

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS--NRS 233B.066**  
**Informational Statement**  
**LCB File No. R093-15**

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

The need for the adopted regulation is to update the operations of the Pest Control Operator Licensing and Enforcement Program in order to better protect the public and the environment. In particular the following regulation changes were adopted:

- 1) Extend pest control licensing requirements to employees or registered pesticide dealers who do pesticide consulting in order to ensure that pesticide users are getting the best possible recommendations,
- 2) Extend pest control licensing requirements to individuals doing experimental trials with new pesticides or demonstration trials for hire in order to ensure the trials are tracked and done with the highest possible level of technical competence (this does not include University of Nevada Cooperative Extension personnel),
- 3) Extend pest control licensing requirement to public agencies doing pest control for hire and who compete with private companies for pest control work to ensure this work is done according to label and regulations,
- 4) Create a pest control licensing category for pesticides and biocides used in cooling towers, petroleum explorations and pumping, and similar uses in order to ensure that this growing use of pesticides is done according to labels and regulations,
- 5) Clarify that operators of unmanned aerial vehicles used for pesticide applications are required to have an aerial pesticide license just as are pilots of manned aerial vehicles to ensure that unmanned aerial vehicle applications of pesticides are done in a safe manner in according to labels and regulations,
- 6) Define the term *termiticide* in regulations to mean a pesticide registered by the United States Environmental Protections Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136a, and registered with the Nevada Department of Agriculture (NDA), and for which the label provides directions for use for the control of termites in order to ensure that fully reviewed and approved pesticides are used to control termites in soil applied preconstruction treatments in Nevada,
- 7) Eliminate the required *white tag* after post construction termite inspection or treatment as it didn't meet a clear need and was burdensome to industry,
- 8) Require that insecticides used in bait stations be used according to label or have an abbreviated label in order to protect the public,
- 9) Require that official termite preconstruction treatment *green tags* be forms supplied by the NDA (that is, not photocopies of official forms),
- 10) Increase the pest control licensing exam fees to \$50 for the first exam (of a given type/category) and \$35 for each subsequent exam (of the same type/category) in order to keep exam fees current with inflation and recover revenue lost from placing the Study Manuals on line for free download in order to ensure adequate funds are available in the future to maintain adequate inspection and enforcement of the pest control industry,
- 11) Implement a late fee for annual pest control business licensing of \$125 to encourage on time filing which will streamline operations and cut costs, and
- 12) Minor editorial changes.

**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,
- 2) Posted at NDA Headquarters in Sparks, NDA Consumer Equitability office in Sparks, and NDA offices in Las Vegas, and Elko,
- 3) Posted at public libraries in the fourteen Nevada counties without NDA offices,
- 4) Posted to the State Capitol Building, the Attorney General's office, the State Library and Archives, and the Legislative Counsel Bureau,
- 5) Posted to the University of Nevada Cooperative Extension offices in Churchill County, Douglas County, Washoe County, Clark County, and Lyon County,
- 6) Emailed to the following NDA list serve mailing lists: all NDA licensed pest control business and operators in northern and southern Nevada (704 persons or entities) and all Nevada Restricted Use Pesticide certificate holders (921 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 (594 persons or entities).

One public hearing was held on January 20, 2016 at the University of Nevada Cooperative Extension (UNCE) office in Reno with audio/video link to UNCE offices in Las Vegas and Elko. There were 15 attendees in Reno (plus 3 NDA employees), 36 attendees in Las Vegas (plus 4 NDA employees), and 7 attendees in Elko. All comments were recorded in an audio/visual file. Copies of the sign in sheets and/or a copy of the audio/visual file and/or written comments can be obtained by contacting the NDA, attention Ruth Tietjen, at the NDA Sparks Headquarters.

To summarize public comments both written and oral to the proposed changes to NAC 555, public comments fell into the following categories:

- 1) Request to eliminate the proposed definitions of primary container, secondary container, and application device until further discussion could be had with the regulated industry (adopted),
- 2) Request to eliminate the proposed digital photograph of a structure/property after a post construction termite inspection or treatment as not meeting the intended goals and being burdensome to industry (adopted),
- 3) Request to better define the term *for hire* in regards to extending the pest control licensing requirements to government agencies who do pest control for hire (adopted),
- 4) Request for clarification of the insurance requirements for government agencies who do pest control *for hire* (clarified),
- 5) Request that the licensing fields established for commercial pest control businesses and government agencies be equivalent unless the activity performed under the government licensing category is inherently governmental (this was NDA's intention),

6) Request to eliminate the requirement that employees of government agencies who do pest control *for hire* but only do plant inventory or mechanical control be licensed (considered),

7) Request to consider noxious weed abatement as a certification requirement activity rather than a licensing requirement activity (considered),

8) Request to clarify how a government agency doing pest control *for hire* would meet the requirements for a Primary Principal, who and how many government employees would have to be licensed as Operators, and would seasonal personnel have to be licensed, and if not, how would they be supervised (considered and clarified),

9) Express concern that proposed NAC 555 changes are not consistent with U.S. Environmental Protection Agency proposed rule concerning the certification of pesticide applicators of restricted use pesticides and that this would lead to conflicting state and federal requirements (considered),

10) Request to better define the proposed consulting category and who would be included in it (adopted),

11) Request to better define the proposed research and development category and who would be included in it (adopted),

12) Request that the term *securely fastened* be better defined in terms of securing a service container to a service vehicle (better defined),

13) Request clarification of the proposed requirement that insecticide used in bait stations be used according to label directions or have an abbreviated label (adopted),

14) Express concern that structural fumigation was not addressed in the new government agency fumigation category (clarified that government agencies don't do structural fumigation),

15) Request that pest control licensing be changed from a one year renewal cycle to a two to four year renewal cycle (not part of current proposed changes to NAC 555 but added to list of future considerations).

**3. The number of persons who:**

(a) **Attended each hearing:** 58 plus 7 state employees

(b) **Testified at each hearing:** 12

(c) **Submitted written comments:** 12

**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;** Joey Toth

(b) **Telephone number;** 702-400-1946

(c) **Business address;** 6085 Egan Crest Drive, Las Vegas, NV 89128

(d) **Business telephone number;** 702-400-1946

(e) **Electronic mail address;** jtoth@pitbullpestcontrol.com

(f) **Name of entity or organization represented:** Nevada Pest Management Association.

(a) **Name;** Keith Pratt

(b) **Telephone number;** 702-242-8668

- (c) Business address; 8721 Isola Drive, Las Vegas, NV 89117
- (d) Business telephone number; 702-282-8668
- (e) Electronic mail address; keith@keithspestcontrol.com
- (f) Name of entity or organization represented: Keith's Pest Control LLC and the Nevada Pest Management Association.

- (a) Name; Chris Bramley
- (b) Telephone number; 702-455-7543
- (c) Business address; 5809 E Flamingo Road, Las Vegas, NV 89122
- (d) Business telephone number; 702-455-7543
- (e) Electronic mail address; Chrisb@clarkcountynv.gov
- (f) Name of entity or organization represented: Clark County Vector Control, Clark County Public Works.

- (a) Name; Jim Fredricks
- (b) Telephone number; 703-352-6762
- (c) Business address; 10460 North Street Fairfax, VA 22030
- (d) Business telephone number; 703-352-6762
- (e) Electronic mail address; jfredricks@pestworld.org
- (f) Name of entity or organization represented: National Pest Management Association

- (a) Name; Emily Willard
- (e) Electronic mail address; emilywillard@gmail.com
- (f) Name of entity or organization represented:

- (a) Name; Rob Holley
- (b) Telephone number; 775-246-1999
- (c) Business address; PO Box 1807, Dayton, NV 89403
- (f) Name of entity or organization represented: Dayton Valley Conservation District

- (a) Name; Jeff Begovich
- (b) Telephone number; 775-782-9835
- (c) Business address; 1323 Waterloo Lane, Gardnerville, NV 89410
- (d) Business telephone number; 775-782-9835
- (f) Name of entity or organization represented: Douglas County Weed Control

- (a) Name; Dan Hathaway
- (e) Electronic mail address; dpwhathaway@gmail.com
- (f) Name of entity or organization represented:

- (a) Name; Russell Hedland
- (b) Telephone number; 702-369-2847
- (c) Business address; 1850 Whitney Mesa Drive Suite 150, Henderson, NV 89014
- (d) Business telephone number; 702-369-2847
- (e) Electronic mail address; rusty@369bugs.com

- (f) Name of entity or organization represented: Las Vegas Pest Control**
- (a) Name; Betsy Macfarlan**
- (f) Name of entity or organization represented: Eastern Nevada Landscape Coalition and the Nevada Weed Management Association**
- (a) Name; Nora B Rasure and Todd Neel**
- (b) Telephone number; 406-329-3133**
- (c) Business address; 324 25th Street, Ogden, UT 84401**
- (d) Business telephone number; 406-329-3133**
- (e) Electronic mail address; toddaneel@fs.fed.us**
- (f) Name of entity or organization represented: US Department of Agriculture, Forest Service, Intermountain Region**
- (a) Name; Edwin James**
- (b) Telephone number; 775-887-7450**
- (c) Business address; 777 Williams Street 110A, Carson City, NV 89701**
- (a) Name; Nancy Upham**
- (e) Electronic mail address; CCMosquito@cccomm.net**
- (f) Name of entity or organization represented: Churchill County Mosquito, Vector and Noxious Weed Abatement District**
- (a) Name; Krista Jenkins**
- (e) Electronic mail address; DCMosquito@gmail.com**
- (f) Name of entity or organization represented: Douglas County Mosquito District**
- (a) Name; Ed Ryan**
- (e) Electronic mail address; paul.ryan@nacdn.net**
- (f) Name of entity or organization represented: National Association of Conservation Districts**
- (a) Name; Craig Burnside**
- (e) Electronic mail address; burnside@charter.net**
- (f) Name of entity or organization represented: Douglas County**
- (a) Name; Jim Shaffer**
- (e) Electronic mail address; jshaffer@washoecounty.us**
- (f) Name of entity or organization represented: Washoe County Health District**
- (a) Name; Sam Sanders**
- (e) Electronic mail address; sam@humboldt看ldlife.com**
- (f) Name of entity or organization represented: Humboldt County Wildlife**
- (a) Name; Darla Barkdull**
- (e) Electronic mail address; darla.barkdull@ifa-coop.com**

**(f) Name of entity or organization represented: Intermountain Farmers Association**

**(a) Name; Jason Myers**

**(b) Telephone number; 702-528-4411**

**(d) Business telephone number; 702-528-4411**

**(e) Electronic mail address; Jason.myers@univarusa.com**

**(f) Name of entity or organization represented: Univar USA Pest Control Service and the Nevada Pest Management Association**

**(a) Name; Rick Purcell**

**(e) Electronic mail address; purchem@frontiernet.net**

**(f) Name of entity or organization represented: PurChem**

**(a) Name; Carl Clinger**

**(b) Telephone number;**

**(c) Business address;**

**(d) Business telephone number;**

**(e) Electronic mail address; nvrancher2000@yahoo.com**

**(f) Name of entity or organization represented: Big Meadow Conservation District, Virgin Cooperative Weed Management District, egg producer**

- 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.**

Several changes were made to the proposed regulation based upon public comments, including the following:

- a) Deletion of proposed Sections 2, 5 and 6,
- b) Deletion of reference to secondary containers and application device in NAC 555.400.9,
- c) Deletion of proposed section NAC 555.430.6,
- d) Clarification of the term *for hire*,
- e) Clarification of the Consultant category,
- f) Clarification of the Research and Demonstration category.

- 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.**

The regulations will impose little, if any, net economic impact on pest control business.

**(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:**

The NDA does not anticipate any increased cost due to these regulations.

**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.**

The NDA expects to generate \$60,000 in additional revenues from the increase in exam fees and the implementation of a late fee for annual licensing which will go to ensure there is adequate revenue in the future to maintain an adequate level of pest control inspections and enforcement to protect the public and the environment. This income will be offset in part by the loss of revenue created by the NDA providing training manuals online for free.