

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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POLICY STATEMENT **“UNDER DIRECT SUPERVISION”**

To: All individuals who maintain a valid and current Massachusetts Pesticide Credential

From: Massachusetts Department of Agricultural Resources (MDAR), Division of Crop and Pest Services

BACKGROUND

Current sections within the Massachusetts Pesticide Regulations (333 CMR 1 through 13) allow an individual who holds valid and current Commercial Applicator License (or Core License) to use Restricted Use Pesticides (RUP) if that use occurs “under the direct supervision” of another individual who holds a valid and current Commercial/Private Certification license.

In the past, the interpretation has allowed that telephone contact would be adequate to meet the intent of “direct supervision”. The interpretation was enforced because cellular telephones had become readily available. However, in recent times, questions have been raised concerning this interpretation pertaining to the quality of “supervision” that is being provided.

- A number of issues have occurred by which MDAR must changed its interpretation and policy on what constitutes as “direct supervision”.
- Examples of issues are but not limited to:
 - Commercial/Private Certification license holder is on the other side of the state while the Commercial Applicator is making the restricted use pesticide application.
 - One individual holding the Commercial/Private Certification license is “supervising” many individuals with a Commercial license
 - Commercial Certification license holder has not seen site that Commercial Applicator is making the RUP application to.

POLICY

Effective on _____, MDAR will enforce and interpret “under direct supervision” as follows:

1. All Commercial Certification holders supervising Commercial Applicators performing Termite, Fumigation or Rodenticide/Vertebrae applications with a Restricted Use Pesticide (RUP) shall be onsite or within thirty (30) to sixty (60) minutes from the

application. All other supervised RUP applications require the supervisor to be able to be contacted within twenty (20) minutes of the application. Should the supervisor be contacted during the application, individual responsible for direct supervision must keep a record and time log of when they were contacted and what guidance was provided.

2. All Commercial Certification holders supervising Commercial Applicators performing Termite, Fumigation or Rodenticide applications with a RUP must visual inspect the site prior to the application. This may be conducted in person/on site or via pictures that show unique features of the site. The inspection and/or digital photographs must be included as part of the application record.
3. Written detailed guidance shall be included with each individual pesticide applicator record. Detailed guidance shall be given by the individual responsible for supervision for each RUP application. Guidance must include detailed instruction specific for each individual site. Guidance shall include but not limited to the following:
 - A. The name of the individual who is supervising and the number of a valid and current Massachusetts Pesticide Certification credential;
 - B. The name of the individual who holds a valid and current Commercial Applicator's License (or Core) and the number for that credential type;
 - C. Date of Supervision and Guidance;
 - D. Address and general Location of pesticide used;;
 - E. Brand name(s) and EPA registration(s) number for the pesticide(s) used;
 - F. Mixing, Storage, and Disposal, and equipment details; and
 - G. Description of site etc.
4. There must be one individual holding a Commercial Certification per branch/office supervising Commercial Applicators performing RUP applications. At any given point, the supervisor must know who he/she is supervising and the applicator must know who the supervisor is.
5. Upon request by MDAR, the Commercial/Private Certified Applicator shall provide the names and credential number of the Commercial Applicator License holders under his/her direct supervision.

RELEVANT REGULATIONS-333 CMR

10.02: Use of a Pesticide: shall mean any act of handling a pesticide, releasing of a pesticide, or exposing of man or the environment to a pesticide, including, but not limited to:

- (a) Application of a pesticide including mixing or loading of equipment and any supervisory action in or near the area of application.
- (b) Storage actions relative to pesticides and pesticide containers carried out or supervised by an applicator.
- (c) Disposal actions relative to pesticides and pesticide containers carried out or supervised by an applicator.
- (d) Transportation actions relative to pesticides and pesticide containers except those by carriers and dealers.

9.04(4): No person shall distribute a pesticide classified by the Department as being for restricted or state limited use to a person not appropriately certified to use that pesticide. This prohibition shall not apply to the distribution of a pesticide to a competent individual acting under the direct supervision of an individual appropriately certified to use that pesticide.

10.07(2): Standards for Supervision of Non-Certified Applicators

The availability of a certified applicator must be directly related to the hazards of the situation:

(a) In situations where the certified applicator is not required to be physically present, “direct supervision” shall include verifiable instruction to the competent person, as follows:

1. Detailed guidance for applying the pesticide properly, and;
2. Provisions for contacting the certified applicator in the event he is needed.

13.03(2): No person shall use a pesticide that has been classified by the Subcommittee as being for restricted or state limited use unless he is an appropriately certified private or commercial applicator or an individual acting under the direct supervision of an appropriately certified applicator.

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