

# **COMMERCIAL APPLICATION OF ANTIMICROBIAL PESTICIDES IN NORTH CAROLINA**

## **UNDER THE NORTH CAROLINA PESTICIDE LAW OF 1971 (NCGS, CHAPTER 143, ARTICLE 52)**

The term “**Pesticide**” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest. (NCGS § 143-460(28))

The term “**Pest**” includes noxious or undesirable microorganism or macroorganism. It does not include viruses, bacteria, or other microorganisms on or in living persons or other living animals. (NCGS 143-460(26a))

The term “**Antimicrobial Pesticide**” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any microorganism pest. (NCGS § 143-460(2a))

The term “**Pesticide Applicator**” means any person who owns or operates a pesticide application business or who provides, for compensation, a service that includes the application of pesticides upon the lands or properties of others. (NCGS § 143-460(29)) It does not include:

Any person who applies pesticides for Structural Pest Control, as defined in the North Carolina Structural Pest Control Law (NCGS, Chapter 106, Article 4C) (NCGS § 143-460(29)(b)); or

Any person who applies antimicrobial pesticides that are not classified for restricted use AND which are not being used for agricultural, horticultural or forestry purposes. (NCGS § 143-460(d)).

Thus, any person whose business practices include the application of only general use antimicrobials (for purposes other than agriculture, horticulture or forestry), that person does NOT have to be licensed in North Carolina as a pesticide applicator under the NC Pesticide Law.<sup>1</sup>

If a person’s business practices include the application of restricted use antimicrobials to the property of another for compensation, that individual would need to be licensed in the Public Health Category under the NC Pesticide Law.<sup>2</sup>

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<sup>1</sup> This only indicates that the person does not have to be licensed under the NC Pesticide Law to apply this general use antimicrobial product. Other licenses/certification may be required by law to make this type of application.

<sup>2</sup> If the person is licensed under the NC Structural Pest Control Law OR is attempting to prevent, destroy, repel or mitigate viruses, bacteria, or other microorganisms on or in living persons or other living animals, then licensure under the NC Pesticide Law is not required. However, other licenses/certifications may be required by law to make this type of application.

**UNDER THE NORTH CAROLINA STRUCTURAL PEST CONTROL LAW (NCGS, CHAPTER 106, ARTICLE 4C)**

The term “**Structural pest control**” includes the control of . . . household pests . . . and includes the use of pesticides . . . as well as all other substances . . . for the purpose of preventing, controlling and eradicating insects, vermin, rodents and other pests in household structures, commercial buildings, and other structures (including household structures, commercial buildings and other structures in all stages of construction), and outside areas (NCGS § 106-65.24(23))

The North Carolina Structural Pest Control Committee classifies structural pest control licenses into “phases” under the Law. The control of household pests by any method other than fumigation is classified as the “P” phase. (NCGS § 106-65.25(a))

The NC Pesticide Law excludes persons licensed under the NC Structural Pest Control Law from being considered a “pesticide applicator” and no license is required under the NC Pesticide Law to apply general use antimicrobials for purposes that are not agricultural, horticultural or forestry. Therefore, a person licensed in the P-phase under the NC Structural Pest Control Law can apply antimicrobial pesticides, including applications to a structure and its surrounding outside areas, without needing to obtain any additional license to do so.

**PESTICIDE PRODUCT REGISTRATION REQUIREMENTS AND USE INCONSISTENT WITH LABELING PROHIBITIONS**

Prior to being distributed, sold or offered for sale within this State, every pesticide must be registered by the North Carolina Pesticide Board. (NCGS § 143-442(a))

The Pesticide Board will register a pesticide if it is properly registered with the United States Environmental Protection Agency AND is in compliance with the requirements of NCGS § 143-443. However, the Board will NOT register the pesticide if it appears that the pesticide does not warrant its proposed claims OR its labeling does not comply with the provisions of the law. (NCGS § 143-442(d))

The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) exempts certain “minimal risk” pesticides from having to be registered by the EPA. However, these products are still covered under the definition of a “pesticide” in the NC Pesticide Law. Therefore, these products must still be registered by the Pesticide Board prior to being distributed, sold or offered for sale in North Carolina

For antimicrobial pesticides targeted against human pathogens, EPA requires the determination that the product is effective against the microbial target pest. For applications intended to combat SARS-CoV-2 (the virus that causes COVID-19), it is important to use products on EPA's List N: Disinfectants for Use Against SARS-CoV-2. <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2>

Using products not on this list for this purpose would be considered using a pesticide product inconsistent with its labeling [40 CFR Part 168.22(b)(5)] which is unlawful under both the N C Pesticide Law and the N C structural Pest Control Law, [NCGS §143-443 (b)(3); NCGS § 106-65.28(a)(9)].