site! Double check address!
- Bees – if bees exposed through drift, if state requires advance notice of pesticide applications, you violated label direction with regard to bees

Damage Claims and Liability (cont.)

- Noise – you are liable if claimant proves noise was excessive or unreasonable from equipment operated carelessly or negligently
- Cross contamination – pesticides contaminated with herbicides in storage that injure the crop, error in filling spray tank, manufacturer made error in formulation, label or refilling container.

What if legal problem?

- Call attorney and insurance company
- Check application records, complete and up-to-date
- Save pesticide container or save label
- Go to site immediately and photograph damage
- Call chemical manufacturer
- You should have insurance for your business.