

**ADOPTED REGULATION OF THE DIRECTOR OF THE
STATE DEPARTMENT OF AGRICULTURE**

LCB File No. R005-25

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 555.390.

A REGULATION relating to pest control; revising certain requirements governing reports relating to inspections or applications of pesticide for wood-destroying pests; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Director of the State Department of Agriculture to adopt regulations requiring a person who holds a license as an applicator for pest control to maintain and furnish certain reports. (NRS 555.390) Existing regulations require a person who performs an inspection or application of a pesticide for wood-destroying pests to write and deliver a report of the inspection or application to the person requesting the inspection or application. Additionally, existing regulations require the report, if completed using an electronic form, to include the digital signature of the person that complies with certain requirements for digital signatures. (NAC 555.430) Existing law defines the term “digital signature” to mean an electronic signature that transforms a message by using an algorithm to provide a method to verify the signature. (NRS 720.020, 720.060, 720.080) Existing law also defines the term “electronic signature” to mean an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. (NRS 719.100) **Section 1** of this regulation eliminates the requirement that a report completed using an electronic form contain a digital signature and instead requires that the report contain an electronic signature.

Section 1. NAC 555.430 is hereby amended to read as follows:

555.430 1. Each person who:

- (a) Makes an inspection for wood-destroying pests;
- (b) Gives any oral or written statement relating to such an inspection; or

(c) After the construction of a structure, makes an application of a pesticide to eradicate wood-destroying pests,

↪ shall write and deliver a report of the inspection or the application of a pesticide to the person requesting the inspection or application, or a designated agent thereof, not later than 5 days after the inspection or the application. The report must be on a numbered form supplied by the Department or an electronic form approved by the Department which includes a unique number obtained from the Department.

2. A person who prepares a report pursuant to subsection 1 must:

(a) File a legible copy of the report with the district or subdistrict office of the Department not later than 15 days after the inspection or the application of a pesticide is made; and

(b) Keep a copy of the report for at least 3 years after preparation of the report.

3. The report must contain:

(a) The name, license number and mailing address of the pest control business performing the inspection or the application of a pesticide and the date and time of the inspection or application.

(b) The number assigned to the escrow or mortgage by the Federal Housing Administration or the Department of Veterans Affairs, if applicable and obtainable.

(c) The street address, city and zip code where the property is located.

(d) The name of the person who requested the inspection or the application of a pesticide.

(e) The name of the person to whom the original of the report is being sent.

(f) The name and address of the owner of the property.

(g) The name and address of the buyer or other interested person, if applicable and obtainable.

(h) If an application of a pesticide was made:

- (1) The date of the treatment.
- (2) An identification of any area to which a pesticide was applied.
- (3) The pesticide name and the registration number assigned to the pesticide by the United States Environmental Protection Agency.

(i) A statement of whether there is or is not evidence of active or inactive infestations of termites, other wood-destroying insects or wood-destroying fungi. Mold must not be reported as wood-destroying fungi. As used in this paragraph:

- (1) “Active infestation” means the presence of living wood-destroying pests.
- (2) “Inactive infestation” means evidence of infestation by wood-destroying pests, without the presence of such pests.

(j) A statement of whether there is or is not any condition conducive to infestation, including contact of wood with the earth, a faulty grade, insufficient ventilation, excessive moisture or cellulose debris. As used in this paragraph:

(1) “Cellulose debris” means any such debris that is of a size that can be raked and in the aggregate comprises one-half cubic foot or more, or a stump or any other wood that is imbedded in a footing and constitutes a contact of wood with the earth. The term does not include pressure-treated wood that is used to support a manufactured home or the skirting of a manufactured home.

(2) “Contact of wood with the earth” means any support or other structure of cellulose that is less than 3 inches above the soil level and in contact with the inspected structure, whether it is internal or external in relation to that structure. The term does not include:

(I) A paling of a fence which is made of wood and which is less than 3 inches above the soil level and in contact with the inspected structure through otherwise acceptable structural elements.

(II) Lattice which is made of wood and which is less than 3 inches above the soil level if the lattice is physically attached to the inspected structure.

(III) An attachment to the inspected structure which is made of wood or cellulose and which is less than 3 inches above the soil level if the attachment is separated from the inspected structure by a flashing which is made of metal.

(IV) A deck which is made of wood and which is less than 3 inches above the soil and in contact with the inspected structure if the deck is separated from the inspected structure by a flashing which is made of metal and the report includes a statement indicating that the deck was excluded from the inspection or application.

(V) Skirting which is installed on a manufactured home and which is less than 3 inches above the soil and in contact with the inspected structure if the skirting is designed by the manufacturer for contact with the ground, is separated from the inspected structure by a flashing which is made of metal or is supported 3 inches or more above the soil level by pressure-treated wood.

(3) “Excessive moisture” means actual moisture on the wood or wood products used in the structure.

(4) “Faulty grade” means a condition in which:

(I) A floor joist or stringer is less than 12 inches above the soil level;

(II) The top of the foundation is less than 3 inches above the adjacent soil level; or

(III) The drainage is such that there is visible evidence of exposure of surface water on the structure.

(5) “Insufficient ventilation” means less than 1 square foot of ventilation per 300 square feet of crawlspace, less than 1 square foot for every 1500 square feet of ground area covered by a vapor barrier and less than four areas permitting ventilation. The term “insufficient ventilation” does not include a crawlspace which is:

(I) Mechanically ventilated; and

(II) Free of wood-destroying fungi and excessive moisture.

(k) A diagram or sketch of the foundation or part of the inspected structure indicating the location of any condition likely to lead to infestation or infection or any area showing infestation or infection.

(l) A diagram or explanation, or both, of the inspected structure or part of it showing:

(1) The location of any inaccessible area or subarea and any area or subarea not inspected;

(2) Any portion of the structure normally visible which cannot be inspected without mechanically altering the structure, including, without limitation, subflooring or a rim joist that is concealed by insulation; or

(3) Any area where normal conditions have been altered so an inspection is not possible, such as storage in a closet.

(m) The full name, license number and signature or, if an electronic form is used, ~~{a digital}~~ *an electronic* signature of the licensee performing the inspection and application of a pesticide if an application is performed. If an electronic form is used, the report must include the number obtained from the Department pursuant to subsection 1 and ~~{a digital}~~ *an electronic* signature of the licensee . ~~{which complies with the applicable requirements of chapter 720 of NRS.}~~

4. Unless otherwise authorized by the Director, each person who, after the construction of a structure, applies a termiticide or other pesticide to eradicate wood-destroying pests shall apply the termiticide or other pesticide only to the sites and in the specific quantities and dosages listed on the label of the termiticide or other pesticide.

5. As used in this section ~~["pressure-treated"]~~ :

(a) "Electronic signature" has the meaning ascribed to it in NRS 719.100.

(b) "Pressure-treated wood" means wood or wood products that:

~~[(a)]~~ *(1)* Are pressure-treated or certified by the Board of Review of the American Lumber Standard Committee, Inc.;

~~[(b)]~~ *(2)* Are designed by the manufacturer for contact with the ground;

~~[(c)]~~ *(3)* Are guaranteed against structural damage by termites or fungal decay; or

~~[(d)]~~ *(4)* Are described in ~~[paragraph (a), (b) or (c)]~~ *subparagraph (1), (2) or (3)* and have surfaces which have been cut, if those surfaces have been treated with a preservative for wood and the wood or wood products have been inspected and determined to be free of infestation.