

LCB File No. T026-03

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

NOTICE OF WORKSHOP

A workshop will be held on proposed temporary amendments to NAC 555.2585, 555.400, 555.427, 555.428, 55.430 and 555.605

DATE: May 9, 2003

TIME: 2:00 p.m.

Place: Nevada Department of Agriculture Office, Las Vegas
2300 McLeod
Las Vegas, NV 89104

XXXXXXXXXXXXXXXXXXXX

DATE: May 12, 2003

TIME: 3:00 p.m.

Place: Nevada Department of Agriculture Office, Reno
350 Capitol Hill Avenue
Reno, Nevada 89502

Manner: Written comments and testimony may be submitted prior to the hearing date and will be included with any testimony presented at the hearing. All variable and written testimony will be in the record of the hearing.

Addresses at which the text of the proposed regulations may be inspected and copied:

The Nevada State Library in Carson City, and all Nevada county libraries. The Department of Agriculture offices in Reno, Sparks, Elko, Las Vegas or Winnemucca during the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday.

Nevada Department of Agriculture
350 Capitol Hill Avenue
Reno, NV 89502

Nevada Department of Agriculture
2150 Frazer Street
Sparks, NV 89431

Nevada Department of Agriculture
1550 S. Wells Avenue
Reno, NV 89502

Nevada Department of Agriculture
1200 E. Winnemucca Blvd.
Winnemucca, NV 89445

Nevada Department of Agriculture
Eyer H Boies Building
Elko, NV 809801

Nevada Department of Agriculture
2300 McLeod
Las Vegas, NV 89104

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, call Robert Gronowski at the Nevada Department of Agriculture, (775)688-1182 Ext. 239 as soon as possible.

NRS 233B.064 Permanent regulations not to be adopted or revised by the Legislative Counsel; agency's reasons for adoption.

Upon adoption of any regulation, the agency, if requested to do so by an interested person before adoption, or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against adoption, and incorporate therein its reasons for overruling the consideration urged against its adoption.

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

Purposed adoption of a temporary amendment to NAC 555.2585, 555.400, 555.427, 555.428, 55.430 and 555.605

Authority: NRS 555.380, 555.390 and 555.400

NAC 555.2585 “Wood-destroying fungi” defined. (NRS 555.400) “Wood-destroying fungi” means a fungus which infests and decomposes cellulose material. The term does not include molds that affect the surface of cellulose components, or which are found on other surfaces of a structure.

NAC 555.400 Precautionary requirements. (NRS 555.380, 555.400)

5. Each vehicle used in the transportation of pesticides to perform custom pest control shall have a pesticide spill kit.

NAC 555.427 Preconstruction treatment: Application of termiticide.

1. A licensee who performs a preconstruction treatment to soil:
2. *Shall use a dye in a concentration and manner recommended by its manufacture and approved by the department when applying a liquid termiticide to the soil.*
- ~~2~~ 3. A licensee who performs a preconstruction treatment directly to wood shall, unless otherwise authorized by the director, apply the termiticide only to the site and in the specific quantities and dosages provided on the label of the termiticide.
4. *Before performing a preconstruction treatment to the soil, over the soil, or to wood, a licensee must have a Protection of Completed Work clause signed by the company’s Primary Principal and homebuilder or contractor who is responsible for the completed project.*
5. *If the company who performed the pretreatment is notified that the pretreatment has been damaged, destroyed, or otherwise altered thereby reducing its effectiveness, the company must retreat, repair or otherwise reestablish the barrier of the effected area.*
6. *If a termiticide pretreatment application has been made at less than the prescribed label rate, or the pretreatment company fails to honor its Protection of Completed Work clause; the pretreatment company must bond the structure from infestation by subterranean termites for a period of 15 years.*
7. *Each company that performs a termite pretreatment application must complete a HUD 99b form. A copy of each completed HUD 99b form must be submitted to the department within 15 days after the final treatment has been performed.*
8. *If a termiticide pretreatment application is made at less than the prescribed label rate, or in a manner which violates the label direction of the termiticide used, or violates NAC/NRS chapters 555 or any regulation thereunder, to such extent that the structure is not completely or properly protected from infestation by subterranean termites, the department shall notify the builder responsible for the construction of the intended structure of the violation. In addition, the department shall post such violation with the state of Nevada Contractors Board and building association in the county in which the pretreatment was performed.*

NAC 555.428 Preconstruction treatment: Tag.

1. The department shall supply a tag for preconstruction treatment to a licensee who performs preconstruction treatment *at a cost set by the department. 100 percent of the proceeds from pretreatment tag sales must be used by the department for the regulation of the pretreatment industry.* A licensee who performs a preconstruction treatment shall complete a tag pursuant to this section.

NAC 555.430 Inspection or application of pesticide for wood-destroying pests: Report; tag; restriction on application. (NRS 555.380, 555.390, 555.400)

3. The report must contain:

(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:

(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 opposite sides of the foundation).

8. *Mold, when found on the surface of a cellulose component, or which are found on other surfaces of a structure, are not to be reported as a wood destroying pest.*

NAC 555.605 Certification of custom pest control licensees. (NRS 555.400)

Each custom pest control licensee shall be certified as a commercial applicator only in the category for which he holds an active custom pest control license. Custom pest control licensees shall not be eligible to acquire a commercial applicator certificate in a category for which he does not hold an active license.

STATE DEPARTMENT OF AGRICULTURE
SMALL BUSINESS IMPACT DISCLOSURE PROCESS
PURSUANT TO 233B “Nevada Administrative Procedures Act”

The purpose of this Small Business Impact Form is to provide a frame work pursuant to NRS 233B.0608 to determine where a small business impact statement is required for submittal of a proposed regulation before the Nevada Department of Agriculture. If questions one (1) and two (2) are answered No, then a small business impact statement is not required. If question one (1) or two (2) is answered with a YES, then a small business impact statement is required prior to conducting a public workshops by the Department. (This form must be submitted with the proposed regulation when submitted for drafting by LCB and adoption by the Nevada State Board of Agriculture.)

Proposed regulation: Temporary amendments to NAC 555.2585, 555.400, 555.427, 555.428, 55.430 and 555.605

Part 1

1. Does this proposed regulation impose a direct and significant economic burden upon a small business ? No
2. Does this proposed regulation restrict the formation, operation or expansion of a small business ? No

Note: Small Business is defined as a “business conducted for profit which employs fewer than 150 full-time or part-time employees” (NRS 233B.0382).

3. If **YES** to either of questions 1& 2, the following action must be taken:
 - a. Was a small business impact statement prepared and was it available at the public workshop ?
 - b. Attach the small business impact statement (part 2) as part of this form upon submission for drafting by LCB and adoption by the Nevada Board of Agriculture.

Part 2 (NRS 233B.0609)

1. Describe the manner in which comments were solicited from affected small businesses, a summary of the response from small businesses and an explanation of the manner in which other interested persons may obtain a copy of the summary.
2. The estimated economic effect of the proposed regulation on small business:
 - a. Both adverse and beneficial effects
 - b. Both direct and indirect effects

3. The description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses.
 - a. Simplification of the proposed regulation.
 - b. Establishment of different standards of compliance for a small business.
 - c. Modification of fees or other monetary interests that a small business is authorized to pay at a lower fee.
4. The estimated cost to the agency for enforcement of the proposed regulation.
5. If this regulation provides for 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.
6. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards relating to the same activity, provide an explanation of why the proposed regulation is duplicative or more stringent and why it is necessary.