

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

**LCB File No. R147-03**

October 30, 2003

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

AUTHORITY: §§1-5, 7, 9, 14-16, 18 and 19, NRS 555.400; §§6, 17, 20, 21 and 23, NRS 555.355 and 555.400; §§8 and 24, NRS 555.390 and 555.400; §§10 and 12, NRS 555.380 and 555.400; §11, NRS 555.380, 555.390 and 555.400; §13, NRS 555.400 and 555.470; §22, NRS 555.353 and 555.400.

**Section 1.** Chapter 555 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

**Sec. 2.** *“Physical presence” means the presence of a person certified in the use of a restricted-use pesticide on the premises where the application of the restricted-use pesticide is occurring.*

**Sec. 3.** *“Supervision” means that a competent person is applying a pesticide pursuant to the instructions and control of a person who is licensed or certified in the use of the pesticide and who is responsible for the actions of the person applying the pesticide, but does not require the physical presence of a person licensed or certified in the use of the pesticide unless the label on the pesticide requires the physical presence of such a person.*

**Sec. 4.** *“Wood-destroying fungi” means fungi that infest and destroy cellulose as that infestation and destruction relates to structural damage. The term does not include a fungus that:*

*1. Infests and destroys cellulose as that infestation and destruction relates to an adverse effect only on human health or other human health concerns; or*

*2. Infests noncellulose surfaces.*

**Sec. 5. 1. The fields of licensed primary principal commercial applicators are:**

*(a) Aerial—The use of aircraft on standing or running water, rangeland or cropland.*

*(b) Agricultural ground—The use of ground equipment on rangeland, cropland or animals.*

*(c) Urban structural—The use of ground equipment in urban areas and in, on or around structures.*

*2. The categories of licensed primary principal commercial applicators are:*

*(a) Aerial:*

*(1) Insecticides—The application of insecticides, miticides and acaricides.*

*(2) Herbicides—The application of herbicides and plant regulators.*

*(3) Desiccants and defoliants—The application of desiccants and defoliants.*

*(4) Fungicides and bactericides—The application of fungicides, bactericides and nematocides.*

*(b) Agricultural ground:*

*(1) Insecticides—The application of insecticides, miticides and acaricides.*

*(2) Herbicides—The application of herbicides and plant regulators.*

*(3) Desiccants and defoliants—The application of desiccants and defoliants.*

*(4) Fungicides and bactericides—The application of fungicides, bactericides and nematocides.*

*(5) Rodenticides—The application of rodenticides.*

*(c) Urban and structural:*

*(1) Ornamental and turf—The control of insects, weeds, vertebrates and plant diseases and the use of plant regulators on ornamentals and turf in urban areas, including, without limitation, fruit trees in urban areas if the fruit trees are not used for commercial purposes.*

*(2) Industrial and institutional—The control of insects and vertebrates in, on or around industrial complexes, institutional complexes and dwelling units.*

*(3) Structural—The control of wood-destroying pests, inspection for wood-destroying pests and inspection for conditions conducive to infestations of wood-destroying pests.*

*(4) Fumigation—The use of poisonous and lethal fumigants.*

*(5) Aquatic—The control of insects, weeds and vertebrates in aquatic areas that are used or are intended for use in and around industrial complexes, institutional complexes and dwelling units.*

*(6) Right-of-way—The control of weeds in the maintenance of rights-of-way, including, without limitation, public roads, power lines, pipelines and railway rights-of-way.*

*(7) Preservation of wood—The application of pesticides directly to wood or wood products that are not a part of a habitable structure to prevent or control the degradation of the wood or wood product by a wood-destroying organism, including, without limitation, a fungus or bacterium.*

**Sec. 6. 1.** *The Director will deem a licensed primary principal commercial applicator who has been issued a license in a field or category of pest control that is set forth in NAC 555.280 to have been issued a certificate in the same field or category as set forth in section 5 of this regulation.*

**2.** *The Director will issue to a licensed primary principal commercial applicator who is deemed to be certified pursuant to subsection 1 a certificate authorizing the application or*

*supervision of the application of restricted-use pesticides for the fields or categories for which the primary principal commercial applicator is deemed to be certified.*

**Sec. 7.** NAC 555.250 is hereby amended to read as follows:

555.250 As used in NAC 555.250 to 555.530, inclusive, unless the context otherwise requires, the words and terms defined in NAC 555.2505 to 555.258, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 8.** NAC 555.410 is hereby amended to read as follows:

555.410 Each person subject to the provisions of NAC 555.400 shall:

1. Keep a record for 2 years of each property treated, showing:

(a) If the person is licensed in the aerial or agricultural ground field:

(1) The date of the treatment.

(2) The full name of the person for whom and the county where the treatment was conducted.

(3) The full name of the pilot or applicator doing the treating.

(4) The crop or site treated.

(5) The number of units treated, including, without limitation, the number of acres or miles or fraction thereof.

(6) The brand name or generic name of the pesticide that was applied, the registration number assigned to the pesticide by the Environmental Protection Agency and the dosage applied.

(7) The purpose for which the crop or site was treated.

(8) The time the treatment was started and the time the treatment was finished.

(9) The temperature at the start and finish of the treatment.

- (10) The wind velocity and wind direction at the start and finish of the treatment.
- (b) If the person is licensed in the urban and structural field:
- (1) The date of the treatment.
  - (2) The address where the treatment was conducted.
  - (3) The full name of the applicator.
  - (4) The site treated, including, without limitation, the kitchen, the crawlspace beneath the structure, and the yard or area surrounding the structure.
  - (5) The brand name or generic name of the pesticide that was applied and the registration number assigned to the pesticide by the Environmental Protection Agency.
  - (6) The total amount of any diluted pesticide and the concentration of the pesticide that was applied.
  - (7) If the treatment is conducted in the categories of ornamental and turf, *right-of-way*, *aquatic* or fumigation:
    - (I) The temperature at the start and finish of the treatment.
    - (II) The wind velocity and direction at the start and finish of the treatment.
    - (III) The area of any turf or ground treated.
    - (IV) The area or volume fumigated.
  - (8) If the treatment is conducted in the category of structural pest control and the treatment is a preconstruction treatment, a copy of the *Housing and Urban Development*-National Pest Control Association Form ~~99b~~ *99-B* entitled “New Construction Subterranean Termite Soil Treatment Record” or:

(I) If a vertical application of a termiticide other than a preconstruction treatment that is applied directly to wood, the depth of the application of the treatment as measured from the soil to the top of the footing and the total linear footage of the footing;

(II) If a horizontal application of a termiticide is applied, the total number of square feet treated; and

(III) The information provided on the tag for preconstruction treatment as required by paragraphs (b) to (i), inclusive, of subsection 1 of NAC 555.428.

↪ The *Housing and Urban Development*-National Pest Control Association Form ~~99b~~ **99-B** is available from CBS Forms by mail at 10109 Tiburon Drive, Florence, Kentucky 41042, from CBS Forms by telephone at ~~[(800) 324-7676 or]~~ **800.324.7676**, from CBS Forms at the Internet address <<http://www.cbsforms.com> ~~[/>.]~~ /> *or from the United States Department of Housing and Urban Development Client Information and Policy System at the Internet address* <[http://www.hudclips.org/sub\\_nonhud/html/pdfforms/99b.pdf](http://www.hudclips.org/sub_nonhud/html/pdfforms/99b.pdf)>. A pack of 100 forms may be obtained from CBS Forms, for the price of \$39.95, plus \$7 for shipping and handling.

2. Report immediately to the Director:

(a) Any emergency dumps of pesticides by aircraft, and accidents of aircraft loaded with pesticides or ground equipment involving the spillage of pesticides; or

(b) The spillage at sites of operations of unmixed pesticides that are detrimental to persons, wildlife, domestic animals or crops.

3. Report to the Director within 48 hours any cases of apparent pesticide poisoning requiring medical treatment.

4. File with the Director on forms to be furnished by him a monthly report of pest control operations involving the use of restricted-use pesticides for each month in which such operations occurred. The report must:

(a) Be filed on or before the 15th day of the following month; and

(b) If the person is licensed in the aerial or agricultural ground field:

(1) Include all pest control operations, including those operations involving the use of restricted-use pesticides; and

(2) Be filed for those periods during which no operations were conducted unless written notification is given to the Director declaring that operations have ceased.

5. Submit to the Director any reports or records he requests.

**Sec. 9.** NAC 555.425 is hereby amended to read as follows:

555.425 *1.* The name of the business and the number of the permanent license of each licensee which is a business must be prominently displayed on all service vehicles of that business, except unmarked vehicles not used principally in selling or soliciting services for pest control. The name of the business and the number of the license displayed on the vehicles must be:

~~{1}~~ (a) The same as the name and number on the license issued by the Department; and

~~{2}~~ (b) Displayed in a prominent place on both sides of the vehicle in letters at least 2 inches in height and in a color which contrasts with the color of the vehicle.

*2. Each service vehicle that is used in the custom application of pesticides must be equipped with:*

*(a) Clothing and equipment designed to provide protection against any pesticide carried on or in the vehicle;*

*(b) Absorbent material capable of absorbing and containing more than 1 gallon of pesticide that has been spilled;*

*(c) Equipment designed to store safely materials contaminated with pesticide; and*

*(d) A sufficient quantity of potable water to wash skin exposed to pesticide.*

**Sec. 10.** NAC 555.427 is hereby amended to read as follows:

555.427 1. *Before performing a preconstruction treatment, a licensee must submit an accurate, complete and legible form entitled “Protection of Completed Work” to the district or subdistrict office of the Department responsible for the area in which the preconstruction treatment will be performed.*

2. *The form submitted pursuant to subsection 1 must include:*

*(a) The name and telephone number of the pest control business that will be performing the preconstruction treatment;*

*(b) The name and address of the person for whom the preconstruction treatment will be performed;*

*(c) The location or address of the site at which the preconstruction treatment will be performed;*

*(d) The expected starting date and completion date of the preconstruction treatment;*

*(e) The number of sites on which the preconstruction treatment will be performed;*

*(f) A description of the type of preconstruction treatment that will be performed;*

*(g) A description of the location where the preconstruction tags will be affixed;*

*(h) The date on which the form is completed; and*

*(i) The printed name and signature of the primary principal for the pest control business.*

3. A licensee who performs a preconstruction treatment to soil:

(a) Shall, unless otherwise authorized by the Director, apply the termiticide only to the sites and in the specific quantities and dosages provided on the label of the termiticide.

(b) Shall apply the termiticide in a manner that establishes a horizontal barrier before the pouring of each concrete slab that will be under the roof of the structure which will be constructed.

(c) Shall apply the termiticide in a manner that establishes a vertical barrier in each critical area that is identified by the label of the termiticide and visible at the time of the preconstruction treatment.

(d) Shall, within 30 days after grading and any other disturbance of the soil that is related to construction has been completed, apply the termiticide in a manner that establishes a vertical barrier at the exterior of:

(1) The walls of the foundation for a structure that is being constructed using a raised foundation; or

(2) The concrete slab for foundations that are constructed on the ground.

(e) May, if it is in accordance with the label of the termiticide, apply a termiticide using a higher concentration of the termiticide in a reduced volume if the licensee determines that the absorption of the termiticide by the soil necessitates a reduced volume of the termiticide.

~~12.1~~ 4. A licensee who performs a preconstruction treatment directly to wood shall, unless otherwise authorized by the Director, apply the termiticide only to the sites and in the specific quantities and dosages provided on the label of the termiticide.

**Sec. 11.** 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 his designated agent, not later than 5 days after the inspection or the application. The report must be on a numbered form supplied by the Department.

2. A copy of each report must be filed 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.

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 of the inspection or application.

(b) The number assigned to the escrow or mortgage by the Federal Housing Administration or ~~Veterans' Administration,~~ *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) An identification of any area to which the application of a pesticide was made.

(i) The name, the registration number assigned by the Environmental Protection Agency and the total diluted amount and concentration of any pesticide that was applied.

(j) A statement of whether there is evidence of active or inactive infestations of termites, other wood-destroying insects or wood-destroying fungi. *Fungi that are not wood-destroying fungi 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.

(k) A statement of whether there is 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) “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 ~~[-or-]~~.

(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.

(2) “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.

(3) “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, or less than ~~two~~ *four* areas permitting cross ventilation (i.e., two areas on *the foundation that are* opposite ~~sides~~ *two areas on the opposing side* of the foundation).

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

(5) “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.

(l) 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.

(m) 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.

(n) The full name and signature of the inspector.

4. Upon completion of an inspection or the application of a pesticide, the person making the inspection or application shall:

(a) If the structure has a crawlspace beneath it, affix a tag supplied by the Department to the structure in an area in which the tag is visible from the entrance to the crawlspace;

(b) If the structure does not have a crawlspace beneath it, affix a tag supplied by the Department to the structure in an area in which the tag is visible from the access area under the kitchen sink; or

(c) If the inspection or application is performed at a structure with multiple units for occupancy, deliver the tag to the office of the manager of the structure or to the owner of the structure if there is no office of the manager of the structure.

5. The tag affixed pursuant to subsection 4 must contain:

(a) The license number and name of the pest control business that performed the inspection or application.

(b) A statement *indicating* whether an inspection or application was performed. If an application was performed, *the tag must contain* a statement of the name, amount and concentration of the pesticide applied.

(c) The date on which the inspection or application was performed.

6. 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.

7. As used in this section, “pressure-treated wood” means wood or wood products that:

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

(b) Are designed by the manufacturer for contact with the ground;

(c) Are guaranteed against structural damage by termites or fungal decay; or

(d) Are described in paragraph (a), (b) or (c) 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.

**Sec. 12.** NAC 555.510 is hereby amended to read as follows:

555.510 1. Fumigation may be performed only under the ~~direct and personal~~ supervision of a person who is ~~§~~

~~—(a) A certified applicator; and~~

~~—(b) Licensed pursuant to subparagraph (4) of paragraph (c) of subsection 2 of NAC 555.280 to perform pest control using lethal fumigants.] certified pursuant to NAC 555.600 to 555.700, inclusive, and sections 5 and 6 of this regulation.~~

2. Except as otherwise provided in subsection 3, the person exercising ~~[direct and personal]~~ supervision over the fumigation shall ensure that:

(a) Before the commencement of fumigation, warning signs are posted in plainly visible locations on or in the immediate vicinity of all entrances to the area under fumigation and are not removed until:

(1) The fumigation and ventilation have been completed;

(2) Except as otherwise provided in paragraph (c), the premises have been tested and the concentration of the fumigant in the air is less than the level listed on the label of the fumigant as safe for reentry; and

(3) He determines the premises are safe for reentry.

(b) Ventilation is conducted with due regard for the public safety.

(c) If the label of the fumigant does not list a level of concentration of the fumigant in the air that the manufacturer has determined is safe for reentry, and the fumigant used is:

(1) Methyl bromide, chloropicrin or sulfuryl fluoride, the concentration of the fumigant in the air is 3 parts per million or less before he determines that the premises are safe for reentry;

(2) Aluminum phosphide or magnesium phosphide, the concentration of the fumigant in the air is 5 parts per million or less before he determines that the premises are safe for reentry;

and

(3) Any fumigant other than those fumigants listed in subparagraph (1) or (2), he obtains from the manufacturer information concerning the level of concentration of fumigant in the air

that the manufacturer has determined is safe for reentry and the level of concentration of fumigant in the air is the level determined to be safe by the manufacturer or less before he determines that the premises are safe for reentry.

(d) Warning signs are printed in red on a white background and include:

(1) The following statement, written in English and Spanish, in letters not less than 2 inches in height:

DANGER/ PELIGRO

AREA UNDER FUMIGATION/ AREA BAJO FUMIGACION

DO NOT ENTER/ NO ENTRE

(2) A skull and crossbones symbol that is not less than 1 inch in height;

(3) The name of the fumigant in use, the date and time the fumigant was injected; and

(4) The name, address and telephone number of the licensee performing the fumigation.

(e) The area to be fumigated is vacated by all occupants before the commencement of fumigation and all entrances to the area are locked, barricaded or otherwise secured against entry until the end of the exposure period, then opened for ventilation and relocked, barricaded  or otherwise secured against reentry until he declares the area to be safe for reentry.

(f) Before the commencement of fumigation, the space to be fumigated is sealed in such a manner that tests taken before ventilation is begun will show that the required concentration of the fumigant released within the space has been retained therein in compliance with the manufacturer's recommendations.

(g) An adequate warning agent is used with all fumigants which lack such an agent if a warning agent is appropriate for use on the structure or other item being treated.

(h) At least one licensee and one person under the supervision of that licensee is present during:

- (1) The release of the fumigant; and
- (2) The ventilation process until the warning signs are removed from the premises.

(i) When conditions involving abnormal hazards exist, he takes such safety precautions in addition to those prescribed by this section as are reasonably necessary to protect the public health and safety.

3. If the requirements for use and warnings listed on the label of the fumigant are more stringent than the requirements set forth in subsection 2, the person exercising ~~direct and personal~~ supervision over the fumigation shall ensure that the requirements listed on the label of the fumigant are satisfied.

4. In addition to the requirements set forth in subsection 2 or 3, the person exercising ~~direct and personal~~ supervision over the fumigation of a structure that is used for human habitation or for business if employees or other persons occupy the structure shall ensure that:

(a) During the process of fumigation, the room, warehouse or apartment being fumigated, together with all rooms, units and apartments on the same floor and those above, below and adjacent thereto, are vacated by the occupants thereof.

(b) During the process of the fumigation, all rooms, units, apartments and hallways adjacent to the rooms, units, apartments or spaces undergoing fumigation are kept well ventilated and warning signs as prescribed in paragraph (d) of subsection 2 ~~§~~ are kept posted at all entrances to these rooms, units or apartments during the time of the fumigation and thereafter until the premises:

- (1) Are safely ventilated; and

(2) Have been tested and the concentration of the fumigant in the air is less than the level listed on the label of the fumigant as safe for reentry. Except as otherwise provided in this paragraph, such testing must be completed with a device which is specified on the label of the fumigant and which is calibrated to measure the smallest unit in which the concentration of the fumigant in the air is required to be measured. If the label of the fumigant does not specify the device to be used for such testing, a device that is calibrated in increments of 1 part per million must be used.

(c) A rooming or apartment house designed for four families or less is entirely vacated and closed against entry and occupancy while fumigation is being performed and thereafter until the premises:

(1) Are safely ventilated; and

(2) Have been tested and the concentration of the fumigant in the air is less than the level listed on the label of the fumigant as safe for reentry. Except as otherwise provided in this paragraph, such testing must be completed with a device which is specified on the label of the fumigant and which is calibrated to measure the smallest unit in which the concentration of the fumigant in the air is required to be measured. If the label of the fumigant does not specify the device to be used for such testing, a device that is calibrated in increments of 1 part per million must be used.

5. The person exercising ~~direct and personal~~ supervision over the fumigation shall ensure that:

(a) Each employee of the pest control business who is performing fumigation has been instructed in the use and administration of first aid and in the use and care of the safety equipment recommended by the Department or the manufacturer of the fumigant; and

(b) The following items are on the premises being fumigated and are in good working order:

(1) A first-aid kit ~~[ ]~~ that includes directions for artificial resuscitation;

(2) At least two gas masks or other respiratory protective devices that have been approved by the National Institute of Occupational Safety and Health and the Mine Safety and Health Administration;

(3) A testing device that satisfies the requirements set forth in subsection 4 to measure the concentration of the fumigant in the air during the fumigation process or the ventilation process;

(4) A complete label and any supplemental labels from the fumigant being used, including, without limitation, any instructions for the use of the fumigant published by the manufacturer of the fumigant; and

(5) For each type of fumigant being used, the antidote, if any, as prescribed by the manufacturer of the fumigant and the instructions for administering the antidote as prescribed by the manufacturer of the fumigant.

~~[6.—As used in this section, “direct and personal supervision” means guidance and instruction by a person described in subsection 1 who:~~

~~—(a) Is physically present at the premises being fumigated; and~~

~~—(b) Is available to give immediate assistance to each person who is performing the fumigation.]~~

**Sec. 13.** NAC 555.530 is hereby amended to read as follows:

555.530 In addition to any other penalty, the Director may assess a fine against a person according to the following schedule:

1. For a violation of NRS 555.351:		
(a) If it is a nonserious violation .....	\$50 to \$1,000	\$25 to \$300
(b) If it is a serious violation.....	\$1,001 to \$5,000	\$301 to \$1,000
2. For a violation of NRS 555.359, if the		
violation is for:		
(a) Knowingly applying ineffective or		
improper materials .....	\$300	\$25
(b) Applying materials in a manner which is		
inconsistent with labeling or other restrictions		
imposed by the Director:		
(1) If it is a nonserious violation .....	\$50 to \$1,000	\$25 to \$300
(2) If it is a serious violation .....	\$1,001 to \$5,000	\$301 to \$1,000
(c) Operating faulty or unsafe equipment .....	\$25	\$25
(d) Applying pesticides in a faulty, careless		
or negligent manner:		
(1) If it is a nonserious violation .....	\$50 to \$1,000	\$25 to \$300
(2) If it is a serious violation .....	\$1,001 to \$5,000	\$301 to \$1,000
(e) Aiding or abetting an uncertified person		
to avoid the provisions of NRS 555.351 to		
555.357, inclusive .....	\$100	\$50
(f) Conspiring with an uncertified person to		
evade the provisions of NRS 555.351 to		

CERTIFICATION	COMMERCIAL APPLICATOR	PRIVATE APPLICATOR
555.357, inclusive, or allowing his certificate to be used by an uncertified person.....	\$1,001 to \$5,000	\$301 to \$1,000
(g) Fraudulently or deceptively procuring a certificate .....	\$1,001 to \$5,000	\$301 to \$1,000
(h) Falsifying records or reports .....	\$250 to \$500	\$100 to \$250
(i) Failing to give adequate instructions or directions to an uncertified person under his <del>direct</del> supervision:		
(1) If it is a nonserious violation .....	\$50 to \$100	\$25 to \$300
(2) If it is a serious violation .....	\$1,001 to \$5,000	\$301 to \$1,000
3. For a violation of NAC 555.440, if the violation is for:		
(a) Failing to exercise reasonable precautions to protect persons, animals, crops or property:		
(1) If it is a nonserious violation .....	\$50 to \$1,000	\$25 to \$300
(2) If it is a serious violation .....	\$1,001 to \$5,000	\$301 to \$1,000
(b) Disposing of or leaving unattended a pesticide or its empty container where it may		

CERTIFICATION

COMMERCIAL

PRIVATE

APPLICATOR

APPLICATOR

present a hazard to any person, animal, crop or property or failing to dispose of the pesticide or container in a safe manner or failing to remove or otherwise safeguard empty containers from the workplace.....

\$200

\$100

(c) Failing to provide employees with the required information, precautions and safety equipment:

(1) If it is a nonserious violation .....

\$50 to \$1,000

\$25 to \$300

(per item not provided)

(per item not provided)

(2) If it is a serious violation .....

\$1,001 to \$5,000

\$301 to \$1,000

(per item not provided)

(per item not provided)

(d) Failing to maintain the required safety equipment in good working order.....

\$50 to \$1,000

\$25 to \$300

(per item not maintained)

(per item not maintained)

(e) Not using materials, dosages, formulas,

CERTIFICATION

COMMERCIAL

PRIVATE

APPLICATOR

APPLICATOR

devices, or methods of application and disposal in accordance with the directions on the label of the pesticide or device or the Federal Insecticide, Fungicide and Rodenticide Act, 7

U.S.C. §§ 136 et seq.:

(1) If it is a nonserious violation .....	\$50 to \$1,000	\$25 to \$300
(2) If it is a serious violation .....	\$1,001 to \$5,000	\$301 to \$1,000
4. For a violation of NAC 555.700, if the violation is for:		
(a) Failing to keep a record of each property treated for 2 years .....	\$100	\$50
(b) Failing to maintain required information for 2 years .....	\$50	\$25
(c) Failing to report immediately any emergency dump or accidental spillage of a pesticide .....	\$100	\$50
(d) Failing to report within 48 hours any case of apparent pesticide poisoning requiring medical treatment.....	\$100	\$50

CERTIFICATION	COMMERCIAL APPLICATOR	PRIVATE APPLICATOR
(e) Failing to have contact with an applicator under his <del>direct</del> supervision at least once every hour at night and at least once every 2 hours during daylight hours .....	\$50	\$25

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
5. For a violation of NRS 555.280 .....	\$500	\$1,000
6. For a violation of NRS 555.285 .....	\$500	\$1,000
7. For failing to supervise adequately an applicator who does not have a license issued by the Director .....	\$500	\$500
8. For a violation of NAC 555.290, if the violation is for:		
(a) Failing to carry the license issued to him by the Director while he is engaged in pest control or failing to produce the license upon		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
request by the Director or a designated field agent or inspector.....	\$25	\$25
(b) Failing to notify the Director of any change in the status of authority of any primary principal, principal or operator or of any change in the information given on the application for the license of the pest control business.....	\$100	\$100
(c) Failing to submit a new application and fee if a change in ownership occurs.....	\$25	\$25
9. Failing to obtain the permit required pursuant to NAC 555.300 or to provide accurate or complete information on an application for such a permit.....	\$25	\$25
10. For a violation of NAC 555.385, if the violation is for failing to provide written notice to the Department of the termination of the employment of a primary principal, principal or operator from the pest control business within 15 days after the date on which that termination		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
occurs .....	\$100	\$100
<p>11. For a violation of NAC 555.400, if the violation is for:</p>		
<p>(a) Applying a pesticide in a category of pest control for which he is not licensed .....</p>	\$500	\$1,000
<p>(b) Using a method or equipment for applying a pesticide which is not capable of properly applying materials .....</p>	\$100	\$100
<p>(c) Applying pesticides where climatic, pest or crop conditions are not proper for controlling the pest for which the application is made:</p>		
<p>(1) If it is a nonserious violation .....</p>	\$50 to \$500	\$301 to \$1,000
<p>(2) If it is a serious violation .....</p>	\$501 to \$5,000	\$1,001 to \$5,000
<p>(d) Failing to keep pest control equipment in good condition .....</p>	\$25	\$25
<p>(e) Not using devices which are accurately calibrated to the smallest possible unit when measuring concentrated materials.....</p>	\$25	\$25
<p>(f) Failing to maintain a uniform mixture .....</p>	\$25	\$25

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<p>(g) Failing to confine in a substantial manner the material applied to the premises where the crop, animal, ornamental, soil or pest which is being treated:</p>		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$5,000	\$1,001 to \$5,000
<p>(h) Failing to clean thoroughly all equipment after use.....</p>		
	\$25	\$25
<p>(i) Failing to store undiluted pesticides in a locked facility or failing to handle servicemen's kits with extreme caution or leaving the kits where children or other unauthorized persons might remove the contents:</p>		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$5,000	\$1,001 to \$5,000
<p>12. For a violation of NAC 555.410, if the violation is for:</p>		
<p>(a) Failing to keep a record of each property treated for 2 years .....</p>		
	\$100 to \$500	\$501 to \$1,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(b) Failing to record an item of information required for the record .....	\$25	\$25
(c) Failing to report to the Director within 48 hours any cases of apparent pesticide poisoning which require medical treatment:		
(1) If it is a nonserious violation .....	\$100	\$100
(2) If it is a serious violation .....	\$500	\$500
(d) Failing to file the required monthly report on or before the 15th day of the following month .....	\$100	\$100
13. For a violation of NAC 555.420, if the violation is for using a material for pest control which is not registered in this state as a pesticide	\$100	\$100
14. For a violation of NAC 555.425, if the violation is for <b>failing</b> :		
(a) <b>Failing</b> to display prominently his permanent license number and the name of the business on all service vehicles of the business		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
on both sides of such vehicles in letters at least 2 inches in height and in a color which contrasts with the color of the vehicle .....	\$25	\$50
<i>(b) Failing to equip a service vehicle used in the custom application of pesticides with:</i>		
<i>(1) Clothing and equipment designed to provide protection against any pesticide carried on or in the vehicle.....</i>		
	<i>\$100</i>	<i>\$150</i>
<i>(2) Absorbent material capable of absorbing and containing more than 1 gallon of pesticide that has been spilled .....</i>		
	<i>\$100</i>	<i>\$150</i>
<i>(3) Equipment designed to store safely materials contaminated with pesticide .....</i>		
	<i>\$100</i>	<i>\$150</i>
<i>(4) A sufficient quantity of potable water to wash skin exposed to pesticide .....</i>		
	<i>\$100</i>	<i>\$100</i>

15. For a violation of NAC 555.427, if the violation is for:

- (a) *Failing to submit the form entitled*

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<i>“Protection of Completed Work” .....</i>	<i>\$301 to \$1,000</i>	<i>\$1,001 to \$5,000</i>
<b>(b)</b> <i>Failing to include each item of information required on the form entitled “Protection of Completed Work” .....</i>	<i>\$25</i>	<i>\$50</i>
	<i>(per item not included)</i>	<i>(per item not included)</i>
<b>(c)</b> Failing to apply the termiticide only to sites or in the specific quantities or dosages listed on the label of the termiticide, unless otherwise authorized by the Director.....	\$500 to \$1,000	\$1,001 to \$5,000
<del><b>(b)</b></del> <b>(d)</b> Failing, as part of a preconstruction treatment to soil, to apply the termiticide in a manner that establishes a vertical barrier at the exterior of the walls of the foundation or the exterior of the concrete slab, as appropriate, within 30 days after grading and any other disturbance of the soil has been completed .....	\$301 to \$1,000	\$1,001 to \$5,000

16. For a violation of NAC 555.428, if the violation is for:

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(a) Falsifying or failing to record legibly and accurately the information required on the tag for preconstruction treatment.....	\$301 to \$1,000	\$1,001 to \$5,000
(b) Failing to include each item of information required on the tag for preconstruction treatment .....	\$25  (per item not included)	\$50  (per item not included)
(c) Failing to affix securely a tag for preconstruction treatment at the site of the preconstruction treatment immediately after an application of termiticide .....	\$301 to \$1,000	\$301 to \$1,000
17. For a violation of NAC 555.430, if the violation is for:		
(a) Failing to write and deliver the required report before starting work on a project or giving an oral or written opinion on a form supplied by the Department .....	\$100	\$150
(b) Failing to file a report with the district or		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
subdistrict within 15 days after the inspection is made.....	\$100	\$150
(c) Failing to include each item of information required in a report.....	\$50 to \$500 (per item not included)	\$50 to \$1,000 (per item not included)
(d) Failing to affix or deliver a tag as required upon completion of an inspection or after an application of a pesticide .....	\$100	\$300
(e) Failing to record each item of information required on the tag .....	\$25 (per item not included)	\$50 (per item not included)
(f) Failing to apply a termiticide or other pesticide to eradicate wood-destroying pests only to sites or in the specific quantities or dosages listed on the label of the termiticide or other pesticide, unless otherwise authorized by		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
the Director:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$5,000	\$1,001 to \$5,000
18. For a violation of NAC 555.440, if the violation is for:		
(a) Failing to exercise reasonable precautions to protect persons, animals, crops or property:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(b) Disposing of or leaving unattended a pesticide or its empty container where it may present a hazard to any person, animal, crop or property or failing to dispose of the pesticide or container in a safe manner or failing to remove or otherwise safeguard empty containers from the workplace.....		
	\$100	\$100
(c) Failing to provide employees with the		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
required information, precautions and safety equipment:		
(1) If it is a nonserious violation .....	\$50 to \$500  (per item not provided)	\$301 to \$1,000  (per item not provided)
(2) If it is a serous violation .....	\$501 to \$5,000  (per item not provided)	\$1,001 to <del>[\$5,000]</del>  <b>\$5,000</b> (per item not provided)
(d) Failing to keep the required safety equipment in good working order.....	\$50 to \$300  (per item not maintained)	(per item not provided)  \$301 to \$1,000  (per item not maintained)
(e) Not using materials, dosages, formulas, devices or methods of application and disposal in accordance with the directions on the label of the pesticide or device or the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.:		
(1) If it is a nonserious violation .....	\$50 to \$500	

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(2) If it is a serious violation .....	\$501 to \$5,000	\$301 to \$1,000
19. For a violation of NAC 555.445, if the violation is for:		\$1,001 to \$5,000
(a) Failing to attach abbreviated labels to a service container .....	\$50	\$50
(b) Failing to include each item of information required on an abbreviated label .....	\$25	\$25
(c) Failing to carry a complete label for each pesticide in the vehicle.....	\$50	\$50
20. For a violation of NAC 555.460, if the violation is for:		
(a) Failing to give notice within a reasonable time before treatment to an owner of any animals known to be on the property to be treated or on property where a material containing a harmful substance is likely to drift .....	\$100	\$100
(b) Failing to exercise reasonable		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
precautions to prevent access of animals to areas where harmful residues remain.....	\$100	\$100
(c) Failing to exercise reasonable precaution to avoid contaminating water containing fish.....	\$100	\$100
(d) Failing to place a rodenticide in an area that is inaccessible to children or pets or other domestic animals or in a tamper-resistant bait station:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(e) Failing to mark the outside of a bait station with the required information:		
(1) If it is a nonserious violation .....	\$25 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(f) Failing to remove bait stations placed on the property by the pest control business upon termination of the services of the pest control business:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
21. For a violation of NAC 555.470, if the violation is for:		
(a) Failing to give notice personally or by telephone to an apiarist within the required time .....	\$100	\$100
(b) Failing to give notice of his intent to apply specified pesticides to each apiarist within 2 miles of the field to be treated within the required time .....	\$100	\$100
(c) Failing to provide each item of information required to be included in the notice.....	\$25	\$25
22. For a violation of NAC 555.510, if the violation is for:		
(a) Fumigating without the <del>direct and personal</del> supervision of a person who is a certified applicator and licensed pursuant to		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
subparagraph (4) of paragraph (c) of subsection 2 of NAC 555.280 to perform pest control using lethal fumigants:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(b) Failing to post warning signs before fumigating or removing the warning signs before ventilation is complete, the premises have been tested and the determination that the premises are safe for reentry has been made:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(c) Posting an improper warning sign:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(d) Failing to secure properly a fumigation site:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(e) Failing to seal properly the space to be fumigated:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(f) Failing to use an adequate warning agent when required .....	\$25	\$25
(g) Failing to have at least one licensee and one person under the supervision of that licensee present during the release of the fumigant or the ventilation process:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$5,000	\$1,001 to \$5,000
(h) Failing to vacate the required area before fumigating:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$5,000	\$1,001 to \$5,000
(i) Failing to keep the proper ventilation during the process of the fumigation:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(2) If it is a serious violation .....	\$501 to \$1,000	\$1,001 to \$5,000
(j) Failing to complete the ventilation process, including testing the concentration of fumigant in the air before determining the premises are safe for reentry:		
(1) If it is a nonserious violation .....	\$50 to \$500	\$301 to \$1,000
(2) If it is a serious violation .....	\$501 to \$5,000	\$1,001 to \$5,000
(k) Failing to use the required device to test the concentration of the fumigant in the air for the purpose of reentry into premises that have been fumigated.....	\$50 to \$300	\$301 to \$1,000
(l) Failing to have the required first-aid kit, respiratory protective devices or testing device on the premises while fumigating.....	\$50 to \$300	\$301 to \$1,000
	(per item not provided)	(per item not provided)
(m) Failing to maintain the required first-aid kit, respiratory protective devices or testing device in good working order .....	\$50 to \$300	\$301 to \$1,000

LICENSEES

FIRST

SUBSEQUENT

OFFENSE

OFFENSE

(per item not

(per item not

maintained)

maintained)

**Sec. 14.** NAC 555.600 is hereby amended to read as follows:

555.600 As used in NAC 555.600 to 555.700, inclusive, *and sections 5 and 6 of this regulation*, unless the context otherwise requires:

1. “Browsing” means the consumption of leaf and twig growth of shrubs, woody vines and trees by an animal.
2. “Competent” means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
3. “Container” means any package, can, bottle, bag, barrel, drum, tank or other containing device, excluding spray applicator tanks, used to enclose a pesticide or waste related to pesticide.
4. “Control” means to prevent, destroy, repel or mitigate any undesirable organism.
5. “Ectoparasite” means any organism that occurs externally on, or whose life cycle involves development within, an organism of another species (host) and derives its nutriment from it.
6. “Food handling establishment” means a place other than a private residence in which exposed food is held, processed, prepared or served.

7. “Forage” means any herbaceous plant or plant part normally grazed on by, or fed to, animals.

8. “Forest” means any concentration of trees and related vegetation in a nonurban area sparsely inhabited by and infrequently used by humans, characterized by natural terrain and drainage patterns.

9. “Fumigation” ~~[means the application of a substance having]~~ :

*(a) Means the destruction of plant or animal life within an enclosed area by using:*

*(1) A substance which has a vapor pressure ~~[greater]~~ of more than 5 millimeters of mercury at 25° centigrade ~~[, that is intended to control any living organism.]~~ ; or*

*(2) Any other substance that the Director determines is a fumigant, including, without limitation:*

*(I) Chloropicrin;*

*(II) Methyl bromide;*

*(II) Sulfur dioxide;*

*(IV) Propylene oxide;*

*(V) Sulfuryl fluoride;*

*(VI) Aluminum phosphide;*

*(VII) Magnesium phosphide; and*

*(VIII) Dichloropropene.*

*(b) May include any of the following substances if the intended use of the substance is to destroy plant or animal life within an enclosed area:*

*(1) Liquid nitrogen;*

*(2) Carbon dioxide; or*

*(3) Metam sodium.*

10. “Grain” means any of the grasses that produce cereals which are used for food.
11. “Grazing” means the partial defoliation of forage growth by animal consumption.
12. “Habitat” means that specific locality where an organism exists.
13. ~~“Immediate supervision” means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is physically present at the pest control site.~~

~~—14.— “Inactive certificate” means any certificate issued by the Director that has not been renewed on or before January 16 of each year.~~

~~—15.] “Licensed primary principal commercial applicator” means a person who:~~

*(a) Is designated the primary principal of a business of pest control pursuant to NAC 555.395; and*

*(b) Uses a restricted-use pesticide as a part of a business of pest control.*

14. “Microorganism” means any animal or plant that is so small as to be invisible or obscure except through a microscope.

~~16.]~~ 15. “Mollusk” means any of the phylum of soft-bodied animals usually partially or wholly enclosed within a calcium carbonate shell and having a muscular “foot” for locomotion.

16. “Nonprimary principal commercial applicator” means a person who:

*(a) Applies or supervises the application of any restricted-use pesticide; and*

*(b) Does not qualify as a licensed primary principal commercial applicator or private applicator.*

17. “Nonvascular plant” means a plant without flowers, roots, stems or leaves.

18. “Operational site” means that location belonging to a person where an integral function of the business is performed, and includes *the* person’s land, structures and any other environs and equipment.

19. “Pasture” means any fenced area of domesticated forage on which animals are grazed.

20. *“Physical presence” means the presence of a certified applicator on the premises where the application of a restricted-use pesticide is occurring.*

21. “Plant disease” means any exhibition of some malfunction or abnormality in a plant’s development or growth caused by a microorganism as, for example, fungi, bacteria, viruses, mycoplasmas and nematodes.

~~21.~~ 22. “Predator” means any animal of the class Mammalia of the subphylum Vertebrata that kills and consumes other animals.

~~22.~~ 23. *“Private applicator” has the meaning ascribed to it in NRS 555.2681.*

24. “Range” means any land with native vegetation (climax or natural potential) that is predominantly grasses, grasslike plants, forbs or shrubs suitable for grazing or browsing.

~~23.~~ 25. “Row crop” means any fiber crop, melon crop, vegetable crop or similar crop that is grown in continual lines.

~~24.~~ 26. “Seed crop” means any plant that is grown for the purpose of utilizing the propagative portion of the plant.

~~25.~~ 27. *“Supervision” means that a competent person is applying a pesticide pursuant to the instructions and control of a person who is licensed or certified in the use of the pesticide and who is responsible for the actions of the person applying the pesticide, but does not require the physical presence of a person licensed or certified in the use of the pesticide unless the label on the pesticide requires the physical presence of such a person.*

28. “Vertebrate” means any animal of the subphylum Vertebrata of the phylum Chordata, which has an enlarged brain enclosed in a cranium, or brain case, a segmented vertebral column which supports the body, a head, neck, trunk and usually a tail present.

~~26.~~ 29. “Wildlife” means all living things that are neither human, domesticated nor pests, including, but not limited to, mammals, birds and aquatic life.

~~27.~~ 30. “Wood-destroying pest” means any organism which infests or infects and destroys cellulose.

**Sec. 15.** NAC 555.610 is hereby amended to read as follows:

555.610 1. The provisions of NAC 555.600 to 555.700, inclusive, *and sections 5 and 6 of this regulation*, as appropriate, do not apply to any person applying or supervising the application of any pesticide classified for general use.

2. *As used in this section, “pesticide classified for general use” means a pesticide that has not been classified as a restricted-use pesticide:*

*(a) By the Director; or*

*(b) In accordance with the Federal Environmental Pesticide Control Act of 1972, 7 U.S.C. §§ 136 et seq.*

**Sec. 16.** NAC 555.620 is hereby amended to read as follows:

555.620 The categories of *nonprimary principal* commercial applicators are:

1. Agricultural pest control, which includes:

(a) Animal: The control of insects, including ectoparasites, on or around animals, including, but not limited, to beef cattle, dairy cattle, swine, sheep, horses, goats and poultry, and to places on or in which animals are confined.

(b) Plant: The control of any pest on or around any agricultural crop, including, but not limited, to the production of forage, grain, pasture, seed, row crops and fruit crops, as well as rangeland, idle cropland and noncropland associated with the production of agricultural crops, or on any other agricultural crop consumed or used by man or animals.

2. Aquatic pest control: The control of any pest in standing or running water, excluding mosquito control and public health pest control.

3. *Chemigation: The control of any pest through the application of pesticides by injection of the pesticides into irrigation water.*

4. Forest pest control: The control of any pest in *rangeland*, forests, forest nurseries ~~[H]~~ and forest seed producing areas.

~~[4.]~~ 5. Fumigation pest control: The control of any pest by fumigation with poisonous and lethal gases in any habitat, including, but not limited to, structures and soil.

~~[5.]~~ 6. *Greenhouse and nursery pest control: The control of any pest in the maintenance or production of greenhouse or nursery stock.*

7. Industrial, institutional, structural and health related pest control, which includes:

(a) Industrial pest control: The control of any pest, including those that are health related ~~[H]~~ but excluding wood-destroying pests, in, on or around an industrial complex, including, but not limited, to grain elevators, offices, casinos, motels, stores, operational sites of food handling establishments, warehouses or stored products, and excluding ornamental and turf pest control and aquatic pest control.

(b) Institutional pest control: The control of any pest, including those that are health related but excluding wood-destroying pests, in, on or around an institutional complex, including, but not limited, to homes, hospitals, schools and similar institutes, especially where children, the

physically unfit and germicidal work would be involved, and ~~[shall also include]~~ *also including* any inanimate objects used in the maintenance of institutional operations, including, but not limited, to garbage cans, wood piles and sidewalks, and excluding ornamental and turf pest control and aquatic pest control.

(c) Structural pest control: The control of any wood-destroying pest in, on or around any structure, including but not limited to homes, storage sheds and warehouses.

~~[6.]~~ **8.** Mosquito control: The control of mosquitoes in any habitat, including, but not limited, to reservoirs, lakes, rivers and cropland.

~~[7.]~~ **9.** Ornamental and turf pest control: The control of any pest in the maintenance and production of ornamentals and turf, including, but not limited to, ornamental trees, shrubs, flowers, home fruit trees and home vegetable gardens.

~~[8.]~~ **10.** Predatory pest control ~~[.]~~ */M-44*: The control of any predator in any habitat, including, but not limited to, rangeland, forests and cropland.

~~[9.]~~ **11.** Public health pest control: The control of any pest having medical and public health importance by state, federal or other governmental employees.

~~[10.—Regulatory pest control: The control of any regulated pest by state, federal or other governmental employees.~~

~~—[1.]~~ **12.** Right-of-way pest control: The control of any pest in the maintenance of rights-of-way, including, but not limited, to public roads, electric power lines, pipelines and railway rights-of-way.

~~[12.]~~ **13.** Seed treatment: The treating of seeds to control insects, fungi, bacteria and other microorganisms.

**14. Sewer line root control: The control of plant roots in the maintenance of sewers.**

*15. Wood preservative: The control of wood-destroying pests through the use of chemicals that preserve wood.*

**Sec. 17.** NAC 555.630 is hereby amended to read as follows:

555.630 Standards of competency for *nonprimary principal* commercial applicators are:

1. Agricultural pest control:

(a) Animal: An applicator who applies a pesticide directly to animals must demonstrate a practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential ~~[, where]~~ *when* host animals will be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

(b) Plant: An applicator must demonstrate a practical knowledge of crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, preharvest intervals, phytotoxicity and potential for environmental contamination, nontarget injury and community problems resulting from the use of restricted use pesticides in agricultural areas.

2. Aquatic pest control: An applicator must demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations and faulty application of restricted use pesticides used in this category. He must demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, he must have practical knowledge concerning potential pesticide effects on plants, fish,

birds, beneficial insects and other organisms which may be present in aquatic environments. An applicator must demonstrate practical knowledge of the principles of limited area application.

3. *Chemigation: An applicator must demonstrate practical knowledge of pesticides, safety procedures, environmental concerns, methods and equipment for the application of pesticides through chemigation systems.*

4. Forest pest control: An applicator must demonstrate practical knowledge of the type of *rangeland*, forests, forest nurseries ~~[4]~~ and seed production in the State and the pests involved. He must possess a practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge of the relative biotic agents and their vulnerability to the pesticides to be applied is required. The applicator must demonstrate practical knowledge of control methods which minimize the possibility of secondary problems, such as unintended effects on wildlife and natural aquatic habitat. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

~~[4]~~ 5. Fumigation pest control: An applicator must demonstrate practical knowledge of pesticide problems associated with the use of poisonous and lethal gases, including cognizance of potential phytotoxicity to animate host and residual accumulation of fumigants, practical knowledge of fumigant confinement and circulation procedures, injection procedures, dosage calculations, leakage and concentration testing procedures and ventilation.

~~[5]~~ 6. *Greenhouse and nursery pest control: An applicator must demonstrate practical knowledge of pesticides, plants, plant pests and the adverse effects associated with pesticide use in a greenhouse and nursery.*

7. Industrial, institutional, structural and health related pest control: An applicator must demonstrate a practical knowledge of the wide variety of pests encountered in this category, including their life cycles, types of formulations appropriate for their control and methods of application that avoid contamination of food, damage contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women and elderly people is frequently a potential problem, an applicator must demonstrate a practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure of human beings in the various situations encountered in this category. An applicator must also demonstrate practical knowledge of the environmental conditions particularly related to this activity.

~~[6.]~~ 8. Mosquito pest control: An applicator must demonstrate practical knowledge of mosquito pests, including identification and life cycle, reproducing habitats and vector capabilities. Further, he must have practical knowledge concerning the potential effects of pesticides on plants, birds, fish and other organisms in aquatic environments, and methods of application that avoid unacceptable contamination of the habitat and exposure to people and animal life.

~~[7.]~~ 9. Ornamental and turf pest control: An applicator must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift ~~[8.]~~ and persistence beyond the intended period of pest control. An applicator in this category must demonstrate practical knowledge of application methods which minimize or prevent hazards to human beings, pets and other domestic animals.

~~[8.]~~ 10. Predatory pest control ~~[.]~~/M-44: An applicator must demonstrate a practical knowledge of animal damage and control procedures, including identification of predatory mammals, conditions conducive to animal damage, secondary poisoning and protection of nontarget species, and knowledge of special laws and regulations governing the use of poisons to control predators on private and public lands.

~~[9.]~~ 11. Public health pest control: An applicator must demonstrate practical knowledge of vector disease transmission as it relates to and influences application programs. The wide variety of pests involved must be known and recognized, and their appropriate life cycles and habitats must be understood as a basis for control strategy. An applicator must have practical knowledge of the various pest environments ranging from streams to those conditions found in buildings. He must also have practical knowledge of the importance and employment of such nonchemical control methods as sanitation, waste disposal and drainage.

~~[10.—Regulatory pest control: An applicator must demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential effect on the environment by restricted use pesticides when used in suppression and eradication programs. He must demonstrate knowledge of the factors influencing introduction, spread and population dynamics of relevant pests. His knowledge must extend beyond that required by his immediate duties, because it is frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made in new situations.~~

~~—11.]~~ 12. Right-of-way pest control: An applicator must demonstrate practical knowledge of the wide variety of environments which rights-of-way may traverse, including waterways. He must demonstrate practical knowledge of problems on runoff, drift ~~[.]~~ and excessive foliage

destruction and *the* ability to recognize target organisms. He must also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the result of their application activities in the adjacent areas and communities.

~~{12.}~~ **13.** Seed treatment: An applicator must demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers and surface active agents which influence pesticide binding and may affect germination. He must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.

*14. Sewer line root control: An applicator must demonstrate a practical knowledge of the characteristics of herbicides and the environmental effects, precautions and concerns associated with sewer line root control.*

*15. Wood preservatives: An applicator must demonstrate a practical knowledge of the environments in which chemical preservatives are used, the concerns associated with the use of chemical preservatives and the characteristics of various wood preservatives.*

**Sec. 18.** NAC 555.640 is hereby amended to read as follows:

555.640 The categories of private applicators are:

1. Agricultural pest control:

(a) Animal:

(1) Dairy animal pest control: The control of any pest in, on or around dairy animals, including, but not limited to, goats and dairy cattle, and also ~~{includes}~~ *including* places on or in which dairy animals are confined, including, but not limited to, barns and corrals.

(2) Meat animal pest control: The control of insects, including ectoparasites, in, on or around meat animals, including, but not limited to, horses, beef cattle, swine and sheep, and also ~~includes~~ *including* places on or in which meat animals are confined, including, but not limited to, barns and corrals.

(3) Poultry pest control: The control of any pest in, on or around poultry, including, but not limited to, chickens, turkeys and ducks, and ~~includes~~ *including* places on or in which poultry is confined, including, but not limited to, coops and pens.

(b) Plant:

(1) Forage, grain, pasture and range pest control: The control of any pest in, on or around the production of forage, grain, pasture and range.

(2) Row crop pest control: The control of any pest in, on or around row crops.

(3) Seed crop pest control: The control of any pest in, on or around seed crops.

(c) Speciality crops:

(1) ~~Apiary pest control: The control of any pest, excluding predators, in, on or around apiaries and the control of any pest, excluding predators, in, on or around apiary operational sites, including, but not limited to, extracting houses and comb storage warehouses.~~

~~(2) Aquaculture~~ *Aquatic* pest control: The control of any pest, excluding predators, in standing or running water involved in aquaculture, including, but not limited to, catfish farms.

~~(3)~~ (2) Greenhouse *and nursery* pest control: The control of any pest, excluding predators, in, on or around greenhouses *and nurseries* and the control of any pest, excluding predators, in, on or around *greenhouse or* nursery operational sites, including, but not limited to, equipment storage areas.

~~(4) Nursery~~

(3) *Industrial farm* pest control: The control of any pest, excluding predators, in, on or around ~~[nurseries, excluding greenhouses, and the control of any pest, excluding predators, in, on or around nursery operational sites,]~~ *apiaries and industrial farmsteads*, including, but not limited to, ~~[equipment storage areas.~~

~~— (5) Turf]~~ *grain silos, equipment buildings, barns, warehouses and any other building associated with a farm operation.*

(4) *Ornamental and turf* pest control: The control of any pest, excluding predators, in the production of turf and the control of any pest, excluding predators, in, on or around turf production operational sites, including, but not limited to, equipment storage areas.

2. *Chemigation: The control of any pest through the application of pesticides by injection of the pesticides into irrigation water.*

3. Forest *and rangeland* pest control: The control of any pest, excluding predators, in or on forests ~~[.]~~ *and rangelands*, and the control of any pest, excluding predators, in, on or around forest *or rangeland* operational sites, including, but not limited to, equipment storage areas.

~~[3. Predator pest control: The control of any predator in any habitat, including, but not limited to, nurseries, apiaries, greenhouses, farms and ranches.]~~

4. *Fumigation: The control of any pest by fumigation with poisonous and lethal gases in any habitat, including, but not limited, to structures and soil.*

**Sec. 19.** NAC 555.655 is hereby amended to read as follows:

NAC 555.655 1. The following types of certificates may be issued ~~[.]~~ *to a nonprimary principal commercial applicator or private applicator:*

(a) A general certificate authorizing the application or supervision of the application of restricted use pesticides for the category for which issued.

(b) A limited certificate authorizing the application or supervision of the application of restricted-use pesticides, on a specific host, for a specific pest, or performing specific application procedures.

(c) A single use certificate authorizing the application or supervision of the application of a single restricted use pesticide on a one-time basis, for an emergency measure. A single use certificate shall be limited to one per person per calendar year.

2. Every person to whom a certificate is issued shall, within ~~5~~ 15 working days, notify the director of any change of any information shown on the application.

3. A certified applicator may apply to the director for amendment of his certificate to include additional categories and, upon successful examination, may have his certificate so amended.

4. ~~Any certified applicator whose certificate has not been active during the preceding calendar year shall demonstrate his competency for a certificate through examinations currently in use.~~

~~5.]~~ A certificate is neither assignable nor transferable.

**Sec. 20.** NAC 555.660 is hereby amended to read as follows:

555.660 1. A request to be examined ~~must~~ *for the issuance of a certificate pursuant to NAC 555.655 may* be made by filing an application for an examination with the Department.

2. The ~~application must be received~~ *applicant must provide to the Department* 5 working ~~days~~ *days' notice* before the time the applicant wishes to ~~be examined,~~ *take the examination,* unless the examining officer has waived the time period. The examining officer shall establish the examination date.

3. All applicants for certification must qualify *for the issuance of a certificate* through examination.

4. Each applicant must pass a written examination to show that he possesses adequate knowledge concerning the proper use and application of restricted use pesticides and the dangers involved, and precautions to be taken in connection with their application in the following subject areas:

- (a) Label and labeling comprehension;
- (b) Safety;
- (c) Environmental consequences of pesticide use and misuse;
- (d) Pests;
- (e) Pesticides;
- (f) Equipment;
- (g) Application techniques;
- (h) Federal laws and regulations;
- (i) State laws and regulations; and
- (j) Any subject the Director deems necessary to ensure the proper use and application of restricted use pesticides.

**Sec. 21.** NAC 555.670 is hereby amended to read as follows:

555.670 1. The examination *for the issuance of a certificate pursuant to NAC 555.655* will consist of a general examination which will be required of each applicant and a specific examination for each category in which the applicant has requested to be examined.

2. The Director may require the applicant to meet special qualifications of competency which relate to the special needs of a given locality regarding the use or application of a specific

restricted-use pesticide. The special qualifications of competency may include written examinations as required by the Director.

3. In addition to the written examination, the applicant for a certificate for private applicator may be given an oral examination. The examining officer may add to or subtract from the score on the written test a maximum of 5 grade points based on the oral examination.

4. A private applicator may request an oral examination in lieu of a written examination. If the examining officer determines that the request is justified, he may give the applicant an oral examination. No grade points may be added to or subtracted from an applicant's score on the oral examination.

5. Any applicant may be required to perform a practical demonstration, at a time and in a manner specified by the examining officer, to show his ability to apply or supervise the application of restricted use pesticides.

6. The passing score for each examination is 60 percent.

7. Any applicant who fails to pass the general examination or any specific examination may be retested upon expiration of a waiting period of 5 working days, unless the examining officer waives the waiting period.

8. Every person to whom a certificate has been issued by the Director must requalify by examination every 4 years unless the Director determines that a shorter interval is justified because of a change in the technology of pesticides.

**Sec. 22.** NAC 555.680 is hereby amended to read as follows:

555.680 1. An application for a certificate *issued pursuant to NAC 555.655* to apply or supervise the application of restricted use pesticides is supplied by the Director and may show the following:

(a) The applicant's legal name, home mailing address, home street address, if different from home mailing address, and home telephone number.

(b) The assumed name under which the applicant does business, if applicable, business mailing address, business street address and business telephone number.

(c) The applicant's employer, employer's mailing address, employer's business address and employer's telephone number.

(d) The type of certificate, whether *nonprimary principal* commercial or private, that the applicant is applying for.

(e) A listing and description of certificates held in other states.

(f) The address where equipment and pesticides are stored.

(g) Any category in which the applicant wishes to be certified.

2. The qualification for certification ~~{}~~ *pursuant to NAC 555.655* is proof of passing the examination.

**Sec. 23.** NAC 555.690 is hereby amended to read as follows:

555.690 The Director will collect a testing fee of ~~[\$10]~~ \$25 for each examination period or reexamination period ~~{}~~ *for the issuance of a certificate pursuant to NAC 555.655*, before the applicant is examined.

**Sec. 24.** NAC 555.700 is hereby amended to read as follows:

555.700 Except as otherwise provided in this chapter or as specifically authorized in writing by the Director, any ~~{certified}~~ *nonprimary commercial* applicator *or private applicator* applying or supervising the application of restricted-use pesticides shall, in addition to the provisions of subsections 2 to 9, inclusive, of NAC 555.400:

1. Keep and maintain a record of each property treated for 2 years, showing the following:

- (a) Date of treatment;
- (b) ~~[Name of certified]~~ *First and last name of the nonprimary commercial applicator or private applicator* applying or supervising the application of the restricted use pesticide;
- (c) Address of property treated;
- (d) Brand name or generic name and Environmental Protection Agency registration number of the pesticide applied;
- (e) Use information:
  - (1) Item *or site* treated; *and*
  - (2) ~~[Number of units treated;~~
  - ~~— (3) Purpose for which the pesticide was applied; and~~
  - ~~— (4)]~~ Amount of ~~[undiluted]~~ *diluted* material used *and the concentration of the pesticide that was applied* or the ~~[strength of the diluted]~~ *amount of undiluted* material used; and
- (f) In addition to the requirements of paragraphs (a) to (e), inclusive, if the treatment is conducted in the *nonprimary principal* commercial categories agricultural pest control-plant, *chemigation, greenhouse and nursery pest control*, forest pest control, *fumigation*, ornamental and turf pest control, right-of-way pest control ~~[,]~~ *or* mosquito control, or in the private categories agricultural pest control-plant, ~~[turf]~~ *chemigation, greenhouse and nursery* pest control, forest pest control ~~[, the following must be shown:]~~ *or ornamental and turf pest control:*
  - (1) Temperature at the start and finish of treatment.
  - (2) Wind velocity and direction at the start and finish of treatment.
  - (3) *Number of units treated, area of surface treated or volume fumigated.*
  - (4) *The purpose for which the pesticide was applied.*

*(5) The time the treatment was started and the time the treatment was finished.*

2. Report immediately to the Director any emergency dump of a pesticide by an aircraft, any accident of a pesticide loaded aircraft or ground equipment involving the spillage of a pesticide, or the accidental spillage of a pesticide at any site of operations of pesticides.
3. Report to the Director within 48 hours any case of apparent pesticide poisoning requiring medical treatment.
4. Have contact with any applicator under his ~~direct~~ supervision at least once every hour at night and at least once every 2 hours during daylight hours.
5. Assume responsibility for the fumigation procedures contained in NAC 555.510.