



STATE OF ARIZONA

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Governor

## **Structural Pest Control Commission**

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### **SUBSTANTIVE POLICY STATEMENT POLICY 2007-001 (Effective 9/14/07)**

Pursuant to A.R.S. § 41-1001(20), this substantive policy statement provides the SPCC's current approach to, or opinion of, the requirements of A.R.S. §§ 32-2301(3), (6), and (21), and 32-2325(6) and rules A.A.C. R4-29-202 (B) and A.A.C. R4-29-304 (B) and the SPCC's current practice, procedure or method of action based upon this approach or opinion. This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

#### **A.R.S. § 32-2301. Definitions**

In this chapter, unless the context otherwise requires:

3. "Business of structural pest control" means engaging in, offering to engage in, advertising for, soliciting or performing structural pest control, including any of the following:
  - (a) Identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of households or other structures and the surrounding area by any of the following:
    - (i) Public health pests.
    - (ii) Aquatic pests.
    - (iii) Household pests.
    - (iv) Wood-destroying insects.
    - (v) Pests, including weeds, existing around structures, in ornamental shrubs and trees, on golf courses, along rights-of-way or in lawns and cemeteries.
    - (vi) Fungi.
  - (b) Making written or oral inspection reports, recommendations, estimates or bids with respect to infestations.
  - (c) The application of pesticides or the making of contracts or submitting of bids for the application of pesticides or the use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.

6. "Device" means any mechanical, pesticide or electrical apparatus used in conjunction with, in place of or to supplement, disperse or dispense pesticides.

21. "Structural pest control" means controlling public health pests, aquatic pests, household pests, wood-destroying insects, fungi or other pests, including weeds, that exist near or around structures, in ornamental shrubs and trees, on golf courses, along rights-of-way or in lawns or cemeteries and all pesticide application that could be harmful to public health or the environment. Structural pest control does not include pesticide applications used directly in the commercial production of crops and animals if such applications are governed by the Arizona department of agriculture pursuant to title 3, chapter 2, articles 6 and 6.1.

#### **A.R.S. § 32-2325(6) Unlawful acts**

A person shall not . . . Make recommendations regarding structural pest control unless the person is a licensed applicator.

#### **A.A.C. R4-29-202. License Exemptions; Unlicensed Persons**

**B.** Even if not required to be licensed by the Commission, a person shall not misuse a pesticide or device. Misuse includes using, applying, handling, or storing a pesticide in a manner inconsistent with the label or labeling, or using a device for an unintended purpose as indicated by the labeling of the device.

#### **A.A.C. R4-29-304. Using Pesticides and Devices**

**B.** An applicator shall not misuse a pesticide or device. It is misuse of a pesticide or device if an applicator:  
1. Applies, handles, stores, or disposes of a pesticide or device in a manner that is inconsistent with the label or labeling. . .

This policy statement applies when the SPCC is deciding whether a person must be licensed who uses, offers to use, advertises to use, solicits to use or performs structural pest control using, a device. This policy statement also applies when the SPCC is deciding whether a person who makes recommendations regarding structural pest control must be licensed.

Therefore, it is the opinion of the SPCC that if a person uses a pesticide with a device, then the person must be licensed to use, solicit, and advertise for it. If a person uses a device without a pesticide, the person does not need to be licensed. An unlicensed company or individual, who does not need to be licensed, may use, offer to use, solicit, and advertise pest management services using a device without a pesticide.

With respect to A.R.S. § 32-2325(6), A.A.C. R4-29-202(A)(1)(2) clarifies that a person is not required to be licensed if the person provides general information about a label or labeling, identifying or controlling a pest, integrated pest management, use of an EPA- or Arizona Department of Agriculture-registered pesticide, does not directly or indirectly charge for the information provided, and does not make an on-site recommendation; or the person performs sales work that does not include any of the tasks identified under A.R.S. § 32-2301 as comprising the business of structural pest control or structural pest control.

Pursuant to A.R.S. § 41-1013(B)(14) and A.A.C. R1-1-210, this substantive policy statement shall be filed with the Arizona Secretary of State and published in the *Arizona Administrative Register*.