

Chapter 3

Licensees - State License and Certificate Requirements

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Section 3.1 Licensing Overview

Introduction

Part of DPR's mission is to protect human health and the environment from the hazards of pesticides.

Part of the Structural Pest Control Board's (SPCB) mission is to protect the general welfare of Californians and the environment in the structural pest management profession.

To achieve these missions, it is imperative to ensure that commercial and non-commercial pest control activities are performed by licensed and trained individuals:

- DPR issues licenses and certificates to businesses and individuals to perform pest control or sell agricultural-use pesticides.
- SPCB issues registrations to businesses, and licenses to individuals to perform pest control and other activities.
- The County Agricultural Commissioners (CACs) issue private applicator certificates and register certain licensees.

CACs also issue registrations to and conduct inspections on Farm Labor Contractors (FLCs). FLC licenses are issued by the Department of Industrial Relations' Labor Commissioner's Office (also known as the Division of Labor Standard Enforcement (DLSE)). DLSE's mission is to ensure a just day's pay in every workplace in the State and to promote economic justice through robust enforcement of labor laws.

Types of licenses or certificates

The type of license or certificate required is determined by the type and circumstance of the pesticide(s) applied. Questions to ask are:

- What type of work is being done?
- What is the setting/location?
- What pest is being targeted?
- Who is doing the work?

DPR issues licenses or certificates that are not for structural use to:

- Individuals who use or supervise the use of pesticides who are not private applicators,
 - Businesses that apply pesticides,
 - Pesticide dealers and brokers, and
 - Individuals who give advice on agricultural pest control, including making written recommendations.
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Licensing Overview, Continued

Types of licenses or certificates, (continued)

SPCB issues licenses to:

- Structural pest control businesses,
- Individuals applying pesticides to control pests invading structures, and
- Individuals identifying pests and organisms of household or other structures, performing structural repair, making inspections or contracts, and other activities.

Relative to this chapter, DLSE issues Farm Labor Contractor (FLC) licenses to employers providing farm labor.

CACs issue:

- Private Applicator Certificates (PACs), and
- County registration of many individuals and businesses licensed or certified by DPR, SPCB and DLSE.

A description of requirements for various types of pest control activities and settings are in this chapter.

How to obtain a license or certificate

Specific information for obtaining a **DPR** license or certificate, including application forms, is available from the DPR's Licensing and Certification Program website at cdpr.ca.gov/apply-for-a-license/.

Specific information for obtaining a **Structural** pest control license, including application forms, is available from the SPCB website at pestboard.ca.gov/howdoi/lic.shtml.

Specific information for obtaining a **Farm Labor Contractor** license, including application forms, is available from the DLSE website at dir.ca.gov/DLSE/FLC_new_license.htm.

Vector control certified technician

Vector Control Technicians are "certified commercial applicators" per 3 CCR section 6000. For information on certification please see the California Department of Public Health's (CDPH's) website at cdph.ca.gov/Programs/CID/DCDC/Pages/Vector-Control-Technician-Certification-Program.aspx

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Licensing Overview, Continued

DPR examination information

DPR offers computer-based exams at testing centers statewide for all individual licenses and certificates. Applications for all exams must be mailed to DPR's Licensing and Certification Program. You can find more exam information on DPR's website at cdpr.ca.gov/apply-for-a-license/. Click on or scroll to the "Exam and Education Resources" section and click on the *Exam Information and Scheduling* file.

County Registrations

To conduct operations in a county, a business or individual must first register in that county:

- County registration fees are in FAC sections 11734 for Pest Control Businesses, 11923 for Pest Control Pilots, 12034 for Pest Control Advisers, and LC section 1695(b) for Farm Labor Contractors.
- County registration fees for Structural Pest Control Businesses are in FAC sections 15204 and 15204.5.
- Refusal, revocation, or suspension of the county registration of the respective licenses can be found in FAC sections 11735 (Pest Control Operators), 11924 (Pilots), and 12035 (Pest Control Advisers).

There is no statutory authority requiring or allowing a CAC to condition registrations for a Pest Control Business, Pest Control Adviser, Pest Control Aircraft Pilot, or a Structural Pest Control Business.

Who to contact

For questions about a **DPR** pest control license or certificate, contact DPR's Licensing and Certification Program at:

Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95814-2828
(916) 445-4038 / LicenseMail@cdpr.ca.gov

For questions about a **structural** pest control license, contact the SPCB at:

Structural Pest Control Board
2005 Evergreen Street, Suite 1500
Sacramento, California 95815
(916) 561-8704 / Fax (916) 263-2469

For questions about a Farm Labor Contractor license, send an email to FLC@dir.ca.gov.

For questions about a county registration issue, contact the applicable local CAC's office: cdfa.ca.gov/exec/county/countymap/.

Section 3.2 Agricultural Pest Control Advisers (PCAs)

Who needs the agricultural PCA License

Any individual who offers a recommendation on any agricultural use, who holds themselves forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use. (FAC sections 11408, 11410, 11411, and 12001)

For a discussion of “agricultural use,” see Compendium Volume 7, Section 1.1, *Agricultural and Non-Agricultural Pest Control Use*.

See the next page for PCA licensing exemptions and see Section 3.2.2 for examples of situations when licensing as a PCA is required.

Duties of a PCA Interprets FAC section 11410

Whether an individual’s activities amount to acting as a Pest Control Adviser and thereby triggering licensing requirements must be judged using the definition of “agricultural use” in FAC section 11408 and the three criteria described in FAC section 11410. These criteria are:

1. Offer (to a third party) a recommendation on agricultural use.
 2. Hold oneself forth (to a third party) as an authority on agricultural use.
 3. Solicit services or sales (3 CCR section 6000) outside of a fixed place of business for agricultural use.
-

Public distribution required - PCA

Interprets FAC section 11410

The definition of PCA infers distributing the recommendation outside the firm or agency to a third party (soliciting outside a fixed place of business, holding forth, and offering). The Merriam-Webster dictionary’s definition of “recommend” is to “advise” or “to present as worthy of acceptance.” Implicit in FAC section 11411 and the dictionary definition of “recommendation” is that the advice is offered or given to another person. A person does not give advice to themselves (or in the case of the operator of the property itself). Similarly, an individual holds themselves forth “as an authority” on some subject to another person, not to themselves.

The idea of licensing certain individuals who engage “for hire” in certain occupations is in the concept of consumer protection -- to protect the public from individuals who may purport to have certain skills or knowledge who, in fact, do not possess them.

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Agricultural Pest Control Advisers (PCAs), Continued

PCA licensing exemptions

Exemptions to the PCA licensing requirements:

- Officials of federal, state, and county departments of agriculture and University of California personnel engaged in duties related to agricultural use are exempt, if the recommendation is put in writing. (FAC section 12001)
 - Owners (and their employees) of private firms (i.e., growers, golf courses) making decisions on pesticide use on their own property.
 - A veterinarian writing a prescription for use to control an animal pest. This is a non-agricultural use. (FAC section 11408)
 - Individuals within an established place of business who merely write sales invoices or receipts or otherwise handle over-the-counter sales transactions where no recommendations are made or inferred.
 - Registered professional foresters (RPF), in the practice of providing silvicultural advice. However, in situations where the RPF gives advice in the form of silvicultural prescriptions and includes the use of specific pesticides, the RPF would have to be licensed as a PCA.
 - Individuals making a recommendation for treating seed, who either owns or is employed by a firm in the business of treating seed. While the firm may need a pest control business (PCB) license, this is considered industrial use not within the scope of a PCA license requirement.
-

Education required to obtain a PCA license

Interprets 3 CCR section 6550

An applicant for a new PCA license must meet one of the following minimum educational requirements:

1. Graduated with a bachelor's degree in agricultural sciences, biological sciences, natural sciences, or pest management and completed the core course requirements; or
2. Graduated from an accredited doctoral degree program in agricultural sciences, biological sciences, natural sciences, or pest management; or
3. Meet the core course requirements plus 24 months of technical experience working in an agricultural capacity related to pest management.

The core course requirements are 42 semester units or 63 quarter units of college-level curricula in the physical and biological sciences, crop health, pest management systems and methods, and production systems course areas with a 2.0 grade point average in all core courses.

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Agricultural Pest Control Advisers (PCAs), Continued

Requirements to obtain a PCA license

Interprets FAC section 12021 and 3 CCR section 6550

PCA applicants shall:

1. Submit a complete *Agricultural Pest Control Adviser License Application* form (DPR-LIC-084).
2. Submit a complete *Core Course and/or Work Experience Requirements for New License Applicants* form (PR-PML-085) with a copy of official college transcripts, documentation of courses, and/or employment records with the PCA application.
3. Submit an initial application fee.
4. Submit an examination fee for each examination requested.
5. Pass the Laws, Regulations, and Basic Principles (includes Integrated Pest Management Principles) examination and at least one category examination.

Note: Examinations are based on the Knowledge Expectations (KEs) found on DPR's website at cdpr.ca.gov/apply-for-a-license/study-materials-for-licensing-exams/. Click or scroll down to Knowledge Expectations, then continue to the *Agricultural Pest Control Advisor (APCA)* section to find the KEs.

PCA pest control categories

As specified in FAC section 12022, the pest control categories available under the PCA license are:

- A. Insect, Mites, and Other Invertebrates
 - B. Plant Pathogens
 - C. Nematodes
 - D. Vertebrate Pests
 - E. Weed Control
 - F. Defoliation
 - G. Plant Growth Regulators
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Agricultural Pest Control Advisers (PCAs), Continued

**Requirements
once licensed**

Once licensed, an adviser shall:

- Accumulate at least 40 hours of approved continuing education every two years before license renewal. Four of the 40 hours must cover the topic of pesticide laws and regulations. (3 CCR section 6511(e))
 - Register with the CAC in their “home” county (address on the PCA license) and in each county where recommendations are made. If the address is not within California, then the registration would be in the county of occupational choice. (FAC section 12031)
 - Write recommendations that do not conflict with label requirements. (FAC section 12971)
 - Retain one copy of each written recommendation for one year following the date of the recommendation. (FAC section 12004)
 - If the recommendation is for use of a high-volatile organic compound nonfumigant product, the recommendation must not recommend a use in violation of 3 CCR section 6884 or identify the exemption under 6884(b). The PCA must keep a copy of these recommendations for two years. (3 CCR section 6558)
 - Provide the operator of the property with a copy of the written recommendation prior to the application. (FAC section 12003)
 - Provide the pesticide dealer and applicator with a copy of the written recommendation prior to application. (FAC section 12003)
-

Section 3.2.1 County Registration of PCAs

County registration of PCAs

An adviser shall not make, or offer to make, an agricultural use recommendation in any county without first registering with the CAC. This registration is required annually. (FAC sections 12002 and 12033)

In-person home county registration

Check the PCA license to make sure it is valid for the year the applicant is registering and check the applicant's signature on the back of the card or check DPR's list of valid licenses at:

apps.cdpr.ca.gov/docs/license/currlic.cfm.

1. Using the reproduction template (See Appendix A) as a guide, the CAC can make its own form for registering the PCA, as long as it contains the information from DPR's *Agricultural Pest Control Adviser County Registration* form (DPR-PML-091).
2. Copy the registration application with the applicant's license card.
3. Have the PCA complete the CAC's registration form.
4. Make sure the application is complete.
5. Collect the registration fee, if required.
6. The CAC or authorized person should sign and date the form.
7. Keep the original for county records, and provide the applicant a copy of the registration form.
8. Review pertinent county policies and regulations with the applicant, especially any new ones.

If necessary, process the registration forms the applicant needs to register in additional counties. Do not sign them. Give the forms to the applicant to send, with a reminder that other counties may require fees for registration.

Out of county registration -- mail

1. Check the PCA's home county registration form for completeness.
 2. Check the completed form to make sure the license is valid for the year the applicant is registering.
 3. Make sure the appropriate fee (if one is required) accompanies the form.
 4. Check the records to see if the applicant previously registered in the county and if there were any problems.
 5. The CAC or authorized person should sign and date the form.
 6. Keep the original for county records, and provide the applicant a copy of the registration form.
 7. Provide a list of current county policies and regulations and indicate whether your office will require copies of their recommendations.
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Section 3.2.2 Interpretation of Agricultural PCA Scenarios

Introduction This Section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.

Biological control agents **Interprets FAC sections 11403, 11408, 11410, 11411, and 12001**

Individuals who recommend the use of biological control agents (e.g., predatory insects, parasitic wasps, pathogenic fungi or viruses) for agricultural use are required to have a PCA license.

Management firms **Interprets FAC sections 11408, 11410, 11411, and 12001**

Carefully review the facts of the situation. If a management firm (e.g., farm, vineyard, or golf course management firm) makes agricultural use recommendations for review by the operator of the property as part of its service, the individual making those recommendations must be a licensed PCA. This individual may be either an employee of the management firm or an independent PCA under a contractual arrangement with the management firm.

If the management firm receives an agricultural use operator identification number (OIN) or permit for the property, the firm is considered the “operator of the property”. The guidance on *Work orders* and *Internal Pest Control Decisions* below would apply instead.

To determine when an OIN is required, review *Management firms* in Section 4.2.

Landscape architects **Interprets FAC sections 11408, 11410, 11411, and 12001**

Any landscape architect who includes pesticide use specifications in landscape architectural plans (except plans concerning the immediate landscaping environment of a residential dwelling or commercial business office, shopping centers, and other similar institutional settings) must be licensed as an agricultural PCA. Included within the scope of the PCA licensing requirement are those recommendations (specifications) concerning landscaping of parks and recreation areas, golf courses, cemeteries, parkways, highways, and other similar settings.

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Interpretation of Agricultural PCA Scenarios, Continued

Recommendation requirements

Interprets FAC section 12003, 3 CCR sections 6556 and 6558

1. Operator of the property
2. Location of the property
3. Commodity, crop, or site to be treated
4. Pest (by accepted common name)
5. Name of each pesticide
6. Dosage (of pesticide per unit treated) or description of method recommended
7. Concentration (of the mix applied) per acre
8. Volume (of mix per unit treated) per acre
9. Total acreage (or units) treated
10. Schedule, time, or conditions of the treatment or other control method
11. Restricted entry interval applicable (label and/or regulation)
12. Preharvest or preslaughter interval (“preharvest interval – see label” is inadequate)
13. A warning of the possibility of damages that could occur that reasonably should have been known by the PCA to exist (including, but not limited to hazards known to exist, crop rotation, crop disposition, or plant back restrictions)
14. Criteria for determining need for the recommended treatment (e.g., pest count, history of infestation, preventative measures, etc.)
15. If the pesticide is a nonfumigant high VOC product utilizing an exemption under 6884(b), the exemption must be identified.
16. Certification that alternatives and mitigation were considered and, if feasible, adopted
17. Signature or mark of the individual making the recommendation or preparing the work order must also be included. A signature is any unique “mark” made by the PCA, or with their consent, that identifies that particular PCA (or operator of the property in the case of a work order). This mark can be the PCA signature, printed name, or license number.
18. Date
19. Address
20. The name of the business represented

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Interpretation of Agricultural PCA Scenarios, Continued

Recommendations -- hazards known to exist

Interprets FAC section 12003(f)

Each recommendation must include, when applicable, a warning of the possibility of damages by the pesticide application that should have reasonably been known to exist at the time the recommendation was made. This requirement is designed to ensure that applications are made only under suitable conditions by alerting the applicator to hazards so that precautions may be taken to eliminate or minimize the hazards. Also, it serves to remind the PCA of this important consideration that should influence pest management decisions.

Advisers are responsible for familiarizing themselves with the area surrounding the intended application site. When a condition is known to exist that could result in damage, advisers must include it in their written recommendations. Examples of situations that could result in damage from pesticide applications include:

- Adjacent crops for which the recommended pesticide is not registered and which have no tolerance established;
- Labor intensive crops which are at or near a stage where field work crews may be in the field;
- Apiaries located within or adjacent to an intended treatment area;
- Bodies of water (including water return systems);
- Buildings (including residences), businesses, schools, etc.;
- Domestic animals or livestock, and wildlife nesting and grazing areas

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Interpretation of Agricultural PCA Scenarios, Continued

Work orders **Interprets 3 CCR section 6632**

Broadly speaking, work orders are distinct and separate from recommendations. A work order is created by the operator of the property (owner, renter, or lessee of the property or designated employee) without the need for an agricultural pest control adviser license. The work order identifies the pesticides to be applied and provides application instructions to the pest control business or applicator. The work order may be extremely simple and may not even be written down.

The operator of the property may ask for or be provided a PCA's written recommendation for a pesticide application. The recommendation is written to the operator of the property. The operator of the property can convert any or all of the recommendation into a work order to provide to a licensed pest control business (PCB).

However, when the operator of the property provides a work order to the PCB for a pesticide that requires a restricted material permit, 3 CCR section 6632(a) requires the PCB be provided with a recommendation or a work order which contains all the elements required of a recommendation from FAC section 12003 and 3 CCR section 6556. It is the operator of the property's responsibility to provide the PCB with this information.

See also *Internal Pest Control Decisions* below.

Property operators and work orders

Employees working for a **private** firm (grower, golf course, etc.) may write the work order without being a PCA.

Employees of a **public** agency making recommendations must be licensed PCAs in the appropriate category(ies), unless exempted under FAC section 12001.

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Interpretation of Agricultural PCA Scenarios, Continued

Public agency employees

Interprets 3 CCR section 6551

FAC section 12001 exempts the following public employees from the PCA licensing requirements when making agricultural use recommendations in connection with their official duties, provided all agricultural use recommendations are in writing:

- Federal, state, and county departments of agriculture personnel.
- University of California personnel.

3 CCR section 6551 requires that all other federal, state, county or local employees (other than those exempted by FAC section 12001) must have a PCA license when making recommendations in connection with their official duties. 3 CCR section 6551 clarifies the Legislative intent behind FAC sections 11410 and 12001: public agency employees making “agricultural use” pest control decisions for public agencies must be licensed as a PCA to ensure that those individuals making pest control decisions on public lands do so with full knowledge of pesticide laws and regulations, and utilize best pest management practices in the control of pests. This includes city, county, state, and regional parks, forests, campgrounds, rights of ways, etc., as well as other sites such as arboretums and city- or county-operated golf courses.

Recommendations -- distribution of copies

Interprets FAC section 12003, 3 CCR sections 6426, 6566 and 6632

The operator of the property makes the final decision to apply a pesticide(s) resulting from a written recommendation. A signed and dated copy of each agricultural use recommendation must be furnished to the operator of the property prior to the application (soon enough to use the recommendation to make treatment decisions).

3 CCR sections 6426(b) and 6632(a) require that a PCB have a written recommendation available covering each agricultural use of a restricted material that requires a permit.

A copy of each recommendation must also be furnished to the pest control dealer and the applicator (i.e. PCB) in sufficient time to allow compliance with 3 CCR section 6566 (relative to supplemental labeling), but at no time later than the time of the delivery of the pesticide. Copies for the dealer and applicator, if they are unknown, shall be delivered to the property operator with the property operator’s copy.

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Interpretation of Agricultural PCA Scenarios, Continued

Internal Pest Control Decisions

When does a grower need a recommendation?

Generally, there is no requirement for the operator of the property producing an agricultural commodity (a grower) to document their pest control decision-making process. However, certain regulations do require growers to obtain a PCA's written recommendation. These regulations include, but are not limited to:

- 3 CCR section 6462(d)
- 3 CCR section 6883
- 3 CCR section 6960(b)
- 3 CCR section 6984(i)(2)
- 3 CCR section 6990(c)(2) and (3)

In addition, some permit conditions may require a PCA's written recommendation be submitted to the CAC for the Notice of Intent to be approved.

Generally, the operator of the property is not required to maintain a copy of a recommendation. However, 3 CCR sections 6883 and 6990(c)(2) and (3) require the grower to maintain the recommendations for two years.

Pest control business work requirement

Interprets FAC section 12003 and 3 CCR section 6632

The pest control work requirements in 3 CCR section 6632 require a PCB to have a copy of the recommendation adopted by the operator of the property or a work order which contains the required elements before making an agricultural use application of a pesticide that requires a permit. Generally, this requirement will be met by the operator of the property passing on a copy of a written recommendation made by a licensed PCA or a work order that has the criteria identified in FAC section 12003 and 3 CCR section 6556.

Although FAC section 12003 requires a PCA provide a copy of any written recommendation the PCA writes to the operator of the property, as noted above that copy usually does not have to be retained by the operator of the property.

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Interpretation of Agricultural PCA Scenarios, Continued

Recommendation versus work order

Interprets 3 CCR section 6632

These are two different documents:

1. A “recommendation” contains advice or suggestions from a PCA which is provided to, and for consideration by, the operator of the property in reaching a pest control decision.
2. A “work order” contains instructions or directions from the operator of the property to the PCB about how the application is to be made to implement the pest control decision of the operator of the property.

A document that begins as a recommendation to the operator of the property becomes a “work order” when it is adopted by the operator of the property and forwarded to the PCB. Alternatively, the “work order” can be internally prepared by employees and is acceptable as long as it contains the information required in a “recommendation.”

The PCB cannot alter these instructions regardless of their original source. They are, in effect, contract specifications for the pesticide application. However, the PCB can discuss any concerns about the recommendation or work order with the operator of the property or PCA prior to making the application.

Interpretation of law

Interprets FAC section 12001

The legal opinion of Chief Counsel for DPR, outlined in an August 27, 2003 memorandum to the Chief, Enforcement Branch, is that licensing as a PCA is not required of employees of a firm to participate in internal pest control decisions applicable to property operated by that firm. When a recommendation is distributed outside of the firm for consideration by a third party in making a pest control decision (which a PCB does not do), the recommendation must be signed by a licensed PCA, unless specifically exempt by FAC section 12001.

3 CCR section 6551 specifically requires public agency employees who make recommendations on pest control for use by that agency to be licensed PCAs.

Section 3.3

Dealers, Brokers and Designated Agents – Pesticide Sales

Pest Control Dealer

Who needs the pest control dealer license

Per FAC section 11407, any individual or business, including Internet and mail order businesses, whether inside or outside of California, who:

- Sell agricultural use and “dual use” products to users.
- Sell any method or device for the control of agricultural pests, such as biological control agents, lures or insect trapping devices.
- Solicit sales of pesticides by making agricultural use recommendations through field representatives or other agents.
- Sell restricted materials or pesticides requiring the supervision of a certified applicator to users.

Exemptions to the pest control dealer license requirements

- Federal, state, or county agencies providing pesticide materials for agricultural use are exempt from the pest control dealer licensing requirements. (FAC section 12102)
 - Licensed agricultural pest control and structural pest control businesses that apply pesticides that are recommended or sold by the business. (FAC sections 11407.5)
-

What’s required to obtain a pest control dealer license

- An applicant for a new pest control dealer license must:
1. Complete the Pest Control Dealer License Application (LIC-041) for each principal and branch location and submit it and all required fees to DPR. (FAC section 12103)
 2. Each principal and branch location must have an individual who is responsible for the operation of the dealership and licensed/certified as a Dealer Designated Agent, PCA, Pest Control Aircraft Pilot, or a QAL. (FAC section 12101.5)
 3. Submit a Fictitious Business Name Statement obtained from the County Clerk's Office (if applicable)¹. (FAC section 12103)
 4. For a corporation, submit a Certificate of Good Standing from the Secretary of State. (FAC section 12103)
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¹ For a business owned by an individual, a “fictitious business name” is any name that does not include the last name (surname) of the owner, or which implies additional owners (such as "Company", "and Sons", etc.). In the case of a corporation, LLC or LP, a fictitious business name is any name other than the exact name that is on record with the Secretary of State's Office.

Dealers and Brokers – Product Sales, Continued

Dealer requirements once licensed

Once licensed, each pest control dealer principal and branch location must:

- Have and maintain a designated agent to actively supervise all operations conducted by the location. (FAC section 12101.5)
 - Purchase agricultural use pesticides only from a registrant or licensed dealer or broker. (FAC section 12116)
 - Indicate “California mill assessment was paid” or “California mill assessment of [amount established by FAC] mills was paid” on all sales invoices. (FAC section 12847)
 - Retain records of all pesticides sold or delivered, except for pesticides labeled only for home use. (3 CCR section 6562)
 - Retain written recommendations for two years. (3 CCR section 6562)
 - Sell appropriate products based on the recommendation, registered labeling, and applicator certification. (3 CCR section 6564)
 - When required, obtain restricted material permit or operator identification number (OIN) prior to sale or delivery of pesticides. Retain a copy of the permit or OIN for two years. (3 CCR section 6568)
 - Retain a copy of the purchaser’s applicator certification or a statement attesting to their certification for two years. (3 CCR section 6568)
 - Send a list of OINs with corresponding names of persons purchasing pesticides quarterly to each out-of-county CAC who issued the OIN. (3 CCR section 6568(d))
 - Obtain a copy of the ship vessel registration for tributyltin purchases and maintain record of sale for two years. (3 CCR section 6574)
 - For sales of pesticides containing clopyralid, retain a signed statement from the qualified applicator for two years. (3 CCR section 6576)
 - Provide information to purchasers of volatile organic compound pesticides for use within the San Joaquin Valley Ozone NAA and record that on the invoice (3 CCR section 6577)
-

Principal pest control dealer requirements

Once licensed, the **principal (main)** pest control dealer must:

- Retain at the principal place of business, records of purchases, sales and distribution of pesticides including those of its branch locations for four years. (FAC section 12114(a))
 - Report assessable sales to DPR quarterly for the principal and all branch locations. (FAC section 12114(b))
 - Report annually to the DPR all pesticides purchased from a person who is not a licensed pest control dealer or a registrant. (FAC section 12115)
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Dealers and Brokers – Product Sales, Continued

Sales of federal restricted use pesticides or California restricted materials

Interprets 3 CCR sections 6000 and 6568

Prior to the sale or delivery of a pesticide for which a restricted materials permit is required, the dealer must obtain a copy of the purchaser's restricted material permit. Note: No permit is required for persons operating pursuant to a license issued by the SPCB. (FAC section 14006.6(d))

Prior to the sale of a federal restricted use pesticide (3 CCR section 6400(a)) or a pesticide with potential to pollute ground water (3 CCR section 6400(d)) that does not require a permit for possession or use, the dealer must obtain a copy of the purchaser's certification or signed statement.

The proof that the purchaser is a certified applicator can include designation as a certified applicator on a restricted materials permit or operator identification number, a printout from DPR's website, or a copy of the individual's current license or certificate.

Duties of the designated agent

Interprets FAC section 12101.5

Each licensed pest control dealer must have a designated agent at the principal office and an agent at each branch location to actively supervise all operations conducted by the location. The designated agent performs the following duties for the pest control dealer:

- Actively supervises employees who sell pesticides.
- Exercises responsibility in carrying out the business of a pest control dealer.

The designated agent needs to be available to direct and control sales of pesticide products by unlicensed dealer employees. The availability of the designated agent should be directly related to the hazards of the products sold and the volume of pesticide sales.

An individual may be a designated agent for only one location. Additionally, the designated agent cannot work full time as a PCA while "overseeing" dealer operations remotely.

A designated agent must be an individual who possesses a Dealer Designated Agent (DDA) license, a PCA license, a PCAPC, or a QAL.

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Dealers and Brokers – Product Sales, Continued

“Branch location” defined

As defined in 3 CCR section 6000, a “Branch location” means “any location, other than the principal place of business, operated by a pesticide dealer or an agricultural pest control business to carry out licensed activities in California.”

Pest Control Dealer Designated Agent (DDA)

Who needs the DDA license

An individual needs a DDA license if they are responsible for supervising the operations of a licensed pest control dealer business and does not possess a PCA license, QAL, or PCAPC.

What’s required to obtain a pest control dealer designated agent license

An applicant for a pest control dealer designated agent license must:

1. Complete the *Pest Control Dealer Designated Agent License Application* (DPR- LIC-043).
 2. Submit the completed application with the initial application fee and examination fee to DPR.
 3. Pass a written examination on the sale and use of pesticides and pest control dealer responsibilities. (FAC section 12253)
-

Requirements once licensed

No continuing education is required to renew the DDA license.

The DDA license is valid for up to two years. Prior to the license expiring, a renewal fee is due to DPR to renew the license.

Continued on next page

Dealers and Brokers – Product Sales, Continued

Pesticide Broker

Who needs the pesticide broker license

Any individual or business, including Internet and mail order businesses, whether inside or outside of California, who first sells or distributes pesticides into California other than registrants and licensed pest control dealers (FAC section 12400).

The pesticide broker requirements apply to **all pesticide products sold into California**. The requirements apply to both agricultural pesticides and pesticides sold for non-agricultural use (e.g.: home residential, industrial, and institutional settings).

Exemptions to the pesticide broker license requirements

- Persons licensed as pest control dealers. A pest control dealer license is required if sales of agricultural use products are direct to end-users.
 - Registrant selling its own registered product or other registrant's product.
-

What's required to obtain a pesticide broker license

Interprets FAC section 12401 and 3 CCR section 6502

An applicant for a pesticide broker license must:

1. Complete the *Pesticide Broker License Application* (LIC-217) for each principal and branch location and submit it to DPR.
 2. Branch locations include a broker's distribution center(s), not individual retail outlets.
 3. There are no fees required to obtain this license.
 4. Submit a Fictitious Business Name Statement obtained from the County Clerk's Office, if applicable², or
 5. Certificate of Good Standing obtained from the Secretary of State. Corporations incorporated out-of-state must submit a Certificate of Good Standing from that state.
-

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² See *Pest Control Dealer* above for information on the Fictitious Business Name Statement

Dealers and Brokers – Product Sales, Continued

**Requirements
when licensed**

Once licensed, the pesticide broker must:

- Sell only pesticide products that have been registered for sale in California by DPR.
 - Sell pesticides in California labeled for agricultural use or considered a California restricted material only to registrants, licensed brokers, or pest control dealers (3 CCR section 6302)
 - Submit a quarterly report to DPR of the total dollars of sales (including zero sales) and total pounds or gallons of pesticides sold into or within California. (FAC section 12406(b)).
 - Pay a quarterly mill assessment to DPR if the mill assessment has **not** been paid by the registrant or pest control dealer. The mill assessment is based upon the total dollars of sales for sales into or within California of registered pesticides. (FAC sections 12841 and 12841.1(a)) Sales invoices shall show the mill assessment will be paid. (FAC section 12847)
 - Keep and retain records of all purchases, sales, and distribution of pesticides into or within California for four years at the principal place of business which may be outside of California. (FAC section 12406(a))
-

Section 3.3.1

Pest Control Dealer Interpretation Scenarios

Introduction This Section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.

Biological control agents **Interprets FAC sections 11407(b) and 12101**

Businesses that sell biological control agents (e.g., predatory insects such as lacewings, ladybird beetles, etc.; parasitic wasps; or pathogenic fungi or viruses) to control agricultural pests are required to be licensed as pest control dealers.

Cooperative supplying pesticides

If a cooperative handles agricultural use pesticides or restricted use pesticides, it is responsible to meet certain requirements in order to be exempt from the pest control dealer license requirement. The cooperative can meet these requirements by the following:

- They must act only as a central receiving point for orders or billings and provide the licensed pesticide dealer that actually supplies the agricultural use pesticide or restricted use pesticide with information required in 3 CCR sections 6562 and 6568.
 - The supplier must invoice the purchaser to specific purchases.
 - The cooperative must maintain the ownership identity of any pesticide it stores for its members.
-

Dealer records location

Interprets 3 CCR section 6562(b), 6568(e), 6574(d), 6576, 6577

If all sales occur outside of California (i.e., on the web), there is no requirement in law or regulation for a dealer to store invoices or other records in-state for inspection. However, should a CAC or DPR request a dealer's records (invoices, dealer's copy of a restricted material permit/OIN, certified applicator information or certified applicator statement, etc.) the dealer is required to provide the record.

Pest Control Dealer Interpretation Scenarios, Continued

**In-ground pole,
railroad tie or
wood treatment
and wood
preservatives**

Interprets FAC section 11407(d)

Pesticides can be used to treat utility poles, fence poles, railroad ties, or wood to control or prevent wood destroying pests. Some of these may be federal restricted use pesticides (RUPs). Any retail store selling RUPs must be licensed as a pest control dealer in order to sell them to the end-user.

**Dual-use
pesticide
products**

Interprets FAC sections 11407(a) and 12101

The term “dual-use products” refers to those pesticide product labels that have directions for both non-agricultural (usually home) and agricultural use and are packaged in a manner that is compatible with both uses. Only licensed pest control dealers may sell agricultural use pesticides regardless of the other uses that may appear on this labeling. A licensed dealer may sell dual-use products for non-agricultural uses, provided the sales record displays the purchaser’s name and address and documents that the pesticide is for non-agricultural use.

The mere possibility that an agricultural use product could be used for the second use without a violation of FAC section 12973 is not sufficient to determine it is a dual use product. A determination of dual-use considers the apparent intent of the manufacturer, as well as any advertising or product presentation in the market place.

For example, a product’s labeling has use directions for gopher burrows with no other site restrictions. This product can legally be used to treat gopher burrows on agricultural sites and non-agricultural sites based on this labeling. However, it is packaged in one pound containers and is commonly marketed in retail nurseries. If there is no evidence that the manufacturer has advertised it for agricultural use, the presence of this product in this sales setting (retail nursery) is insufficient to classify it as a dual-use product. In some cases, it is up to the registrant to fix the problem by separating the pesticide into two products – the method preferred by U.S. EPA.

Continued on next page

Pest Control Dealer Interpretation Scenarios, Continued

**Dual-use
pesticide
products,**
(continued)

Other evidence of a dual-use product may include:

- A “Worker Protection Standard” agricultural use requirements block.
- Non-agricultural listed sites such as: garden crop, ornamental and landscape plantings; interiorscapes; and recirculatory, aeroponic, and hydroponic systems located on residential (home) and industrial sites.
- The product labeling has rates from fluid ounces/acre to ounces per 1,000 square feet. These label rates indicate this product can be used both for agricultural and non-agricultural use respectively. Directions for use on pesticide labeling given on a “per acre” basis are generally used to indicate an intention for commercial, rather than, homeowner (consumer) use. Homeowner-use pesticides have directions to use the product at a rate of so much material “per 1,000 square feet,” or amount of material per gallon, pint, etc.
- The size of the product container is an indication that the product may be marketed for non-agricultural and agricultural uses. For example, if the product could be purchased via internet in 4 ounce, 16 ounce, quart and one gallon containers.

Tack and saddle shops and western wear stores that carry small container pesticide products labeled for use on or around horses are not required to obtain a pest control dealer's license. It is appropriate to inform retailers that they do have potential liability if they sell these products with dual-use labels without a license.

See also Compendium Volume 7, Sections 1.1 *Agricultural and Non-Agricultural Pest Control* and 4.7 *Homeowner (Consumer) Use Products*.

Interprets 3 CCR section 6562(a):

Dual-use products labeled and used for home use do not require an OIN for purchase. Dealers should verify the intended use of the product and, if they determine that an OIN is not required, must note on the sales record “the purchaser was not required to obtain an OIN pursuant to section 6622”.

Note that a Dealer, as a business decision, may choose to only sell “dual-use products” to purchasers with OINs.

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Pest Control Dealer Interpretation Scenarios, Continued

Existing stocks **Interprets FAC sections 11407 and 3 CCR section 6301(b)**

A registrant of an agricultural use or restricted material pesticides looking to sell that product directly to end users in California must be a pest control dealer licensed by DPR. If the registration of a product has lapsed, normally a licensed dealer would have two years to sell the product after the last date of registration. However, if the dealer is also the *registrant* of the product, the registrant-dealer cannot sell the product once registration has lapsed. Likewise, registrant-dealers are required to abide by U.S. EPA timelines for selling products (for example, timelines identified in reregistration eligibility decisions) and U.S. EPA or DPR cancellation orders.

Livestock sprays and spray devices **Interprets FAC section 11701**

If a licensed pest control dealer sells and services spray devices for fly control in commercial stables, the dealer is performing pest control for hire. The process of mixing and diluting the pesticide concentrate and cleaning, calibrating or otherwise servicing the automatic spray device is considered to be providing a service and requires such persons to be licensed as a pest control business (PCB). If the sales of pesticides and pest control devices are always in connection with providing such a service, then the PCB license supersedes the need to have a pest control dealer license. However, if they also sell such products without providing the service, a pest control dealer license is required.

Pesticide sales without a recommendation **Interprets 3 CCR sections 6562(a) and 6564(a)**

A dealer must not sell or deliver a pesticide when the requirements of the registered labeling conflict with any recommendation provided to the dealer. When the individual making a sale of an agricultural use pesticide is not a licensed agricultural PCA, they may not give any instruction or advice on its use. When a pesticide is sold but no recommendation is made or provided, the invoice or delivery slip must state, *“No recommendation has been made by, or provided to, the seller concerning the use of the material covered by this invoice”* or similar notice. This notice must be delivered to the customer no later than the time the pesticide is delivered.

It is a violation of FAC section 12121(d) for any person subject to dealer licensing requirements to make false or fraudulent statements. It is a violation

Continued on next page

Pest Control Dealer Interpretation Scenarios, Continued

Pesticide sales without a recommendation, (continued)

to state on an invoice delivery slip that no recommendation was made when, in fact, one was made by a PCA employed by the pest control dealer. Disciplinary action may be taken. It is the pesticide dealer's responsibility to know if dealer employees have made a recommendation.

Sales to structural pest control businesses

See Section 3.9 *Structural Pest Control Licenses*.

Veterinarians selling pesticides

Interprets FAC sections 11407(d), 11408(d) and 12101

Veterinarians selling pesticides requiring a restricted material permit or the supervision of a certified applicator must be licensed pest control dealers even though they may be writing prescriptions for the use of these pesticides.

Veterinarians selling only non-restricted or general use pesticides do not need a dealer license provided they are writing prescriptions for the “agricultural use” pesticides sold.

Normally, livestock supply stores selling “over-the-counter” to the general public must be licensed even if owned and run by a veterinarian.

Section 3.4 Pest Control Business (PCB) Licensing

Pest control businesses require a DPR-issued license

Interprets FAC sections 11701 and 11701.5

FAC section 11701 requires that any person who may “advertise, solicit, or operate as a pest control business” be licensed by DPR as a pest control business.

See Compendium Volume 7, pages 1-2 and 1-3 for a discussion of “pest control.” See *Business defined* in Section 3.4.4 below.

Each principal and branch location must have one individual in a supervisory position with an appropriate license or certificate. The individual’s categories on their QAL must match the work performed by the company.

“Branch location” defined

As defined in 3 CCR section 6000, a “Branch location” means “any location, other than the principal place of business, operated by a pesticide dealer or an agricultural pest control business to carry out licensed activities in California.” “Licensed activities” include, but are not limited to, mixing and loading pesticides and storage of opened pesticide containers after application.

Supervision of pest control operations

Each licensed pest control business must have at least one individual with a QAL in a supervisory position with the appropriate pest control categories that relate to the work performed by the business, responsible for the pest control operations of each location. (FAC section 11701.5) The qualified applicator cannot supervise the operations of more than one location at a time.

Each licensed maintenance gardener pest control business may designate an individual holding either a QAL/QAC with Category B or a QAC with Subcategory Q as the responsible person. (3 CCR section 6522(b))

The qualified individual must be actively responsible for the legal and safe operation of pest control activities conducted by the business location and supervise the pest control operations performed by employees attached to the business location.

Businesses that perform pest control using an aircraft must also employ an individual who holds a valid Journeyman Pest Control Aircraft Pilot Certificate (PCAPC). (FAC section 11901)

Section 3.4.1 Agricultural Pest Control Business (PCB)

Who needs the PCB license Any person who advertises, solicits, or operates as a pest control business (see discussion of “business” in Section 3.4.4). This includes the following FAC sections 11403 and 11701:

- Ground and aerial pest control operations, including individuals performing pest control for the accommodation of their neighbors.
- Management companies (e.g.: vineyard management or golf course management) when their services include pest control.
- Packinghouses, shippers, storage facilities, and other processors who treat agricultural commodities owned by another person or firm.
- Maintenance gardeners who engage in pest control for hire (more than incidental to that business’s activities).

Exception: Cooperatives are excluded; see discussions on “Business Defined” and “Packing Houses and Other Processors” in Section 3.4.4.

Exemptions to the PCB license

- Structural pest control activities conducted within the scope of, **and** pursuant to, a valid structural pest control business license. (FAC section 11531(a))
 - Preservation treatment of fabrics or structural materials. (FAC 11531(b))
 - Sanitation services for collection, disposal, and treatment of wastewater, refuse, or sewage. (FAC section 11531(c))
 - Seed treatment incidental to regular business. (FAC section 11531(d))
 - Live capture and removal, or exclusion, of vertebrate pests, bees, or wasps without the use of pesticides. (FAC section 11531(e))
 - Pool cleaning services, unless the person is selling, applying, using, or distributing a restricted material. (FAC section 11531(f))
 - Tree surgery involving the removal of diseased or infested tissues or applying disinfectants to wound cavities incidental to tree surgery. (FAC section 11710)
 - Gardeners and landscape maintenance service companies, if no pest control work is included as part of their services.
-

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Agricultural Pest Control Business (PCB), Continued

**What's
required to
obtain a PCB
license**

An applicant for a PCB or Maintenance Gardener(MG) PCB license must:

1. Complete the *Pest Control Business License Application* (DPR-LIC-042) for each principal and branch location **or** the *Pest Control Business License Application, Maintenance Gardener Only* (DPR-LIC-004)³ location and submit it and all required fees to DPR.
 2. Identify an individual who is responsible for the operation of the pest control business for each location listed on the application.
 3. Fulfill financial responsibility requirements. (FAC section 11702(c)(2) and 3 CCR section 6524)
 4. Submit a Fictitious Business Name Statement from the County Clerk's Office, if applicable⁴. (FAC section 11702(a))
 5. For a corporation, submit a Certificate of Good Standing from the Secretary of State. (FAC section 11702(a))
 6. Submit the initial license fees for the PCB's principal location and for each branch location **or** the initial license fee for a MG PCB license.
 7. Submit the *Supplemental Application Information for Maintenance Gardener Pest Control Business License* (DPR-PML-143) if applicable.
-

**Requirements
once licensed**

Once licensed, each principal and branch PCB and MG PCB must:

- Register with the CAC in each county where business is conducted. (FAC section 11732)
- Retain agricultural pest control application completion notice records for two years. (3 CCR section 6619)
- Retain pesticide use records for two years. (3 CCR section 6624)
- Submit pesticide use reports (PURs) to the CAC. In addition, school and daycare PURs must be submitted to DPR annually. See Chapter 4 Section 3. (3 CCR sections 6625, 6626(b), 6627 and 6628)
- Have a copy of the restricted materials permit during the application.* (3 CCR section 6632)
- Retain written recommendations and work orders for one year.*(FAC section 12004)
- If the business performs pest control using an aircraft, have an individual who holds a valid Journeyman PCAPC (FAC section 11901).

* Obtaining permits and retaining work orders/recommendations do not apply to MG PCBs

Continued on next page

³ MG PCBs *by default* do not have branch locations.

⁴ See *Pest Control Dealer* in Section 3.3 for information on the Fictitious Business Name Statement

Section 3.4.2 Maintenance Gardener Pest Control Business (MG PCB)

Maintenance gardener pest control business license scope

Interprets FAC section 11704 and 3 CCR section 6531

In 1980, FAC section 11704 was enacted (Chapter 795, Statutes of 1980) and established the Maintenance Gardener (MG) Pest Control Business (PCB) license for those who engage in pest control for hire incidental to the business. The MG PCB license applies to all landscaped areas without regard to location provided that the use of a pesticide for pest control is a minor, or complementary, aspect of the physical landscape maintenance work.

Generally, these businesses provide routine landscape care indoors, around public structures and commercial parks. They are required to obtain a MG PCB license and to have a qualified applicator in a supervisory position if they apply general use pesticides **incidental** to the primary business operations.

A “full” PCB license is required if pest control landscape maintenance is performed at cemeteries, parks, golf courses or similar areas or if pest control is too great a part of the MG PCB’s services.

A MG PCB supervised by an individual holding a Qualified Applicator Certificate (QAC) with Subcategory Q **can** use or supervise the use of general use pesticides. This individual **cannot** use or supervise the use of federal restricted use pesticides or California restricted materials. A MG PCB supervised by a QAL or QAC with Category B can use or supervise the use of federal restricted use pesticides or California restricted materials

MG PCBs have one location (no branches); **each** location is required to be licensed and supervised according to the business’ activities.

Application of the definition of “incidental”

Interprets FAC section 11704(a) and 3 CCR sections 6000 and 6531

As used in FAC section 11704(a), “pest control for hire incidental to that business” is pest control that ensues from, or is a minor consequence of, a business’ overall landscape and turf maintenance activities. Pest control separate from ornamental and turf plantings does not qualify. This does not limit a MG PCB to a certain type of pesticide or number of applications. However, it requires that **each** pest control activity is obviously subordinate to, generated by, **and** done in conjunction with, the business’ main purpose of landscape maintenance.

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Section 3.4.3

County Registration of PCBs and MG PCBs

Counties register pest control businesses

In addition to DPR’s licensing of each PCB main and branch location and each MG PCB, the law requires annual registration with the CAC of each county prior to the business carrying out any licensed activity in that county.

County registration is necessary to ensure the Commissioner knows:

- Who is operating a PCB/MG PCB in the county;
 - Where PCBs/MG PCBs are operating in the county;
 - What types of licensed pesticide application activities are occurring in the county;
 - Where pesticide-related records, pesticides, and equipment are stored in the county; and
 - Where to send various notices and updates concerning regulatory issues that affect businesses, licensees, and individuals performing work in their county.
 - *This list is not all-inclusive.*
-

County registration authority and fees

Interprets FAC sections 11732 and 11734

FAC section 11732 requires PCBs/MG PCBs operating in a county to register with the CAC, provide a list of equipment and any other information the CAC may require.

FAC section 11734 allows the county board of supervisors to establish “reasonable fees” for the registration of PCBs. MG PCBs are limited to a maximum registration fee of twenty-five dollars (\$25) per year.

CAC registration of the pest control business

Each PCB location (principal and branch) must register with the CAC in each county where business is performed before advertising, soliciting, or operating in that county. A separate registration form must be completed for each branch and each county.

MG PCBs must register with the CAC in each county where business is performed. MG PCBs have only one location per business license (no branches).

CACs must retain a copy of the business license for their files.

Continued on next page

County Registration of PCBs and MG PCBs, Continued

Home county registration (business license address)

The registration of a licensed business in its home county should be done in-person. Only the QAL (QAC for MG PCBs) responsible for the pest control activities of that business should be allowed to register the business.

Note: The valid dates of the business license and the individual's QAL or QAC may differ. Check that both are valid before registration. CACs can also check DPR's list of valid licenses at: apps.cdpr.ca.gov/docs/license/currlic.cfm.

Using the reproduction template (Appendix A), the CAC can make its own form for registering the business, as long as it contains the information from DPR's *Pest Control Business County Registration* form (DPR-PML-059). Check for completeness of provided information, including:

- Business license valid for the year of intended operation
- Certified applicator with appropriate pest control category(ies)
- Completed *Pest Control Equipment Registration* form (DPR-ENF-058) or similar

PCBs based in the county and registering for the first time should have equipment inspected before completing registration. This doesn't preclude the need to inspect equipment while used in field.

Emphasize the following topics when you review pest control and pesticide regulations with the licensee, as applicable:

- New regulations or laws
- Pesticide worker safety requirements; storage, rinsing, and disposal of pesticides and emptied containers; required records and reports
- Restricted material permit conditions
- County policies, requirements and regulations
- Prior noncompliance documented by inspections

Collect the registration fees, if required by the county. The original signed form should be kept for county records. Registration may be amended later at no charge to add agents (QALs or QACs) or additional categories obtained by the qualified applicator.

If an applicant plans to register in additional counties, make a copy and process, but do not sign additional forms for mailing to counties that accept mail-in registrations. Be sure your county name is on the hard copy of the registration form as the imprinting county.

Continued on next page

County Registration of PCBs and MG PCBs, Continued

**Out-of-county
locations
registration --
processing
mailed-in
applications**

PCBs and MG PCBs located outside your county may register by mail if county policy permits.

1. Check the business's home county registration form for completeness.
2. Check the completed form to make sure the business and individual licenses are valid for the year the applicant is registering.
3. Verify the appropriateness of the certified applicator categories.
4. Verify registration includes a completed *Pest Control Equipment Registration* form (DPR-ENF-058) or similar.
5. Make sure the registration applies to the location from which the operation will be conducted in your county.
6. Make sure the appropriate fee (if one is required) accompanies the form.
7. Check the records to see if the applicant previously registered in the county and if there were any problems.
8. The CAC or authorized person should sign and date the form.
9. Keep the original for county records, and provide the applicant a copy of the registration form.
10. Provide a list of current county policies and regulations.

Registrations may be amended later, with no added charge, to add agents (QALs or QACs) or additional categories obtained by the qualified applicator.

Section 3.4.4

Pest Control Business Interpretation Scenarios

Introduction This Section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations for PCBs.

Aquatic pest control Persons who are in the business of performing pest control in standing or running aquatic sites (e.g., lakes, ponds, canals, and similar water bodies) must:

- Hold a QAL with Category F Aquatic Pest Control, and
- Be licensed by DPR as a PCB.

Biological control agents **Interprets FAC sections 11403 and 11701**

Persons in the business of releasing biological control agents (e.g., predatory insects such as lacewings, ladybird beetles, etc.; parasitic wasps; or pathogenic fungi or viruses) must have a PCB license.

Persons engaged strictly in cultural practices to control a pest (cultivating, discing, or hoeing fields for weed control) do not require a PCB license.

Microbial pest control **Interprets FAC section 11701.5**

Persons who are in the business of:

- Applying algaecides and antimicrobial pesticides to treat potable water lines (systems), dairy milk lines (systems), industrial and institutional cooling towers and evaporative condensers, and similar sites; or
- Applying algaecides and antimicrobial pesticides to treat water features such as indoor and outdoor fountains, ponds, cascades, waterfalls and streams; or
- Providing disinfecting and/or sanitizing services, or “deep cleaning” to control a virus, bacteria, or other microorganism as part of, or in addition to, cleaning services

... must hold a QAL with Category A and be licensed as a PCB.

Persons who are in the business of applying sulfur dioxide (SO₂) products labeled as a fumigant to sanitize wooden barrels and corks used in wine production must hold a QAL with Category M and be licensed as a PCB.

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Pest Control Business Interpretation Scenarios, Continued

**Business,
defined**

Interprets FAC section 11701

Historically, DPR has defined “business” in terms of having an “at risk” ownership in what is being treated or protected. In the mid-1970s, DPR set 5% as the level of ownership to meet the definition of or to qualify as a business. This was principally related to closed systems, rather than licensing, but is the only standard ever adopted. DPR has applied this basic ownership test to carrots (Grimmway and Bolthouse decisions), landscape installation (treatments during warranty period), right-of-way holders (having an interest in the right-of-way), and probably others over the years.

Providing goods or services (pest control services) for compensation (a fee for service) constitutes a business. A person is not engaged in the “business” of pest control when they treat or protect things they own, such as the growing crop. They may own the crop even if they don't own the land upon which it is being grown.

**Chemical
liability**

Interprets 3 CCR section 6524(a)

“Chemical liability” means liability for personal injury and property damage resulting from the use of pesticides, typically discovered immediately or within a few days or few months following the pest control work.

**Operator of the
property**

Operator of the property is defined in 3 CCR section 6000 as “a person who owns the property and/or is legally entitled to possess or use the property through terms of a lease, rental contract, trust, or other management arrangement.”

The term “operator of the property” is not related to the scope of PCB licensing. That term does not appear in FAC section 11701. The activity prohibited without a license by FAC section 11701 is “pest control business.”

Continued on next page

Pest Control Business Interpretation Scenarios, Continued

Management firms

Interprets FAC section 11701 and 3 CCR section 6000

For purposes of this discussion, a “management firm” is a business that provides operational assistance, support, or other pest control activities to the owner or operator of the property. The management firm may, for example, receive in compensation a fee for service; a percentage of the planting, harvest, or membership/merchandise sales; or a set dollar amount per amount planted, harvested, or sold. Common examples include farm, vineyard, and golf course management companies. A management firm should not be confused with a “partner” which has an ownership interest in the operation.

Management firms using pesticides within the scope of their operations have long posed licensing challenges: are they considered the operator of the property, a pest control business, or both? Phrased another way, when does the activities of a management firm cross over into an activity that is a pest control business, and therefore, requires a PCB license from DPR?

Management firms are required to hold a PCB license when the management firm contracts with the owner or lessee of the property and performs services that include pest control operations. The license would still be required even though the management firm may not advertise or represent itself as doing pest control. A separate charge for pest control would not have to be made for the use to be considered advertising, soliciting, or operating as a pest control business.

Mosquito control

Mosquitoes, by their nature as flying insects, may invade (enter) households and other structures. Outdoor mosquito control in the immediate environment of a residential structure (house, condominium, apartment, motel, hotel, etc.), close enough so there is a chance the mosquito may invade the structure, can be done under either a structural or DPR license.

For treating areas in residential or commercial areas that are not adjacent or near structures, or in areas where SPCB confirms their licensing is not appropriate, DPR’s Category A would be required. Note that applying pesticide to any type of standing or running water areas such as a pond, stream etc., would require a QAL in Category F (Aquatic). Category K (Health Related Pest Control) is for work under government-sponsored programs for the management and control of pests having public health importance (e.g. contracted by a vector control department/agency).

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Pest Control Business Interpretation Scenarios, Continued

Mosquito control

Interprets FAC section 11709

The purpose of the Fee Exempt (Neighborhood Operator) PCB license is to allow equipment sharing and cooperation between neighboring growers and to provide for pest control on small acreage and in areas where it is economically unfeasible to hire a licensed PCB. It is not designed to allow a grower to operate as a PCB in competition with licensed PCBs. The relationship of the acreage and number of the neighboring parcels and the intent must be considered in relation to the requestor's own farming operation in order to determine whether the applicant qualifies for a fee exempt PCB license.

Applicants complete the *Pest Control Business License* (DPR-LIC-042) application and check the appropriate box to request fee-exempt status. They also submit the *Fee Exempt Pest Control Business* form (DPR-PML-006) which includes supplemental information about their operations and the location of their neighbor's property. The business license will indicate “fee exempt” to avoid confusion.

All other aspects of the fee-exempt pest control business license are similar to the regular pest control licensing procedures. The fee exempt operator must:

- Have financial liability insurance,
- Have a qualified individual to supervise all applications,
- Register in the county,
- Maintain records, and
- Comply with all other laws and regulations that pertain to pest control businesses.

Foliar nutrient spray application

Individuals or firms who apply only foliar nutrient sprays as a service are not required to have a PCB license, as these products are not pesticides (FAC section 12756). However, if a foliar nutrient spray product is intended for use as a pesticide, registered as a pesticide, contains a pesticide, or is mixed with a pesticide, then a PCB license is required.

Continued on next page

Pest Control Business Interpretation Scenarios, Continued

Landscape contractors

Landscape contractors are generally responsible for replacing any plants that die within a warranty period. Therefore, they are considered to still have an ownership interest in those plants. Any pest control is on property they “own” and a license is not required.

If the contract is for more than one year or is renewed for continued maintenance work, a PCB license would be required.

Landscape work at construction sites

Pest control is sometimes done in conjunction with construction work such as paving parking lots or driveways, establishing new landscape, or building homes or other structures. If this is done by the contractor incidental to the construction, a PCB license would not normally be required. In this situation, the pest control is on property (ground, plants, or materials) considered to be “owned” or “operated” by the contractor and incidental to the construction.

Firms regularly doing this kind of pest control as subcontractors to construction or landscaping companies are required to be licensed.

Livestock sprays and spray device dealers

A business that services spray devices for fly control in commercial stables, dairy barns, etc., must be licensed either by DPR or the Structural Pest Control Board. Such services include the process of mixing and diluting the pesticide concentrate and cleaning, calibrating or otherwise servicing the automatic spray device.

Maintenance gardeners and landscape services

Interprets FAC sections 11701 and 11704, 3 CCR sections 6000 and 6531

Gardeners and landscape maintenance companies, including indoor plant maintenance companies, must be licensed as a PCB if they use pesticides or use other pest control methods to maintain the garden or landscaped areas.

The *Maintenance Gardener Pest Control Business License* can only be used if the pest control work, including pesticide use, is incidental to the maintenance activities. If the MG PCB is supervised by a QAC with subcategory Q, **only general use pesticides may be used under this certification; restricted materials may not be purchased or used.** If maintenance gardeners wanted to use restricted pesticides they would need a QAC or QAL in category B.

Continued on next page

Pest Control Business Interpretation Scenarios, Continued

Maintenance gardeners and landscape services, (continued)

If maintenance gardeners or landscape maintenance companies engage in pest control work separate from the maintenance gardening or landscape maintenance activities, they must be licensed as “full” PCBs. This includes “occasional” pest control work with a small hand-sprayer or hose-end sprayer and the use of snail bait or pesticides provided by a homeowner if done as part of the service.

Whether or not an itemized charge is made for the pest control work has no bearing on the licensing requirement. A maintenance gardener who maintains a supply of pesticides shows evidence of offering pest control as part of their service.

Post-harvest applications at packing houses and other processors

Processors (packing houses, hullers, driers, etc.) applying pesticides (such as fungicides or fumigants to fruits, nuts, grains, or vegetables) must be licensed as PCB if, at the time of treatment, the commodity is owned by the other party and pest control is part of the service provided for compensation. This also includes fungicides or insecticides applied to seeds if it is more than incidental to the regular business (i.e. a company who is in the business of treating seed).

A cooperative is owned by its members and if it handles only commodities from members a license would not be required.

Swimming pool service companies

Interprets FAC section 11531(f)

Persons engaged in the business of servicing swimming pools with a pesticide are exempt from the licensing requirement and are not required to obtain a PCB license unless the business is applying or using a restricted material. Pesticide labeling and worker safety requirements must still be followed. Additionally, the company must still follow the requirements of the local health department relative to the safe use of chlorine in the swimming pool.

Continued on next page

Pest Control Business Interpretation Scenarios, Continued

**Wood,
in-ground pole,
railroad tie
treaters, wood
treatment and
wood
preservative**

Interprets FAC sections 11531 and 11701

The service of treating utility poles, fence poles, railroad ties, or wood with pesticides to control or prevent wood destroying pests is considered pest control and requires a pest control business license.

A business that applies preservative pesticides to wood in a permanent treatment plant is exempt from the pest control business license. (FAC section 11531(b)) Such treatments include the use of pesticides in the manufacture of utility poles, fence posts, stakes, etc. If the pesticide requires supervision of a certified applicator a QAL or QAC is still required.

Any treatment to existing structures is considered structural pest control.

See also Section 3.3.1 *Pest Control Dealer Interpretation Scenarios*.

**Work orders
vs.
recommenda-
tions**

See Section 3.2.2 *Interpretation of agricultural PCA scenarios*.

Continued on next page

Pest Control Business Interpretation Scenarios, Continued

Pest Control Equipment Rental

Basic principles **Interprets FAC section 11701 and 3 CCR section 6000**

A company that only sells, leases, or rents pest control equipment is not required to be licensed as a PCB. It may do initial setup and calibration of the equipment. Maintenance or repairs (changing oil, fueling, replacing spark plugs, fixing a flat tire, etc.) required to keep the equipment running and are not related to pest control may also be performed. Any further calibration or “in-field” adjusting would require a PCB license.

Note: If an employee maintains, services, repairs, cleans, or handles equipment used to apply pesticides or potentially contaminated with pesticides, the employee must be trained as a handler and the employer must follow the requirements of 3 CCR section 6744.

A PCB license is required of all persons who lease, rent, or provide pest control equipment **and** who mix and dilute the pesticide concentrate, or clean, calibrate, or otherwise service the equipment on the renter's property. When this service is provided as part of a lease or rental agreement, the service is covered by a part of the fee.

If the only service provided is mechanical repair and initial calibration performed on the property of the person who owns the equipment, a PCB license is not required.

If the spray equipment is loaned and the above-described services are provided at no cost, a PCB license is not required.

Occasionally, an equipment owner will provide an operator (applicator) along with the equipment. If the equipment owner pays the operator's salary and worker's compensation, the owner would have to be a licensed PCB. The equipment owner is not required to be licensed if the renter of the equipment pays the operator's salary and compensation.

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Pest Control Business Interpretation Scenarios, Continued

Mold Remediation

Background The Structural Pest Control Board (SPCB) position regarding SPCB licensees is that, “Molds and mildew are not structural pests and do not fall within the scope of our licensees identification activities. Licensed structural pest control operators and field representatives are not required to identify and report the presence of molds and/or mildew. They are required to report conditions that may foster molds and/or mildew growth. Examples of these conditions are, but are not limited to: shower leaks, roof leaks, plumbing leaks and other excessive moisture conditions within or under structures.”⁵“

SPCB licensing requirements The SPCB interprets B&PC section 8505 as not applicable to mold remediation, and therefore, SPCB licensing is not required of companies doing this work.

Based on EPA's assessment, DPR finds that businesses using pesticides to eliminate or control mold or fungi pest invasions/infestations such as on exterior stucco walls, interior dry wall/wallboard, and ceilings in residences and other structures should be licensed with the SPCB. However, DPR acknowledges SPCB's authority to interpret the B&P Code.

U.S. EPA publications on mold and mildew U.S. EPA has issued various publications regarding mold in homes and other structures. They make various statements about mold and the damage it can cause; for example stating “... mold may be in places such as drywall, wallpaper, paneling, inside walls around pipes, the surface of walls behind furniture, inside ductwork, and in roof materials.” and that “Mold damages what it grows on. The longer it grows, the more damage it can cause”

Continued on next page

⁵ Letter July 25, 2001 from Chief Enforcement Officer, Structural Pest Control Board, *Identification and remediation of molds and mildews by structural pest control licensees*.

Pest Control Business Interpretation Scenarios Continued

**U.S. EPA
publications on
mold and
mildew,
(continued)**

In the U.S. EPA publication, *Mold Remediation in Schools and Commercial Buildings*, U.S. EPA states that "... one purpose of mold remediation is to prevent damage to building materials. Molds gradually destroy the things they grow on Mold growth can eventually cause structural damage to a school or large building In the case of a long-term roof leak, for example, molds can weaken floors and walls" To view the entire document, go to the U.S. EPA web page at epa.gov/sites/default/files/2014-08/documents/moldremediation.pdf.

**DPR licensing
requirements**

DPR finds that businesses doing mold remediation are exempt from an agricultural pest control business license pursuant to FAC section 11531(a). DPR does, however, apply pesticide registration and use requirements to mold remediation.

Section 3.5 Pest Control Aircraft Pilot

Who needs the pest control aircraft pilot certificate (PCAPC)

Any individual who operates any aircraft for the purpose of pest control. This includes the following (FAC section 11901):

- Pilots employed by a licensed pest control business.
- Pilots employed by vector control agencies or regions.
- Pilots who do pest control on their own property (private applicators).

Note: Assembly Bill 1016 (Jones-Sawyer, Statutes of 2023) amended FAC sections 11902(b) and added FAC section 11902.1 and section 11902.5(b). These changes allow for a certified private applicator to be eligible for an unmanned PCAPC. DPR must adopt regulations for this change to be effective.

Apprentice pilot and journeyman pilot certificates

There are two levels and three categories of PCAPCs in California that allow individuals to apply pesticides by aircraft – the manned or unmanned apprentice pilot (AP) certificate, the manned or unmanned journeyman pilot (JP) certificate, and the unmanned Vector Control Technician pilot certificate.

Apprentice Pilot

California law requires that any individual who applies pesticides by air must first serve as an apprentice pilot for one year (FAC section 11907) and meet other requirements as specified below. This applies even though the pilot may have considerable aerial pest control experience in other states.

An apprentice pilot may only conduct pest control activities under the direct and personal supervision of an individual who holds a journeyman's certificate. An AP is not a certified commercial applicator. A Journeyman Manned Pest Control Aircraft Pilot may supervise an Apprentice Unmanned Pest Control Aircraft Pilot; however, an Unmanned Journeyman Pest Control Pilot may not supervise manned aircraft operations.

Journeyman Pilot

A journeyman's certificate shall be issued to an applicant who:

1. Currently holds an apprentice certificate, submits all required information and fees to DPR, and passes a written examination, or
2. Has held a journeyman's certificate within the previous two calendar years.

In addition, the journeyman pilot applicant must have operated a fixed-wing aircraft for a minimum of 150 hours or a nonfixed-wing aircraft (helicopter)

Continued on next page

Pest Control Aircraft Pilot, Continued

Apprentice pilot and journeyman pilot certificates, (continued)

for a minimum of 50 hours.

Pest Control Businesses that perform pest control using an aircraft must employ an individual who holds a valid journeyman PCAPC. (FAC section 11901).

What's required to obtain a PCAPC

An applicant for an **apprentice** pilot certificate must:

1. Submit a completed *Aircraft Pilot Pest Control Certificate Application*, DPR-LIC-005. (FAC sections 11903 and 11502.5(b))
2. A) For manned pilots, submit copies of a valid Federal Aviation Administration (FAA) Commercial Pilot Certificate (if spraying their own property, a valid FAA Private Pilot Certificate) and a valid FAA Medical Certificate. (FAC section 11901)
B) For unmanned pilots, submit copies of valid FAA authorization or certification to operate an unmanned aircraft system (UAS) to conduct pest control (FAC section 11901).
3. Submit an initial application fee. (FAC section 11903)
4. Submit an examination fee for each examination to be taken.
5. Pass the Laws and Regulations and the Apprentice Pilot Examinations. (FAC section 11905)

An applicant for the **journeyman or unmanned vector control technician** pilot certificate must:

1. Submit a completed *Aircraft Pilot Pest Control Certificate Application*, DPR-LIC-005. (FAC sections 11903 and 11502.5(b))
2. A) For manned pilots, submit copies of a valid FAA Commercial Pilot Certificate (if spraying their own property, a valid FAA Private Pilot Certificate) and valid FAA Medical Certificate. (FAC section 11901)
B) For unmanned pilots, submit copies of valid FAA authorization or certification to operate an UAS to conduct pest control (FAC section 11901).
3. A) For journeyman pilots, submit proof that within the last two years, served as either a:
 - California JP (FAC section 11906); or
 - AP for one year, and a *Pest Control Aircraft Pilot Statement of Supervision and Apprenticeship by Journeyman* form (attached to DPR-LIC-005) and have at least 150 hours in a fixed wing aircraft or at least 50 hours in a helicopter. (FAC section 11907)B) For unmanned vector control technician pilots, submit copies of

Continued on next page

Pest Control Aircraft Pilot, Continued

What's required to obtain a PCAPC, (continued)

- valid Department of Public Health Vector Control Technician certification in Category B - Mosquito Control.
4. Submit the examination fee for the Journeyman Pilot Certificate Examination.
 5. Pass the Journeyman Pilot Certificate Examination. (FAC section 11905)

An AP may submit more than one *Statement of Supervision and Apprentice* form to meet the requirements for the Journeyman Pilot Examination. This information must be documented by the signature of the JP(s) responsible for supervision of the AP's flying time in pest control activities.

Requirements once licensed

- Once licensed, the pilot must:
- Accumulate at least 20 hours of approved CE every two years before certificate renewal. Of the 20 hours, at least four hours must pertain to pesticide laws and regulations and at least four hours must pertain to aerial pest control equipment and application techniques. (3 CCR section 6511(a)(1))
 - Register with the CAC in each county where aerial pest control is performed. (FAC section 11921)
-

Supervision of apprentice pilots

Interprets FAC section 11909 and 3 CCR section 6540

An AP cannot operate a pest control aircraft without the direct and personal supervision of a JP.

The JP responsible for this supervision must be aware of conditions at the application site and be available to direct and control the manner in which the application is made by the AP. Except as provided for in 3 CCR section 6406, the actual or potential hazards or sensitivity of the application must be considered in determining how close or available the journeyman pilot must be.

The JP must ensure a means for the AP to immediately communicate with supervising JP. This may be in person by voice, two-way radio, cell phone, video conference or other similar means of direct communication. Text messaging, email, voicemail and other means of indirect communication do not meet this requirement.

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Pest Control Aircraft Pilot, Continued

**Medical
certificate and
supervision**

If the journeyman pilot is not medically cleared to fly (does not provide proof of a current FAA Medical Certificate), the journeyman pilot **cannot** apply pesticides by air. However, the journeyman pilot may continue to supervise and communicate with other pilots employed by the PCB.

Section 3.5.1

County Registration of Pest Control Aircraft Pilots

County registration of pilots

Prior to conducting pest control operations in any county, all pilots must register with the CAC (FAC section 11922). Registration is not required if the pilot is only involved in agricultural operations such as seeding or fertilizing.

Review the pilot's pest control performance record for the past year. Discuss any problems with the pilot and ask what mitigating measures will be taken to avoid repeat problems. A letter may be used if registering by mail.

Apprentice pilots must list the names of journeymen pilots who will supervise them. The journeyman named on the form must be currently registered in that county. (FAC section 11909)

In-person county registration

Be sure the PCAPC issued by DPR is valid for the year the applicant is registering or check DPR's list of valid licenses at: apps.cdpr.ca.gov/docs/license/currlic.cfm.

1. Using the reproduction template (Appendix A), the CAC can make its own form for registering the Pilot, as long as it contains the information from *Pest Control Aircraft Pilot Registration* form (DPR-PML-009). Check the registration form for completeness.
2. Check for an appropriate and valid FAA commercial pilot's certificate and a current medical certificate. The medical certificate is valid for only one year after the date of issuance. Make a copy and attach it to *your* copy of the pilot's completed county registration form.
3. Collect a registration fee, if charged by your county.
4. The CAC or authorized person should sign and date the form.
5. Keep the original for county records, and provide the applicant a copy of the registration form.

If necessary, process the registration forms the applicant needs to register in additional counties. Do not sign them. Give the forms to the applicant to send, with a reminder that other counties may require fees for registration.

Review county policies and regulations (or mail the information) with the applicant.

Continued on next page

County Registration of Pest Control Aircraft Pilots, Continued

- Registration by mail**
1. Check the Pilot's home county registration form for completeness.
 2. Check the completed form to make sure the license is valid for the year the applicant is registering.
 3. Make sure the appropriate fee (if one is required) accompanies the form.
 4. Check the records to see if the applicant previously registered in the county and if there were any problems.
 5. The CAC or authorized person should sign and date the form.
 6. Keep the original for county records, and provide the applicant a copy of the registration form.
 7. Provide a list of current county policies and regulations.
-

Section 3.5.2

Pest Control Aircraft Pilot Interpretation Scenarios

Introduction This Section contains interpretations and descriptions of some situations and scenarios to help make licensing determinations.

Private pilots Pilots performing pest control on their own property are required to be certified as pest control aircraft pilots. If beginning as an apprentice, they must have a certified journeyman pilot provide the required supervision.

Note: Assembly Bill 1016 (Jones-Sawyer, Statutes of 2023) amended FAC sections 11902(b) and added FAC section 11902.1 and section 11902.5(b). These changes allow for a certified private applicator to be eligible for an unmanned PCAPC. DPR must adopt regulations for this change to be effective.

Unmanned aircraft systems An unmanned aircraft system (UAS) is comprised of two parts:

1. an unmanned aerial vehicle (UAV) without a human pilot onboard, which is
2. controlled from an operator (the pilot) on the ground.

Biological control agents **Interprets FAC sections 11403 and 11901**

Pilots using an aircraft (such as a UAS) to release biological control agents (e.g., predatory insects or mites) for pest control purposes are required to have a PCAPC from DPR.

Vector control district pilots **Interprets FAC sections 11901 and 11909, and 3 CCR section 6540(c)**

A Vector Control Technician using aircraft must be certified as a pest control aircraft pilot by DPR. If the pilot is a manned aircraft apprentice, the pilot must be supervised by a manned journeyman pilot. For an Unmanned Vector Control Technician Aircraft Pilot, there is no supervision requirement by a journeyman pilot.

Section 3.6

Qualified Applicator License and Qualified Applicator Certificate

Introduction DPR issues licenses and certificates to businesses and individuals to perform pest control. This Section describes requirements for two types of commercial applicators: Qualified Applicator Licenses (QAL) and Qualified Applicator Certificates (QAC).

Qualified Applicator License (QAL)

Who needs the qualified applicator license (QAL) Any individual who supervises the pest control activities of a licensed pest control business, and is responsible for the safe and legal operation of the pest control business. (FAC sections 11701.5 and 12201.1)
OR
Any individual who meets the 3 CCR section 6000 definition of “commercial applicator”: a person who uses or supervises the use of a pesticide for any purpose or on any property other than as provided by the definition of “private applicator.”

What's required to obtain the QAL Per 3 CCR section 6502, an applicant for a qualified applicator license must:

1. Submit a completed *Qualified Applicator License Application*, DPR-LIC-001.
2. Submit a copy of valid government-issued documentation that the applicant will be at least 18 years old prior to the examination.
3. Submit an initial application fee and an examination fee for each examination to be taken.
4. Pass the Laws and Regulations examination and at least one pest control category examination.

Continued on next page

Qualified Applicator License and Qualified Applicator Certificate, Continued

QAL pest control categories

Under FAC section 12203 and 3 CCR section 6530, QAL applicants shall be examined on the requirements of laws and regulations and one or more of the following categories established by DPR:

- A. Residential, Industrial, and Institutional Pest Control
 - B. Landscape Maintenance Pest Control
 - C. Right-of-Way Pest Control
 - D. Agricultural Pest Control (plant)
 - E. Forest Pest Control
 - F. Aquatic Pest Control
 - G. Regulatory Pest Control
 - H. Seed Treatment
 - I. Agricultural Pest Control (animal)
 - J. Demonstration and Research
 - K. Health-Related Pest Control
 - L. Soil Fumigation
 - M. Non-soil Fumigation
-

Continuing education (CE)

Interprets 3 CCR sections 6510 and 6511

Once licensed, a QAL must accumulate CE hours to renew the license. These hours must be completed while the license is valid, and before certificate renewal, from courses approved by DPR:

- A QAL holder with only Category H must complete four hours of CE (including at least two hours laws and regulations)
 - For all other categories, the QAL holder must complete at least 20 hours of CE. Four of the 20 hours must cover the topic of pesticide laws and regulations.
-

Maintenance gardener that does NOT apply pesticides

If the maintenance gardener does **not** apply **any** pesticides, then a maintenance gardener business license and an individual qualified applicator certificate or license is not required from DPR; however, be sure the applicant checks local licensing requirements.

Continued on next page

Qualified Applicator License and Qualified Applicator Certificate, Continued

Qualified Applicator Certificate (QAC)

Who needs the qualified applicator certificate (QAC)

Any individual who meets the 3 CCR section 6000 definition of “commercial applicator”: a person who uses or supervises the use of a pesticide for any purpose or on any property other than as provided by the definition of “private applicator.”

This certificate is also required by anyone who is in the business of maintenance gardening and performs **pest control that is incidental to such business**. In this situation, the qualified applicator certificate holder must possess the landscape maintenance pest control category (Category B) or the maintenance gardener pest control category (Subcategory Q) on their certificate, and must also obtain a Maintenance Gardener Pest Control Business License.

What's required to obtain the QAC

An applicant for a qualified applicator certificate must:

1. Submit a completed *Qualified Applicator Certificate Application*, DPR- LIC-001A. (FAC section 14152)
 2. Submit an initial application fee and an examination fee for each examination to be taken. (FAC sections 14152 and 11502.5)
 3. Pass the Laws and Regulations examination (except Subcategory Q) and at least one pest control category examination. (FAC section 14153)
-

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Qualified Applicator License and Qualified Applicator Certificate, Continued

QAC pest control categories

Under FAC section 14153 and 3 CCR section 6530, QAC applicants shall be examined on the requirements of laws and regulations and one or more of the following categories established by DPR:

- A. Residential, Industrial, and Institutional Pest Control
 - B. Landscape Maintenance Pest Control
 - C. Right-of-Way Pest Control
 - D. Agricultural Pest Control (plant)
 - E. Forest Pest Control
 - F. Aquatic Pest Control
 - G. Regulatory Pest Control
 - H. Seed Treatment
 - I. Agricultural Pest Control (animal)
 - J. Demonstration and Research
 - K. Health-Related Pest Control
 - L. Soil Fumigation
 - M. Non-soil Fumigation
 - Q. Maintenance Gardener Pest Control
-

Continuing Education (CE)

Interprets 3 CCR sections 6510 and 6511

Once licensed, a QAC must accumulate CE hours to renew the certificate. These hours must be completed while the certificate is valid, and before certificate renewal, from courses approved by DPR:

- A QAC holder with only Subcategory Q must complete eight hours of approved CE (including at least two hours pesticide laws and regulations). A QAC holder with only Category H must complete four hours of approved CE (including at least two hours laws and regulations)
 - For all other categories, the QAC holder must complete at least 20 hours of approved CE. Four of the 20 hours must cover the topic of pesticide laws and regulations.
-

Maintenance gardener that does NOT apply pesticides

If the maintenance gardener does **not** apply **any** pesticides, then a maintenance gardener business license and an individual qualified applicator certificate or license is not required from DPR; however, be sure the applicant checks local licensing requirements.

Section 3.6.1

QAL and QAC Pest Control Categories

Introduction

The following is intended to assist CAC staff identify the required category for the type of pest control conducted and to enforce the pest control business supervision requirements of FAC section 11701.5. For the specific descriptions of the categories, please refer to 3 CCR sections 6530 and 6531. See also Section 3.10 *Quick Reference Charts*.

“Pest control” means the use of any pesticide, as well as the use of any substance, method, or device to control pests or to prevent, destroy, repel, mitigate, or correct any pest infestation or disorder of plants. (FAC section 11403)

Except for Subcategory Q, certification in a category allows the QAL- or QAC-holder to legally use or supervise the use of restricted pesticides on use sites in the category. Note that a Restricted Material Permit or Operator Identification Number from the CAC may still be required.

Category A: Residential, Industrial, and Institutional Pest Control

Certification in Category A covers pest control:

- On sites classified as “Home use” as defined in 3 CCR section 6000. This includes residential areas around households and immediate environments.
 - On sites classified as “Industrial use” as defined in 3 CCR section 6000. This includes pest control:
 - For or in a manufacturing, mining, or chemical process; or
 - In, on, or around sites such as: airports; construction sites; factories; food handling establishment (including delis, bakeries, or restaurants); manufacturing or processing plants (including packing houses); oil fields and tank farms; ports and shipyards; power generation plants and electrical substations; structures or areas which protect stored, processed or manufactured products (including warehouses and commercial grain elevators); timber yards and timber mills; and water or sewage treatment plants.
 - On sites classified as “Institutional use” as defined in 3 CCR section 6000. This includes pest control on property necessary for the operation of schools, hospitals, libraries, auditoriums, amusement parks, prisons, and office complexes.
 - On non-landscaped outside areas directly related to the operation of a building, such as, walkways, parking lots, and storage yards.
-

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QAL and QAC Pest Control Categories, Continued

**Category A:
Residential,
Industrial, and
Institutional
Pest Control,
(continued)**

- Using antimicrobial pesticides on sites within the scope of this Category, such as:
 - Treatment of cooling towers and evaporative condensers;
 - Sanitizing potable water lines and systems, dairy milk lines at a manufacturing plant, and other similar areas;
 - Providing disinfecting and/or sanitizing services, or “deep cleaning” to control a virus, bacteria, or other microorganism as part of, or in addition to, cleaning services.
- Using wood preservation pesticides on sites within the scope of this Category, such as in-service wooden fencing or wood treatment plants.
- Using sewer line root control pesticides on sites within the scope of this Category.

This Category does not include:

1. Use of pesticides for landscape maintenance pest control for hire covered by Category B,
 2. Use of any pesticide labeled as a fumigant, or
 3. Structural pest control required to be done under a license or company registration from the Structural Pest Control Board.
-

**Category B:
Landscape
Maintenance
Pest Control**

Certification in Category B covers pest control in:

- Maintenance of preexisting, planted, or artificial ornamental* plants and turf surrounding areas such as residences, parks, streets, and commercial, industrial, and institutional buildings. It also includes indoor landscaped areas and plants in enclosed shopping centers and malls.

*Ornamental is defined in 3 CCR section 6000 as trees, shrubs, flowers, and other plantings intended primarily for aesthetic purposes in and around habitations, buildings, and surrounding grounds.

This Category does not include:

1. Direct application to running or standing water, or
2. Use of any pesticide labeled as a fumigant.

Note: If an individual with this Category owns or works for a licensed Maintenance Gardener Pest Control Business, the areas they can legally conduct pest control, including use of pesticides, are limited to incidental pest control on sites included in the scope of the Maintenance Gardener Pest Control Business license. “Incidental” is defined in 3 CCR section 6000.

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QAL and QAC Pest Control Categories, Continued

**Category C:
Right-of-Way
Pest Control**

Certification in Category C covers pest control in:

- Maintenance of rights-of-way, such as roadsides, power lines, telephone lines, pipelines, canals, railways; and any landscaping associated with the right-of-way.
- Wood preservation on sites within the scope of this Category, such as in-service wooden utility poles.

This Category does not include:

1. Direct application to running or standing water, or
 2. Use of any pesticide labeled as a fumigant.
-

**Category D:
Agricultural
Pest Control
(Plant)**

Certification in Category D covers pest control in:

- Production of an agricultural commodity, as defined by 3 CCR section 6000: any unprocessed product of farms, ranches, nurseries and forests (except livestock, poultry, and fish);
- Rangelands, pastures, and grasslands;
- Non-crop agricultural lands which will not in the foreseeable future be used to grow food, feed, or fiber crops, or to pasture animals; this includes but is not limited to: wildlands, farm roads and shoulders, ditches, and on-farm equipment yards.

This Category does not include:

1. Applications to running or standing water, other than rice and similar crops grown in wet or flooded fields, or
 2. Use of any pesticide labeled as a fumigant.
-

**Category E:
Forest Pest
Control**

Certification in Category E covers pest control in forest, forest nurseries, and forest seed-producing areas; including: preparation for forest planting, conifer release, brush control projects, and stump treatment.

This Category does not include:

1. Direct applications to running or standing water, or
 2. Use of any pesticide labeled as a fumigant.
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QAL and QAC Pest Control Categories, Continued

**Category F,
Aquatic Pest
Control**

Certification in Category F covers pest control in standing or running water.

This Category does not include pest control covered under Category D (Plant Agriculture), Category G (Regulatory Pest Control), Category J (Demonstration and Research), or Category K (Health Related Pest Control).

**Category G:
Regulatory Pest
Control**

Certification in Category G covers pest control in Government-sponsored programs for the control of regulated pests.

Regulated pest means a particular species of pest subject to State or federal regulatory restrictions, regulations, or control procedures intended to protect hosts, humans, or the environment. Examples of regulated pests are CDFA A- or Q-rated pests subject to government-sponsored eradication programs including, but are not limited to: Asian Citrus Psyllid, Asian Longhorn Beetle, Diaprepes Root Weevil, Emerald Ash Borer, European Grapevine Moth, False Codling Moth, invasive fruit flies (e.g., Caribbean, Guava, Malaysian, Mediterranean, Melon, Mexican, Oriental, etc.), Japanese Beetle, Spongey Moth, and Spotted Lantern Fly.

This Category usually would not be applicable for pest control of CDFA B- or C-rated pests.

This Category does not include:

1. Pest control covered under Category K (Health Related Pest Control), or
 2. Use of any pesticide labeled as a fumigant.
-

**Category H:
Seed Treatment**

Certification in Category H covers use of pesticides on seeds in seed treatment facilities.

This Category does not include the use of any pesticide labeled as a fumigant.

**Category I:
Agricultural
Pest Control
(Animal)**

Certification in Category I covers pest control on animals or in facilities in which the animals are confined, including managed apiaries.

This Category does not include:

1. Direct application to running or standing water, or
 2. Use of any pesticide labeled as a fumigant.
-

Continued on next page

QAL and QAC Pest Control Categories, Continued

**Category J:
Demonstration
and Research**

Certification in Category J covers pest control with California restricted materials to:

- Demonstrate to the public proper use and application techniques;
- Conduct field research outside of a laboratory setting.

This Category is not required of applicators that demonstrate proper techniques, provided they hold the specific category(ies) covering the type of pest control being performed. Note that a Research Authorization (RA) may also be required for those doing experimental pesticide applications.

This Category does not include the use of any pesticide labeled as a fumigant.

**Category K:
Health Related
Pest Control**

Certification in Category K covers pest control in government-sponsored programs for the management and control of pests having public health importance.

This Category does not include the use of any pesticide labeled as a fumigant.

This Category is not required for applicators holding a valid Vector Control Technician certificate issued by the State Department of Public Health and employed at a government public health agency.

**Category L:
Soil Fumigation**

Certification in Category L covers pest control using a pesticide labeled as a fumigant to control soil pests in sites including: fields, forests, golf courses, greenhouses, and individual tree or vine hole sites.

This Category does not include non-soil fumigations covered by Category M – Non-Soil Fumigation.

**Category M:
Non-Soil
Fumigation**

Certification in Category M covers pest control using a pesticide labeled as a fumigant to:

- Fumigate enclosed areas* containing:
 - Agricultural commodities for post-harvest fumigation; or
 - Nonfood/nonfeed materials including but not limited to: pallets; dunnage; furniture; burlap bags; planting medium, including potting soil and potting mix; and wine barrels and corks.

*Enclosed areas include: tarpaulin-covered structures and commodities, vaults, chambers, greenhouses, vans, boxcars, ships, planes, and vehicles.

Continued on next page

QAL and QAC Pest Control Categories, Continued

**Category M:
Non-Soil
Fumigation,
(continued)**

- Fumigate pest burrows in sites including, but not limited to: fields, rights-of-way, ditches, landscaping, and equipment yards.
- Fumigate sewer lines, in-service utility poles, or other fumigations not covered by Category L – Soil Fumigation.

This Category does not include structural pest control required to be done under a license or company registration from the Structural Pest Control Board.

**Subcategory Q:
Maintenance
Gardener Pest
Control**

This is a subcategory of Category B (Landscape Maintenance Pest Control). A person that regularly engages in landscaping pest control activities should instead obtain a Category B. Certification in Subcategory Q covers pest control and use of non-restricted pesticides¹ incidental² to the business' overall ornamental and turf maintenance activities on ornamental and turf plantings indoors; in commercial parks³; and surrounding structures⁴.

¹Non-restricted pesticides: Subcategory Q does not allow the purchase, use, or supervision of any pesticide classified as a California restricted material; this includes all pesticides with the “Restricted Use Pesticide” box on the front panel. The remaining “general use pesticides” must be applied according to labeling instructions and in support of maintenance gardening activities.

²Incidental is defined in 3 CCR section 6000: pest control that ensues from, or is a minor consequence of, a business' overall ornamental and turf maintenance activities. The use of pesticides for pest control is a minor, or complementary, aspect of the physical landscape maintenance work. Pest control separate from ornamental and turf plantings does not qualify.

³Commercial park is defined in 3 CCR section 6000: a tract of land where several commercial establishments (e.g., stores, offices, restaurants, warehouses, or factories) are located. This includes, but is not limited to, business parks, industrial parks, office parks, and shopping centers or malls.

⁴This includes buildings, brick walls, fountains, fences, or statues, etc., where the ornamental or turf planting is near or close to the structure yet distinct and separate from any planting which may constitute a larger landscaped open space (i.e., park, cemetery lawn, golf course turf, etc.).

This Category does not include:

1. The purchase or use of California restricted materials, or
 2. Direct application to running or standing water.
-

Section 3.7

Private Applicator Certificate (PAC) Interpretation Scenarios

Who needs the PAC **Interprets 3 CCR section 6000**

- An individual who uses or supervises the use of a restricted use pesticide or California Restricted Material for the purpose of producing an agricultural commodity⁶ on property owned, leased, or rented by that individual or the individual's employer.
-

Additional information

For additional information on Private Applicators, please see Compendium Volume 3, *Restricted Materials and Permitting*, Chapter 4, *Private Applicator Certification*.

FLC employees **Interprets FAC section 14097, 3 CCR section 6000**

Farm Labor Contractors (FLCs) may provide contract employees to the operator of the property. In some situations, the secondary or special employer (the grower or operator of the property) may be responsible for violations of California's pesticide employee worker safety laws and regulations.

However, to be consistent with the intent of FAC section 14097 the guidance in Compendium Volume 7 Section 8.20 does not apply to applicator licensing or certification. Put another way, **a contract employee of an FLC is not eligible to take the PAC examination and/or become a certified private applicator.**

Correctly identifying the applicant's primary employer is critical in determining whether the applicant is eligible to become a certified private applicator. This determination is not affected by whether the operator of the property would be responsible for any potential pesticide worker safety violations, how long the contract employee has been working for the same operator of the property, or the scope of the agreement between the FLC and the operator of the property.

Continued on next page

⁶ As defined by 40CFR section 171.3 on July 1, 2019: any plant, fungus, or algae, or part thereof, or any animal or animal product, produced by a person (including but not limited to, farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

Private Applicator Certificate (PAC) Interpretation Scenarios, Continued

Fumigants

Interprets 3 CCR section 6404

If a PAC-holder is looking to use or supervise the use of a restricted material labeled for burrowing vertebrate pest control (e.g., use of aluminum phosphide), they can obtain the additional Burrowing Vertebrate Pest Fumigation certification **or** a QAL or QAC from DPR with Category M (Non-Soil Fumigation). To use or supervise the use of other restricted materials labeled as a fumigant, the individual must obtain a QAL or QAC from DPR with the appropriate category.

Home use

Interprets FAC section 14090, 3 CCR section 6000

A householder or homeowner looking to use a restricted pesticide generally does not meet the definition of “private applicator” in 3 CCR section 6000 and generally must instead obtain a QAC or QAL. This includes situations where a “crop” is being produced (such as grapes, cut flowers, or other backyard garden fruits and vegetables) for the homeowner’s own use.

Management firms

Interprets FAC section 14090, 3 CCR section 6000

The definition of "private applicator" allows for pesticide applications on property owned, leased or rented by the individual or their employer. The definition does not include the individual(s) managing the property under a management agreement. As a business conducting pest control, employees working for the firm are ineligible for the PAC. See *Management Firms* in Section 3.4.4 above.

Possession or use of restricted materials

Interprets FAC section 14015, 7 U.S.C. section 136(e)

Federal law (FIFRA section 2(e)(3)) provides that a commercial applicator can be considered a private applicator with respect to some uses.

Private Applicator Certificate (PAC) Interpretation Scenarios, Continued

**Wine barrels
and corks**

Interprets FAC section 14090, 3 CCR section 6000

Wine barrels and corks are not an “agricultural commodity.” The PAC does not cover the application of sulfur dioxide (SO₂) in commercial processing of wine (barrels or corks). A QAL or QAC is required for this industrial use.

Section 3.8 Farm Labor Contractor (FLC)

Who needs the FLC license?

The law considers the following individuals or organizations “farm labor contractors”:

- any person/legal entity who, for a fee, employs people to perform work connected to the production of farm products to, for, or under the direction of a third person.
 - any person/legal entity who recruits, supplies, or hires workers on behalf of someone engaged in the production of farm products and, for a fee, provides board, lodging, or transportation for those workers, or supervises, times, checks, counts, weighs, or otherwise directs or measures their work, or disburses wage payments to these persons.
 - A “day hauler” who is employed by a farm labor contractor to transport, or who for a fee transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person.
-

Exemptions from the FLC license

Farm labor contractor does not include:

- A commercial packing house engaged in both the harvesting and the packing of citrus fruit or soft fruit for a client. (Labor Code (LC) section 1682.4)
 - A “nonprofit” corporation or organization performing services for its members. (LC section 1682.5(a))
 - Individuals who are actually employees and not independent contractors. (LC section 1682.5(b))
 - Custom harvesters. (DIR Guidance)
-

Verifying if the FLC is licensed

Use the online FLC license verification database at: dir.ca.gov/dlse/flc.htm.

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Farm Labor Contractor (FLC), Continued

To become licensed in California

Department of Industrial Relations (DIR) Labor Commissioner's Office's (also known as the Division of Labor Standard Enforcement [DLSE]) website explains the steps to become licensed and an explanation of how to fill out the forms. Please see dir.ca.gov/dlse/Obtainalicense.html.

One of the steps is to have registered with the federal government as a FLC and received a federal registration certificate. Please fill out the application at: dol.gov/whd/forms/fts_wh530.htm.

DLSE has an online system for applying for a license. Please visit dir.ca.gov/DLSE/FLC_new_license.htm

New applicants must take an exam, and licensed FLCs are required to take the exam every two years, or sooner if the FLC violated a law related to labor contracting or at the request of the Labor Commissioner. Please see dir.ca.gov/DLSE/FLC_Exams_and_Continuing_Education.htm

County Registration

LC section 1695(a)(8) requires a FLC to register annually with the CAC of the county or counties where the FLC has contracted with a grower or growers.

LC section 1695(b) allows the board of supervisors of a county to establish a registration fee.

One of the purposes of registering with the CAC is to provide an opportunity to inform the FLC about field worker safety as it relates to pesticide use. For example, there are regulations that require farm labor contractors to inform or train their employees about the hazards of pesticides as it relates to them working in fields.

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Section 3.8.1 FLC Interpretation Scenarios

Introduction This Section contains interpretations and descriptions of some situations and scenarios to assist CACs in determining when to contact the Department of Industrial Relations (DIR) Labor Commissioner's Office (also known as the Division of Labor Standard Enforcement [DLSE]).

DIR-DLSE jurisdiction DIR-DLSE has authority to regulate FLCs and interpret the Labor Code and determine who is or is not a FLC.

CACs conducting fieldworker safety inspections or illness investigations are primarily looking for compliance with pesticide laws and regulations. However, CAC or DPR staff may come across situations where the status of the employer as a FLC is unclear or the CAC or DPR believes the employer should be licensed as a FLC. In those cases, CAC or DPR staff should refer the situation to DIR's DLSE for a determination.

CAC staff can send an email to FLC@dir.ca.gov and should get a response the next business day. As an alternative, DLSE has two offices that handle FLC licensing inquiries. CACs can contact the licensing units at DLSE's Fresno office at (559) 248-1893 or Oakland office at (510) 285-3399.

When contacting DLSE, CACs are requested to provide the following information:

- a) Legal entity name (sole proprietor, partnership, LLC, corporation) of acting FLC (licensed or unlicensed)
- b) Name of individual, partner, LLC member, corporate officer
- c) Address of business if known
- d) Grower information if any and address location (so DLSE's enforcement unit can stop by and check)
- e) Phone number if known

Continued on next page

FLC Interpretation Scenarios, Continued

**DIR-DLSE
interpretation**

The nomenclature given to the operation or entity or the primary business of the operation or entity is not the determining factor of whether an FLC license is required. The issue is whether the entity performs any of the duties described in Labor Code section 1682(b) for a fee. If a fee is paid and there is no specific exclusion contained in the law, the entity is a FLC and must be licensed.

**Planting,
harvesting &
management**

An “agricultural employer” who provides ground preparation, planting harvesting, and/or other related services and also provides plants, fertilizer, equipment, expertise, labor, fuel, chemicals and other incidental materials.

This employer may receive in compensation:

- a percentage of the planting or harvest;
- a set dollar amount per ton harvested;
- a set dollar amount per acre prepared, planted, or harvested; or
- reimbursement of certain non-labor expenses plus one of the above options

DLSE has interpreted that each of these results in employment for the benefit of a third party (owners or lessees of the land), the compensation is a “fee” as defined by LC section 1682(e) and thus the “agricultural employer” is required to be licensed as a FLC.

**Management
companies**

In this scenario, there is agreement between the manager (i.e., a farm or vineyard management company) and the owner for the manager to provide the labor, equipment, materials and supplies and perform the farming duties. Whether the manager would have to consult with the owner and keep the owner advised on the status of the crop would not have any bearing on whether the person or entity was a FLC. The management company would be required to have a FLC license.

Continued on next page

FLC Interpretation Scenarios, Continued

Sharing employees

In this scenario, three growers have agreed that one of the growers will employ all of the workers and perform all of the operations on the land owned by all three growers. In this example, the employing entity must be licensed as a FLC. DLSE found that the “employing entity” falls into the FLC category inasmuch as that entity would employ workers to render personal services in connection with the production of farm products under the direction of a third person (the other two growers).

It does not matter that the employer may also employ those same workers on their own land, the important consideration is the category of that employer when he uses those employees to perform the described services on the land of a third person or under the direction of a third person.

Section 3.9 Structural Pest Control Licenses

Introduction

Individuals and businesses conducting structural pest control are required to obtain a license from the Structural Pest Control Board (SPCB). The laws and regulations are in the Business and Professions Code (B&PC) Division 3 Chapters 14 and 14.5 and California Code of Regulations Title 16 (16 CCR) Division 19. For more information on some of the other unique aspects of structural pest control, please refer to Compendium Volume 6 Appendix J.

The type of license required is dependent on what pest control activity is being done, by whom, and in what setting.

Structural pest control and household pests, defined

Interprets B&PC sections 8505

Structural pest control is defined in part, as follows:

With certain exceptions, it is, with respect to household pests and wood destroying pests or organisms, or such other pests which may invade households or other structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof, the engaging in, offering to engage in, advertising for, soliciting, or the performance of, any of the following:

1. Identification of infestations or infections.
2. The making of an inspection or inspections for the purpose of identifying or attempting to identify infestations or infections of household or other structures by such pests or organisms. ...

Household pests are defined as “those pests other than wood destroying pests or organisms, which invade households and other structures, including, but not limited to, rodents, vermin, and insects.”

Comparing SPCB and DPR licensing

Interprets B&PC sections 8555 and FAC section 11531

B&PC section 8555(b) exempts “persons engaged only in agricultural pest control work under permit or license by DPR or a CAC.” However, this does not mean that regulation under the Structural Pest Control Act may be circumvented by performing structural pest control under an agricultural pest control license.

Continued on next page

Structural Pest Control Licenses, Continued

**Comparing
SPCB and DPR
licensing,
(continued)**

Thus, both the FAC and B&PC recognize that certain activities can be construed as either structural pest control or not, and the effect of the exemptions in such cases is to require one or the other license, but not both.

Control of pests invading structures “for hire” is strictly structural pest control, whether within or outside of the structure. Control for the purpose of eliminating ants or earwigs as garden or orchard pests, or to assist in the control of honeydew-producing insects, is strictly agricultural pest control, even where treatment is applied adjacent to a structure, and incidentally prevents invasion of the structure.

Any application of a pesticide to plants, irrespective of their location in respect to a structure, is agricultural pest control, except for incidental contact of foliage or plants with a pesticide arising from structural pest control activities. Pesticide applications made to indoor plants in malls, offices, etc., would be agricultural pest control. Control of fleas, mosquitoes, and similar pests to humans and their pets, in or around a structure, including treatment of lawn areas nearby for fleas, is structural pest control.

Depending on the intent of the application, control of pests infesting a structure and its contents is structural pest control. See also Section 3.10, *Quick Reference Charts*.

Removal of live bees from a structure does not require a structural pest control license. The use of a pesticide inside the walls of a structure to destroy bees is structural pest control. However if the pesticide is being used to destroy diseased bees in a structure to prevent infection of an apiary it can be interpreted as agricultural pest control.

**“License” vs
“Register”**

The B&PC uses the term “**register**” when referring to the state licensing procedure for structural pest control businesses. It uses the term “**license**” when referring to the state licensing procedures for individuals. FAC sections 15204 and 15204.5 require licensed Structural pest control companies and designated individuals to register with the CAC of each county where they work.

Note: To maintain consistency between these sections on structural pest control and the rest of this Chapter, the term “**license**” is used to describe the state requirements and “**register**” to refer to the county requirements.

Continued on next page

Structural Pest Control Licenses, Continued

Categories of structural pest control

Interprets B&PC sections 8560

The SPCB licenses both businesses and individuals to perform specific types or categories of structural pest control work. An individual may only perform work defined within the branch(es) for which they are licensed. B&PC section 8560(b) divides structural pest control into the following branches (categories):

- Branch 1 – Fumigation: Fumigation with poisonous or lethal gases
- Branch 2 – General Pest: Control of household pests, excluding fumigation
- Branch 3 – Termite: Controlling termites and other wood-destroying pests and organisms by using insecticides or structural repairs and corrections, excluding fumigation

Each structural pest control company must have a qualifying manager (or managers) with the branches of pest control in which the licensed company is engaged in business. See *Qualifying Manager* in Section 3.9.1.

License period and renewal cycle

SPC License Type	License Period	Renewal/Expiration Date
Company, Principle	Lifetime	N/A
Company, Branch	Lifetime	N/A
Operator (OPR)	3 years	June 30
Field Representative (FR)	3 years	June 30
Applicator	3 years	June 30

Restricted materials sales to Structural Pest Control licensees

Interprets FAC section 14006.6(d) and 3 CCR 6568(b)

Restricted material permits are not required for licensed Structural Pest Control Businesses. This exemption applies only to pesticides used in structural pest control, such as sulfuryl fluoride, bromadiolone, and 4-amino pyridine. However, structural pest control businesses are not exempt from applicator certification requirements, and a copy of the license or signed statement required by 3 CCR section 6568(b) is still mandatory for the purchase of federal restricted use pesticides.

Note: Individuals with inactive OPR or FR licenses are not considered certified commercial applicators.

Section 3.9.1 Structural Pest Control Business Licenses

Who needs the business license A pest control company must be licensed (registered) with the SPCB if it:

- Secures structural pest control work.
- Submits bids for or contracts for structural pest control work.
- Identifies pest infestations or infections.
- Conducts inspections.

Exemptions from the business license

- Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions). (B&PC section 8555(a))
- Persons engaged only in agricultural pest control work under permit or license of DPR or a CAC. (B&PC section 8555(b))
- Pest control performed by persons on property owned, leased, or rented by them. (B&PC section 8555(c))
- Government agencies, authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf. (B&PC section 8555(d))
- Certified architects and registered civil engineers acting within their professional capacity. (B&PC section 8555(f))
- Licensed contractors preserving wood. (B&PC section 8556)
- Persons engaged in live capture and removal, or exclusion, of vertebrate pests, bees or wasps without the use of pesticides (B&PC section 8555(g))

Qualifying manager (QM) **Interprets B&PC sections 8506.2 and 8610(c) & (d)**

Each structural pest control business must designate an individual or individuals licensed as an Operator (OPR) to act as the qualifying manager (QM) or managers. The QM supervises the daily business of the company and must be physically present at the principal or branch office location for a minimum of nine days every three consecutive calendar months to supervise and assist the company's employees. Except as provided by B&PC section 8610(d)(3), an Operator can act as a QM for up to two structural companies.

The QM(s) licensed as an OPR for each branch of pest control in which the licensed company is engaged in business. This must be in one or any combination of the branches of structural pest control listed in B&PC section 8560(b) in which the company is engaged in business.

Continued on next page

Structural Pest Control Business Licenses, Continued

What's required to obtain the company license

After an individual obtains an Operator license or is in the process of obtaining an Operator license, a completed application form is submitted to the SPCB. Once the company's name is approved, the SPCB will mail a company registration packet to provide additional information and allow the company to pay the required fees.

See the SPCB's website at pestboard.ca.gov/howdoi/pr.html for the required forms and more information.

Branch offices

Interprets B&PC sections 8611 and 8612

Each branch office must have a separate license. The structural pest control company business shall submit a separate application for branch office registration for each branch office location and pay the required fee.

The registered company must designate an individual licensed by SPCB to supervise each branch office. The branch supervisor shall be an individual who is licensed as a Structural Pest Control Operator or a Field Representative in the Branch(es) of work being conducted by the branch location. The branch supervisor shall be available to assist employees in that office.

Requirements once licensed

Once licensed, each principle and branch structural pest control business must:

- Register with the CAC in each county where business is conducted. (FAC section 15204(a) and/or 15204.5(a))
 - Retain fumigation log or pesticide use records for three years. (16 CCR section 1970)
 - Submit monthly summary pesticide use reports to the CAC by the 10th of the following month. Each pesticide use report shall have a pesticide use stamp or stamp number that is purchased from the SPCB. (B&PC section 8505.17(c))
 - Submit negative pesticide use reports to the CAC by the 10th of the following month when the company performs no work in a county it has registered in. (B&PC section 8505.17(c) for Branch 2 or 3, or 3 CCR section 6628(b) for any branch.)
-

Section 3.9.2 Structural Pest Control Individual Licenses

Fingerprint (Live Scan) & background check

As a consumer protection measure, the SPCB verifies the identity and the accuracy of an applicant's criminal history.

All new applicants for a Structural Pest Control Operator (OPR), Field Representative (FR), and Applicator licenses shall submit fingerprint identification and undergo a background investigation.

The SPCB recommends that applicants complete the Live Scan/Fingerprint process before taking the examination since the SPCB must receive the Live Scan/Fingerprint results prior to issuing a license. The Live Scan/Fingerprint process can take from two weeks to two months or more.

Continuing education (CE)

The applicant must provide proof of completing the required CE hours (and pay the required renewal fee) when renewing their license.

The number and types of CE hours is dependent on the branch(es) of license held. Information on CE to renew structural licenses can be found on the SPCB website at pestboard.ca.gov/howdoi/renew.shtml.

County registration

Branch 1 OPRs and FRs must register each calendar year with the CAC's office in each county in which fumigation work is conducted. In-person or mail registration varies by county. Note that structural pest control applicators are not licensed to perform Branch 1 activities and do not have to register with the CAC's office.

Structural pest control OPRs who serve as the QM for Branch 2 and Branch 3 pest control companies must also register each calendar year with the CAC's office in each county in which work is conducted.

Branch 2 and Branch 3 structural pest control applicators **do not** have to register with the CAC's office.

Continued on next page

Structural Pest Control Individual Licenses, Continued

Structural Pest Control Operator (OPR) License

Who needs the structural pest control operator license

Any individual who:

- Serves as the qualifying manager of a structural pest control company.
 - Secures structural pest control work, submits bids for, or contracts on behalf of a structural pest control company.
 - Identifies pest infestations or infections.
 - Conducts inspections.
-

Exemptions from the structural pest control operator license

- Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions). (B&PC section 8555(a))
 - Persons engaged only in agricultural pest control work under permit or license of DPR or a CAC. (B&PC section 8555(b))
 - Pest control performed by persons on property owned, leased, or rented by them. (B&PC section 8555(c))
 - Government agencies, authorized representatives of an educational institution or state or federal agencies engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf. (B&PC section 8555(d-e))
 - Certified architects and registered civil engineers acting within their professional capacity. (B&PC section 8555(f))
 - Persons engaged in live capture and removal, or exclusion, of vertebrate pests, bees or wasps without the use of pesticides. (B&PC section 8555(g))
-

What's required to obtain the operator license

To obtain an **initial** OPR license an applicant must:

1. Be at least 18 years old
2. Complete the required “Board Approved Pre-Operator Courses”
3. Complete the Live Scan/Fingerprint and Background Investigation
4. Submit an application for examination, with required fee
5. Pass an Examination
6. If successful, submit a completed Certificate of Training and Experience and the required fee to the SPCB

For the required forms, fees and other information on the OPR examination see the SPCB’s website at pestboard.ca.gov/howdoi/opr.shtml.

Continued on next page

Structural Pest Control Individual Licenses, Continued

Structural Pest Control Field Representative (FR) License

Who needs the structural pest control field representative license

Any individual who:

- Secures structural pest control work, submits bids for, or contracts on behalf of a structural pest control company.
 - Identifies pest infestations or infections.
 - Conducts inspections.
-

Exemptions from the structural pest control field representative license

- Public utilities operating under the regulations of the State Railroad Commission (with certain specified exceptions). (B&PC section 8555(a))
 - Persons engaged only in agricultural pest control work under permit or license of DPR or a CAC. (B&PC section 8555(b))
 - Pest control performed by persons on property owned, leased, or rented by them. (B&PC section 8555(c))
 - Government agencies, authorized representatives of an educational institution or state or federal agencies engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony if not on their own behalf. (B&PC section 8555(d-e))
 - Certified architects and registered civil engineers acting within their professional capacity. (B&PC section 8555(f))
 - Persons engaged in live capture and removal, or exclusion, of vertebrate pests, bees or wasps without the use of pesticides (B&PC section 8555(g))
-

What's required to obtain the field representative license

To obtain an **initial** FR license an applicant must:

1. Be at least 18 years old
2. Complete the Live Scan/Fingerprint and Background Investigation
3. Submit an application for examination, with required fee
4. Pass an Examination
5. If successful, submit a completed Certificate of Training and Experience and the required fee to the SPCB

For the required forms, fees and other information on the FR examination see the SPCB's website at pestboard.ca.gov/howdoi/fr.shtml.

Continued on next page

Structural Pest Control Individual Licenses, Continued

Structural Pest Control Applicator

Who needs the structural pest control applicator license

Any individual not a FR or OPR applying pesticides in Branch 2 or Branch 3 employed by a licensed company with SPCB. (B&PC section 8564.5)

Note: An individual licensed as a structural pest control applicator is not a certified commercial applicator (3 CCR section 6000) for purposes of using or supervising the use of restricted materials. Consequently, these individuals also must receive annual pesticide handler training per 3 CCR section 6724 and be supervised pursuant to 3 CCR section 6406 if handling a restricted material.

Additional information

Interprets B&PC section 8564.5

Passage of the structural pest control Applicator written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3. On the license this is listed as RA, Branches 2 & 3.

Individuals with an Applicator's license are not licensed to apply any chemical in Branch 1 - Fumigation.

What's required to obtain the applicator license

To obtain an **initial** structural pest control applicator license an applicant must:

1. Be at least 18 years old
2. Complete the Live Scan/Fingerprint and Background Investigation
3. Submit an application for examination, with required fee
4. Pass an Examination
5. If successful, submit a completed Certificate of Training and Experience and the required fee to the SPCB

For the required forms, fees and other information on the applicator exam, see the SPCB's website at pestboard.ca.gov/howdoi/app.shtml.

Section 3.9.3

Structural Pest Control Interpretation Scenarios

Fumigation of agricultural pests

Some agricultural pests may overwinter in a structure, such as a shipping container. Some countries require shipping containers to be fumigated to control such agricultural pests before the pest can be introduced into their countries and cause damage to their agricultural economies and unique environments.

Fumigations with sulfuryl fluoride on labeled sites to control agricultural pests must be conducted by a DPR-licensed pest control business. Fumigation work to control this agricultural pest cannot be done under a business or individual license issued by the Structural Pest Control Board.

Mosquito control

Mosquitoes, by their nature as flying insects, may invade (enter) households and other structures.

As discussed earlier, the exemptions provided in the FAC and B&PC have the effect of requiring either a license from DPR or the Board, but not both. Outdoor mosquito control in the immediate environment of a structure (e.g., house, condominium, apartment, motel, hotel) close enough so there is a chance the mosquito may invade the structure, can be done under either a SPCB Branch 2 (General Pest Control) license or DPR QAL with Category A (Residential, Industrial, Institutional).

A Branch 2 licensee may perform pest control (e.g. treat standing water, areas of moisture, or pest reservoir) of mosquitoes in and around structures, provided there is no treatment of landscapes, turf, fountains, etc.

For treating areas in residential or commercial areas that are not adjacent or near structures, or in areas where the Structural Pest Control Board confirms their licensing is not appropriate, DPR's Category A would generally be required.

Sanitation services

Interprets B&PC sections 8505 and 8560

There are a number of diseases which are vectored by structural or household pests, such as rats and mice. The scope of a Branch 2 license includes the control of these pests in households or other structures. Given the many diseases vectored by those pests, a Branch 2 licensee can use disinfectants associated with rodent and vermin cleanup. However, if a virus or other

Continued on next page

Structural Pest Control Interpretation Scenarios, Continued

Sanitation services,
(continued)

disease is not a structural pest nor vectored by a structural pest, the Structural Pest Control Board has interpreted Branch 2 licensure does not allow for the application or use of antimicrobials or disinfectants to control the pest.

Sewers

Interprets B&PC sections 8505 and 8560

The definition of “structural pest control” provides for the application of pesticides to household or other pests that may invade households or other structures. Pesticide applications to sewers or sewer system areas is an industrial use, and the Board has confirmed these are not within the scope of a Branch 2 license.

Structural sprays and spray device dealers

Interprets B&PC sections 8505, 8552, and 8560

A business that services spray devices in locations such as restaurants, offices, etc., to eliminate, exterminate, or control pests is practicing structural pest control. The business requires a structural pest control business license. Such services include the process of mixing and diluting the pesticide concentrate and cleaning, calibrating, or otherwise servicing the automatic spray device. If you find a company in violation, consult with the Structural Pest Control Board as to the enforcement options.

Vertebrate pest control

Interprets B&PC section 8555(g)

The intent with this subsection is to exempt from licensure persons who practice live capture and removal, or exclusion, of vertebrate pests, bees, or wasps, without the use of pesticides. Vertebrate pests include bats, raccoons, skunks and squirrels. Note that the U.S. 9th Circuit Court of Appeals declared the phrase “but do not include mice, rats, or pigeons” to be unconstitutional. (*Merrifield v. Lockyear* (547 F.3.d 978))

An example of exempted persons includes trappers engaged in the business of live capture and removal of vertebrate pests without the use of pesticides. B&PC section 8555(g) does not exempt a person from the provisions of Chapter 1.5, Division 3, of the California Fish and Game Code.

Section 3.10

Quick Reference Charts

**Introduction-
Chart of Types
of Licenses and
Certificates –
Scenarios**

The following charts summarize the type of license or certificate required for pest control businesses in various example scenarios. This is just a quick reference guide.

These determinations are based on:

- the specific pest control activity,
- who is performing the pest control, and
- the specific setting.

These examples of various scenarios are only a guide. For further clarification contact the EBL assigned to your county.

Continued on next page

Quick Reference Charts, Continued

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control			
Agricultural Pesticide Use ⁷			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
Adjacent to structure, garden, or orchard pest	QAL Cat A, Cat B or QAC Subcat Q	FAC §§ 11701.5 or 11704	Control (for the purpose of eliminating ants, earwigs, garden or non-crop orchard pests, or to assist in the control of honeydew producing insects or mosquitos) even where treatment is applied adjacent to a structure and incidentally prevents invasion of the structure.
Africanized honeybees, agricultural use setting	QAL Cat A or Cat I	FAC §§ 11701.5 & 12203(b)	Use of a pesticide for control and removal of Africanized honeybees in an “ agricultural use ” setting. (See definition of “agricultural use”) Category depends on setting (e.g.: managed apiary vs. residential).
Diseased bees, apiary	QAL Cat A or Cat I	FAC § 11701.5	The use of a pesticide to destroy diseased bees to prevent infection of an apiary structure . Category depends on setting (e.g.: landscape vs. nursery vs. industrial).
Landscape plants & turf	QAL Cat B or QAC Subcat Q	FAC §§ 11701.5 or 11704	Pest control to establish or maintain preexisting, planted, or artificial landscape plants & turf , <u>irrespective of their location in respect to a structure</u> , except for incidental contact of foliage or plants with a pesticide arising from structural pest control activities. Any pesticide application made directly to interiorscapes in business buildings, office complexes, malls, houseplants within households.
Public health-related	QAL Cat K	FAC § 11701.5	Businesses who work under a contract with an official program (i.e., Vector Control Agency, County Health Department, etc.) to apply public-health related pesticides in agricultural use settings (production and non-production agricultural use).
Sprinkler and drip irrigation lines	QAL Cat A	FAC § 11701.5	Use of algaecides and antimicrobials used to treat interior walls of sprinkler and drip irrigation systems (irrigation lines) found in fields, vineyards and orchards.

⁷ This is based on the definition of “Agricultural Use” from FAC 11408. See also Compendium Volume 7, Section 1.1

Quick Reference Charts, Continued

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control Structural Pesticide Use ⁸			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
Structures, interior or exterior (outside surfaces)	Structural Branch 2 or 3	B&PC § 8550	<ul style="list-style-type: none"> Control of ants, earwigs, cockroaches, silverfish, termites, birds, or rodents invading structures is strictly structural pest control, whether carried on within or outside of the structure Application, with the intent to prevent invading pests, within storage structures when a commodity is not present is strictly structural pest control (i.e., pre-treatment of a storage area prior to storage of a commodity). Treatment of storage structure's outside areas (such as cracks, crevices, along outside baseboards and walls) to prevent infestation of stored commodities is considered structural pest control.
Structures, in or around	Structural Branch 2	B&PC § 8550	Control of <u>pests to humans and their pets</u> , (it would apply to pests other than fleas, for example, mosquitoes) in or around a structure , including treatment of outside areas to control nearby nest or pest reservoir is considered structural pest control.
Africanized honeybees in structures	Structural Branch 2	B&PC §§ 8550 & 8565.6	Control and removal of Africanized honeybees from structures is structural pest control. The Pest Control Operators of California is SPCB-approved to offer certification in Africanized honeybee control, but it is not required to obtain the license.
Removal of bees from Structures	Structural Branch 2	B&PC § 8550	The use of a pesticide to control or remove bees from a structure would require a structural pest control license. However, live removal of bees, wasps, and certain vertebrate pests (without the use of a pesticide) from a structure does not require a structural or agricultural pest control license per B&PC § 8555(g) and FAC § 11531.
Roofs	Structural Branch 3	B&PC § 8550	Treatment to roofs of structures with a pesticide(s) to control fungi, algae, etc. would require a structural pest control license.
Mold in residential or institutional structures			Control of non-wood destroying organisms (mold). At this time neither the SPCB nor DPR require a license for this type of work.

⁸ Structural pest control is the control of household pests (including but not limited to rodents, vermin and insects) and wood-destroying pests and organisms or such other pests which may invade households or structures, including railroad cars, ships, docks, trucks, airplanes, or the contents thereof. pestboard.ca.gov/about/whatis.shtml

Quick Reference Charts, Continued

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control Non-Agricultural Pesticide Use ⁹			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
Structures or its contents	Branches 1, 2, or 3 QAL Cat A or M	B&PC §§ 8550 & 8555 FAC § 11701.5	The intent of the application is the primary determinant: a. When treating structures , incidental treatment of any contents (commodities) is okay and is strictly structural pest control b. Direct treatment of non-food or non-feed commodities (e.g., dunnage, furniture), can be done under <u>either</u> license c. Direct treatment of postharvest or stored agricultural commodities requires a license from DPR d. Fumigations of non-residential processing and storage facility structures (e.g., pet food facilities, bakeries, food production facilities, mills), in which equipment or storage containers are the primary site being fumigated, requires a license from DPR
Servicing devices	Branch 2 QAL Cat I	B&PC § 8505 FAC § 11701.5	Servicing spray devices in: a. Structures such as warehouses, restaurants, office buildings is <u>structural pest control</u> b. Structures located on a farm (such as stables and barns) are an agricultural use but can be done under <u>either</u> license.
Africanized honeybees, non-ag use setting	QAL Cat A	FAC §§ 11701.5 & 12203(b)	Use of a pesticide for control and removal of Africanized honeybees in a “ non-agricultural use ” setting. (See definitions of “agricultural use” and “non-agricultural use”)
Cooling towers & evaporative condensers	QAL Cat A	FAC § 11701.5	Treatment of cooling towers and evaporative condensers in Institutional and industrial sites. (See definition of “non-agricultural use”)
Post-harvest fungicides	QAL Cat A	FAC § 11701.5	A company renting, leasing, or providing equipment and services for applying non-fumigant post-harvest fungicides in a packing house.
Potable water lines, dairy milk lines	QAL Cat A	FAC § 11701.5	Sanitizing institutional and industrial potable water lines, dairy milk lines, and other similar facilities. (See definition of “non-agricultural use”)
Public health related	QAL Cat K	FAC § 11701.5	Businesses who work under a contract with an official program (i.e., Vector Control Agency, County Health Department, etc.) to apply public-health related pesticides to non-agricultural use settings.

⁹ Includes six exemptions from Agricultural use listed in FAC section 11408: Home, Institutional, Industrial, Structural, Vector Control, Veterinarian. See also Compendium Volume 7, section 1.1

Quick Reference Charts, Continued

Guidance in Determining Business License Type Required -- Structural or Agricultural Pest Control			
Non-Agricultural Pesticide Use			
Site / Situation	License Required	Section Cited	Description of Pest Control Conducted
Sanitary Sewers	QAL Cat A	FAC § 11701.5	Applications to sewer manholes (walls & covers) and sanitary sewer system area. Not within the scope of a Branch 2 license or registration.
Water features	QAL Cat A	FAC § 11701.5	Use of algaecides and antimicrobial pesticides to treat water features such as indoor and outdoor fountains, ponds, cascades, waterfalls, and streams.
Wine barrels and corks	QAL Cat M	FAC § 11701.5	Use of sulfur dioxide (SO ₂) labeled as a fumigant to disinfect wine barrels and corks.

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