

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066
Informational Statement
LCB File No. R033-14

1. A clear and concise explanation of the need for the adopted regulation.

The need for the adopted regulation is to streamline the operations of the Pest Control Operator Licensing and Enforcement Program in order to better regulate the commercial pest control industry and increase fees for the Restricted Use Pesticide (RUP) certificate program. In particular, the following regulation changes were adopted:

- 1) Defined the term “spot treatment” which is found on many pesticide labels to clarify the meaning for applicators and to simplify enforcement,
- 2) Combined the weed control section of the Ornamental and Turf license category with the weed control section of the Right of Way category to create a single Weed category, streamlining examination, licensing, and enforcement,
- 3) Added a Location Principal to identify the person responsible at each pesticide business location to streamline communications and enforcement,
- 4) Clarified and strengthened the authority for the Director of the Nevada Department of Agriculture (NDA) to assess administrative fines and penalties against persons or entities conducting the custom application of pesticides without a license in order bring unlicensed persons and entities into compliance,
- 5) Clarified that in the case of a pesticide spill, the person or entity that made the spill is responsible for cleanup of the spill and define the reportable amounts of pesticide spill so that spills are cleaned up and reported properly,
- 6) Amended the regulations to allow the NDA Pest Control Operator Licensing and Enforcement Program to accept electronic forms and electronic signature to simplify administration of the program and to reduce costs to both the state and the industry,
- 7) Increased the once-every-four-years fee for the RUP certificate in order to better cover the costs of administering the program, and
- 8) Made minor editorial clarifications.

2. Description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Thirty days before the hearing date, a Notice of Intent to Act Upon a Regulation in regards to the proposed regulations was

- 1) Posted to the NDA web site, NDA offices in Sparks, Las Vegas, and Elko,
- 2) Posted at public libraries in all Nevada counties,
- 3) Emailed to the following NDA on-line mailing lists: all NDA licensed pest control business and operators in northern and southern Nevada (619 persons or entities) and all Nevada RUP certificate holders (743 persons) all NDA pest control operator program continuing education provider contacts (137 persons or entities), all persons and entities on the NDA Pesticide Laboratory interested person list (605 persons or entities).
- 4) Announced at the Nevada Pest Control Association quarterly meeting (44 members attending).

One public hearing was held on May 21, 2014 at the NDA Las Vegas office with video link to NDA offices in Sparks and Elko. There were 9 attendees in Las Vegas (including 4 NDA employees), and 2 attendees in Sparks (including 1 NDA employee), 0 attendees in Elko, (and one attendee by phone from the Attorney General's Office in Carson City). All comments were recorded in an audio/visual file; a copy of the audio/visual file can be obtained by contacting the NDA, attention Kathleen Bednarz, at the NDA Las Vegas office.

To summarize, there were three public comments. One comment was in support of the NDA amending the regulations to allow for the receipt of electronic forms, especially the Wood Destroying Pest Inspection Report. A second comment was in regards to the definition of spot treatment, which was clarified. A third comment was in regards to the establishment of the new "weeds" category. The new weeds category will combine the current weed section of the Ornamental and Turf pest control license category and the current Right of Way category into a single Weed category. The comment was neither supportive nor non-supportive of the proposed Weed category, but in regards to NDA's plans to implement the regulation change. The individual felt that NDA's plans to grandfather in pest control operators that hold the current license for the Ornamental and Turf category and pest control operators that hold the current license for the Right of Way category would be an issue because he believes that Right of Way licensees would not have the necessary knowledge or training to adequately treat weeds in ornamental and turf settings.

- 3. The number of persons who:**
 - (a) Attended each hearing:** 12 including 6 state employees
 - (b) Testified at each hearing:** 3
 - (c) Submitted written comments:** 0

- 4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**
 - (a) Name; John Fortanini**
 - (b) Telephone number; 702-400-4778**
 - (c) Business address; 5470 Arville St, Suite 201, Las Vegas NV**
 - (d) Business telephone number; 702-597-9760**
 - (e) Electronic mail address; jfontanini@rollins.com**
 - (f) Name of entity or organization represented: Orkin.**
 - (a) Name; Rick Rutkey**
 - (b) Telephone number; 702-251-5559**
 - (c) Business address; 3400 W. Desert Inn Rd # 23, Las Vegas NV**
 - (d) Business telephone number; 702-251-5559**
 - (e) Electronic mail address; rrupkey@senske.com**
 - (f) Name of entity or organization represented: Senske Pest Control.**

- (a) **Name; Timothy Plants**
- (b) **Telephone number;**
- (c) **Business address; PO Box 5841, Fallon, NV**
- (d) **Business telephone number; 775-423-7129**
- (e) **Electronic mail address; ipm@cccomm.net**
- (f) **Name of entity or organization represented: Integrity Pest Control.**

5. **A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary.**

Same as question 2 above.

6. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

There were no comments given that substantially changed the meaning or scope or intent of the proposed regulations.

7. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.**

- (a) **Estimated economic effect on the businesses which they are to regulate.**

Little to no economic effect on the regulated businesses. Many of the proposed changes were requested by industry. The use of electronic forms and signatures should decrease costs to industry. The increase in the once-every-four-years RUP fee amounts to only \$6.25 per year to the certificate holder.

- (b) **Estimated economic effect on the public which they are to regulate.**

No economic effect on the public.

8. **The estimated cost to the agency for enforcement of the proposed regulation:**

Some savings may accrue to the NDA from streamlined examinations, training, and enforcement. Savings will accrue to the NDA from raising the fee for the Restricted Use Pesticide certificate to recover costs of administering the program.

9. **A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

No duplication or overlap of regulations of other state or federal agencies.

- 10. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

Not more stringent than federal regulations.

- 11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

By increasing the fee for the Restricted Use Pesticide certificate, the NDA expects to collect an additional \$8,250 per year that will go to offsetting costs of administering the program.