

By Robert Pakrul and Jim Olinger

The Use of Antimicrobials in a Changing World



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Several months ago, a competitor stopped by the office to discuss the trade. He asked if we had heard that the state was going to require us to have a pesticide applicator license and be a part of a chartered company to apply antimicrobial products. This was news to us, but later we found out the law had been on the books—but not enforced—in Tennessee since 2003. This set us on a whirlwind course to learn all we could about pesticides, their use and the requirements under our state laws.

You might ask how pesticides pertain to our work. The state of Tennessee considers fungal, bacteriological or viral microbes to be pests. To protect public health and welfare and to prevent adverse effects to the environment, pesticides must then be regulated.

The U.S. Congress enacted legislation that regulates the production, transportation, sale, use, and disposal of all pesticides. The Federal Insecticide, Fungicide and Rodenticide Act, commonly referred to as FIFRA, was enacted in 1947 and amended in 1972, 1975, 1978 and 1988. This statute is administered by the U.S. Environmental Protection Agency (EPA). Pesticide applicators are directly regulated and certified by their state agencies; the applicators must have a thorough knowledge of the state and federal pesticide laws. State certification plans are approved and evaluated by the EPA. (*Tennessee Department of Agriculture Pesticide Applicator Training Manual*, p.1)

FIFRA classifies all pesticides according to their potential hazards. The two main classifications of pesticides are *unclassified use* (commonly known as *general use pesticides*) and *restricted use*. The EPA classifies very few pesticides as general use. You must be a certified applicator—or under the direct supervision of one—to apply restricted use pesticides. States, tribes, territories and some local jurisdictions have their own requirements; these can be more stringent than the federal laws but must meet the minimum federal guidelines. Labels for the use of these products must always be followed. (*TDA Pesticide Applicator Training Manual*, p.1–2)

The label is the law, and ignorance is no excuse for not following the law.

Microbial pest control is the use of antimicrobial agents to control microorganisms, such as bacteria, fungi, algae and viruses. In Tennessee, you must be a certified commercial applicator to apply these agents, part of a chartered company, and insured and bonded, with a charter for each office or branch office. There are 27 states with similar laws, so restoration contractors should check to see if these state regulations apply to their businesses.

The Institute of Inspection, Cleaning and Restoration Certification (IICRC) states, “The existence of federal pesticide regulations, combined with the potential of additional state pesticide regulation, mandates the attention of those engaged in the water damage restoration business. Antimicrobial chemicals applied in water damage restoration are pesticides that must be registered with the federal government and used according to their labels. Significant liability exposure can result when those engaged in pesticide application do not comply with the requirements of FIFRA or related state laws and regulations. The risks involved in violating pesticide regulations include impact upon public health, personal injury, property damage, consumer fraud, and exposure to civil penalties and criminal proceedings.” (*IICRC S-500, Second Edition, 1999 p. A-10*)

Awareness of this should serve as a reminder to all contractors, insurance companies, vendor programs and others making recommendations or referrals of providers of services. It would be prudent to have a company’s merchant pest control license on file to avoid any potential exposure to liability.

Don’t rely on this information as a substitute for legal advice. Please contact your legal counsel or state licensing agencies. **RIA**

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