

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

LCB File No. R006-17

October 5, 2017

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

AUTHORITY: §§1, 7 and 9, NRS 555.400; §§2, 4, 5 and 10, NRS 555.380 and 555.400; §§3 and 8, NRS 555.390 and 555.400; §6, 555.400 and 555.470.

A REGULATION relating to pest control; revising provisions relating to the licensing and regulation of consultants; revising provisions relating to the transportation of undiluted pesticide material; revising the fields and categories established for the licensing of pest control personnel; expanding the types of substances that a person engaging in the business of application of pesticides is prohibited from using for pest control; revising the fines that the Director of the State Department of Agriculture may assess against certain persons; revising provisions governing the categories of licensed primary principal commercial applicators; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Director of the State Department of Agriculture to adopt regulations to carry out certain provisions concerning the use of pesticides. (NRS 555.400) Existing law requires a natural person, including any consultant, demonstrator, researcher or specialist who engages in pest control or serves as an agent, operator, pilot, primary principal, location principal or principal for that purpose to obtain a license as an applicator from the Director. (NRS 555.280, as amended by section 23 of Assembly Bill No. 32, chapter 80, Statutes of Nevada 2017, at page 345) **Section 9** of this regulation defines “consultant” to mean a person who is licensed by the State Department of Agriculture in an appropriate field and category and who solicits customers and prospective customers to provide certain goods and services relating to pest control. **Section 1** of this regulation expands the fields established for the licensing of pest control personnel by creating the field of consulting and defining the categories of licensed activities within that field. **Sections 1 and 7** of this regulation revise certain other categories established under other fields of licensing for the licensing of pest control personnel and licensed primary principal commercial applicators, respectively. **Section 5** of this regulation requires any person engaged in the application of pesticides to exercise certain safety precautions.

Existing regulations set forth requirements concerning the application of termiticide as part of preconstruction or postconstruction treatment. (NAC 555.2554, 555.427, 555.428, 555.430, 555.440) **Section 10** of this regulation defines the term “termiticide” to mean a

pesticide intended for preventing, destroying, controlling, repelling, attracting or mitigating termites. **Section 4** of this regulation prohibits, under certain circumstances, a person engaged in the business of application of pesticides from using a termiticide for pest control unless the termiticide is: (1) registered with the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; and (2) labeled with directions for use in the control of termites.

Existing law authorizes the Director to adopt regulations that prescribe certain materials or methods to be used or prohibited from use in custom application of pesticides. (NRS 555.380) Existing regulations set forth the requirements for transporting a service container which contains undiluted pesticide material. (NAC 555.400) **Section 2** of this regulation clarifies that, while the service container is being transported in a service vehicle, the service container must be secured in a manner to prevent spills or damage.

Existing regulations require each person engaged in the application of pesticides for hire to keep for 2 years certain accurate and legible records relating to each property treated. (NAC 555.410) **Sections 3 and 8** of this regulation revise the term “spot treatment” to include the total potentially treatable area rather than the total treatment area for purposes of those records.

Existing law requires the Director to adopt regulations specifying a schedule of fines which may be imposed, upon notice and a hearing, for each violation of certain provisions concerning the use of pesticides. (NRS 555.470) **Section 6** of this regulation revises the fines for certain violations and expands the schedule to include fines for certain violations committed by a person who does not hold a license or certificate issued by the Director.

Section 1. NAC 555.280 is hereby amended to read as follows:

555.280 1. The following fields are established for the licensing of pest control personnel:

(a) Aerial—The use of aircraft for the application of pesticides on standing or running water, rangeland, agricultural crops, forest, idle cropland and noncropland associated with the production of agricultural crops.

(b) Agricultural ground—The use of ground equipment for the application of pesticides on livestock, rangeland, agricultural crops, idle cropland and noncropland associated with the production of agricultural crops.

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

(d) Consultant—The use of pesticides and expert knowledge or special expertise in pest control for:

- (1) Soliciting sales of pesticides or pest control services;*
- (2) Providing technical information on pesticides or pest control;*
- (3) Providing pest identification;*
- (4) Making recommendations for pesticides or other products used for pest control; or*
- (5) Any combination of subparagraphs (1) to (4), inclusive,*

↪ except that the field of consulting does not include a person who writes or otherwise prepares a plan for the conservation, preservation or reclamation of any property and whose activities specified in this paragraph, or any combination of those activities, are wholly incidental to the writing or other preparation of the plan.

2. The following categories are established for the licensing of pest control personnel under the fields of licensing:

(a) Aerial:

(1) ~~Insect~~ *Agriculture plant* pests—The application of insecticides, miticides, ~~and~~ acaricides ~~and~~, *fungicides, bactericides and nematocides.*

(2) Weeds—The application of herbicides, ~~and~~ plant regulators ~~and~~ ~~(3) Desiccants~~, *desiccants* and defoliants. ~~{—The application of desiccants and defoliants.~~

~~(4) Fungi pests—The application of fungicides, bactericides and nematocides.}~~

(b) Agricultural ground:

(1) ~~Insect~~ *Agriculture plant* pests—The application of insecticides, miticides, ~~and~~ acaricides ~~and~~, *fungicides, bactericides and nematocides.*

- (2) Weeds—The application of herbicides , ~~land~~ plant regulators ~~†~~
~~—(3) Desiccants† , desiccants and defoliant . †—The application of desiccants and~~
~~defoliant.~~
~~—(4) Fungi pests—The application of fungicides, bactericides and nematicides.~~
~~—(5)† (3) Vertebrate pests—The application of various substances on agricultural ground~~
for the control of vertebrate pests, including, without limitation, the use of fumigants for
burrowing rodents. This category does not include the control of vertebrate pests in, on or around
industrial complexes, institutional complexes, dwelling units or other structures designed for use
by humans, or on ornamentals or turf in, on or around such structures.

(4) Soil fumigation—The use of various substances, including, without limitation, fumigants for the control of any pest that is present in the soil at the time of treatment, including, without limitation, plant-parasitic nematodes, soil-borne pathogens, weeds and insects.

(c) Urban and structural:

(1) Limited landscape—The control of insect pests, vertebrate pests 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 insect pests and vertebrate pests 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 insect pests, weeds and vertebrate pests in aquatic areas that are used or are intended for use in and around industrial complexes, institutional complexes and dwelling units.

(6) Weeds—The control of weeds in the maintenance of landscapes, turf and rights-of-way, including, without limitation, public roads, power lines, pipelines and railway rights-of-way. This category does not include the control of aquatic weeds.

(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.

(d) Consultant:

(1) Agricultural—Consultant licensed for the field of aerial or agricultural ground pest control.

(2) Urban—Consultant licensed for the field of urban and structural pest control.

Sec. 2. NAC 555.400 is hereby amended to read as follows:

555.400 Except as otherwise provided in NAC 555.250 to 555.530, inclusive, ***and sections 2 to 6, inclusive, of LCB File No. R093-15,*** or as specifically authorized in writing by the Director, each person engaged in the application of pesticide for hire shall:

1. Apply pesticides only in those categories of pest control for which he or she is licensed. All other applicators must be under the immediate supervision of a primary principal, location principal, principal, demonstration and research specialist or operator who is qualified and currently licensed in the appropriate category.

2. Use only methods and equipment which are capable of performing the functions necessary to ensure the proper application of materials.
3. Operate only where climatic, pest and crop conditions are proper for controlling the pest for which the application is being made.
4. Keep pest control equipment, when in use, in good condition.
5. Except as otherwise provided in NAC 555.510, when measuring concentrated materials, use only devices which are accurately calibrated to the smallest unit in which the material is being weighed or measured.
6. Maintain a uniform mixture at all times, both in operating rigs and service rigs, when using a mixture of materials.
7. Perform all pest control work in a good and workmanlike manner, substantially confining the material applied to the premises where the land, crop, livestock, ornamental, soil or pest is being treated.
8. Thoroughly clean all equipment after use to prevent residues which may be injurious to crops, plants or livestock.
9. Provide storage for all undiluted pesticide material in a locked facility. Servicepersons' kits, which contain insecticides, poison baits or concentrates must be handled with extreme caution and must not be left where children or other unauthorized persons might remove the contents. ~~†A†~~ *While being transported in a service vehicle, a* service container must be secured *in a manner* to prevent spills or damage. ~~†to the container when being transported by a service vehicle.†~~
10. Pay for the cost of any cleanup resulting from pesticides spilled in the course of operations for pest control.

Sec. 3. 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 accurate and legible records 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 or, in the case of a spot treatment, the term “spot treatment” must be noted, followed by a description of the treatment area and the spot or spots treated.

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

(6) The number, name or site identification of the field.

(7) 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.

(8) The purpose for which the crop, site or spot was treated.

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

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

(11) 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. In the case of a spot treatment, the term “spot treatment” must be followed by a description of the treatment area and the spot or spots treated.

(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 limited landscape, weeds, 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 purpose for which the pesticide was applied.

(V) The area or volume fumigated.

(VI) The times at which fumigation started and finished.

(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 Management Association Form 99-B entitled “New Construction Subterranean Termite Service Record.” The Housing and Urban Development-National Pest Management Association Form 99-B is available from CBS Forms by mail at 11652 Agarwood Drive, Walton, Kentucky 41094, by telephone at (800) 324-7676 or at the Internet address <http://www.cbsforms.com/>, for the

price of \$19.95 for a pack of 50 forms, plus shipping and handling, or from the United States Department of Housing and Urban Development, free of charge, at the Internet address <http://portal.hud.gov/>.

2. Report by telephone within 24 hours to the Director or his or her designee:

(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 accidental spillage at sites of operations of more than 1 gallon of liquid or 4 pounds of dry weight of unmixed pesticides that are detrimental to persons, wildlife, domestic animals or crops.

3. Report by telephone to the Director or his or her designee within 48 hours any cases of apparent pesticide poisoning requiring medical treatment.

4. If the person is licensed in the aerial or agricultural ground field, file with the Director on forms to be furnished by him or her a monthly report of all pest control operations, including those 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) 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 or she requests.

↪ As used in this section, “spot treatment” means the application of pesticide to a spot or two or more noncontiguous spots, the total coverage of which does not exceed one-tenth of the size of the total ~~[treatment]~~ *potentially treatable* area. The size of each individual spot for indoor

applications must not exceed 2 square feet and for outdoor applications must not exceed 4 square feet.

Sec. 4. NAC 555.420 is hereby amended to read as follows:

555.420 Except for experimental purposes under the direction or supervision of qualified federal, state or county personnel or research workers employed by the manufacturer, where no charge is made to the grower or owner, a person engaged in the business of application of pesticides shall not use for pest control:

1. Any material not registered in this State as a pesticide.
2. Any registered pesticide for a purpose other than one for which it is registered.

3. *As a termiticide, any pesticide:*

(a) Not registered with the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.; or

(b) Not labeled with directions for use in the control of termites.

Sec. 5. NAC 555.440 is hereby amended to read as follows:

555.440 1. A ~~licensee or certified applicator~~ **person** engaged in the application of pesticides shall exercise reasonable precautions to protect persons, animals, crops and property from harm or damage.

2. A pesticide or its empty container must not be disposed of or left unattended where it may present a hazard to any person, animal, crop or property, or be disposed of in a manner likely to cause injury. A ~~licensee or certified applicator~~ **person** shall ensure that all empty containers are removed from the operations work site or otherwise safeguarded.

3. A ~~licensee or certified applicator~~ **person** engaged in the application of pesticides shall:

(a) Provide his or her employees with the information, precautions and safety equipment required by the manufacturer of the pesticide or recommended by the Department; and

(b) Ensure that any safety equipment provided pursuant to paragraph (a) is in good working order.

4. A ~~licensee or certified applicator~~ *person* engaged in the application of pesticides shall use materials, dosages, formulas, devices and methods of application and disposal only in accordance with the directions on the label of the pesticide or device registered by the Environmental Protection Agency, registered by the Department or in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

5. A licensee who performs a preconstruction treatment to the soil using a liquid termiticide shall use, unless otherwise authorized by the Director:

(a) A flow metering device which is accurately calibrated to display the number of gallons of termiticide dispensed pursuant to NAC 555.410, 555.428 and 555.700; or

(b) A measuring device which is accurately calibrated by the equipment manufacturer to display the number of gallons of termiticide dispensed pursuant to NAC 555.410, 555.428 and 555.700.

Sec. 6. 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:

CERTIFICATION CERTIFIED AND	COMMERCIAL	PRIVATE
UNCERTIFIED PERSONS	APPLICATOR	APPLICATOR
	APPLICATION	APPLICATION

1. Except as otherwise provided in this section, for a violation of NRS 555.2605 to 555.460, inclusive	\$100 to \$1,000	\$100 to \$1,000
2. For a violation of NRS 555.351:		
(a) If it is a nonserious violation	\$100 to \$1,000	\$50 to \$300
(b) If it is a serious violation	\$1,001 to \$5,000	\$301 to \$1,000
3. For a violation of NRS 555.359, if the violation is for:		
(a) Knowingly applying ineffective or improper materials	\$300	\$50
(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	\$100 to \$1,000	\$50 to \$300
(2) If it is a serious violation	\$1,001 to \$5,000	\$301 to \$1,000
(c) Operating faulty or unsafe equipment	\$100	\$50
(d) Applying pesticides in a faulty, careless or negligent manner:		
(1) If it is a nonserious violation	\$100 to \$1,000	\$50 to \$300
(2) If it is a serious violation	\$1,001 to \$5,000	\$301 to \$1,000

~~CERTIFICATION~~ **CERTIFIED AND
UNCERTIFIED PERSONS**

COMMERCIAL
~~APPLICATOR~~
APPLICATION

PRIVATE
~~APPLICATOR~~
APPLICATION

(e) Aiding or abetting an uncertified person to avoid the provisions of NRS 555.351 to 555.357, inclusive.....	\$100 to \$1,000	\$50 to \$300
(f) Conspiring If certified, conspiring with an uncertified person to evade the provisions of NRS 555.351 to 555.357, inclusive, or allowing his or her 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 or her supervision:		
(1) If it is a nonserious violation	\$100 to \$500	\$50 to \$300
(2) If it is a serious violation	\$1,001 to \$5,000	\$301 to \$1,000
4. For a violation of NAC 555.440, if the violation is for:		

~~CERTIFICATION~~ **CERTIFIED AND
UNCERTIFIED PERSONS**

COMMERCIAL
~~APPLICATOR~~
APPLICATION

PRIVATE
~~APPLICATOR~~
APPLICATION

(a) Failing to exercise reasonable precautions to protect persons, animals, crops or property:

(1) If it is a nonserious violation	\$100 to \$1,000	\$50 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 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 to \$500	\$100 to \$300
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(c) Failing to provide employees with the required information, precautions and safety equipment:

(1) If it is a nonserious violation	\$100 to \$1,000	\$50 to \$300
	(per item not provided)	(per item not provided)

~~CERTIFICATION~~ **CERTIFIED AND
UNCERTIFIED PERSONS**

COMMERCIAL
~~APPLICATOR~~
APPLICATION

PRIVATE
~~APPLICATOR~~
APPLICATION

(2) If it is a serious violation	\$1,001 to \$5,000 (per item not provided)	\$301 to \$1,000 (per item not provided)
(d) Failing to maintain the required safety equipment in good working order.....	\$100 to \$1,000 (per item not maintained)	\$50 to \$300 (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	\$100 to \$1,000	\$50 to \$300
(2) If it is a serious violation	\$1,001 to \$5,000	\$301 to \$1,000

5. For a violation of NAC 555.510, if the violation is for:

(a) Fumigating without the supervision of a person who is a certified applicator:

~~CERTIFICATION~~ **CERTIFIED AND
UNCERTIFIED PERSONS**

COMMERCIAL

PRIVATE

~~APPLICATOR~~

~~APPLICATOR~~

APPLICATION

APPLICATION

(1) If it is a nonserious violation	\$100 to \$1,000	\$50 to \$500
(2) If it is a serious violation	\$1,001 to \$5,000	\$501 to \$5,000
(b) Failing to have 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, if required, a copy of the fully developed site-specific fumigation management plan	\$100 to \$500 (per item not provided)	\$100 to \$300 (per item not provided)
(c) Failing to have the antidote, if any, and instructions for administering it as prescribed by the manufacturer of the fumigant.....	\$50 to \$300	\$50 to \$300
6. For a violation of NAC 555.700, if the violation is for:		
(a) Failing to keep an accurate and legible record of each property treated for 2 years	\$100	\$50

~~CERTIFICATION~~ **CERTIFIED AND
UNCERTIFIED PERSONS**

COMMERCIAL
~~APPLICATOR~~
APPLICATION

PRIVATE
~~APPLICATOR~~
APPLICATION

(b) Failing to maintain required information for 2 years	\$100	\$50
(c) Failing to report within 24 hours any emergency dump or accidental spillage of a pesticide	\$100	\$50
(d) Failing to report to the Director or his or her designee within 48 hours any case of apparent pesticide poisoning requiring medical treatment	\$100	\$50
(e) Failing to have contact with an applicator under his or her direct supervision at least once every hour at night and at least once every 2 hours during daylight hours	\$100	\$50

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST SUBSEQUENT
OFFENSE OFFENSE

(a) Failing to carry the license issued to him or her by the Director while engaged in pest control or failing to produce the license upon request by the Director or a designated field agent or inspector.....

~~25~~ \$50

~~25~~ \$50

(b) Failing to notify the Director of any change in the status or authority of any primary principal, location principal, principal, operator , *consultant, demonstration and research specialist* or agent 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~~ \$500

~~25~~ \$500

12. 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~~ \$50

~~25~~ \$50

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

	FIRST OFFENSE	SUBSEQUENT OFFENSE
(d) Failing to keep pest control equipment in good condition	\$25 to \$100	\$50 to \$301
(e) Not using devices which are accurately calibrated to the smallest possible unit when measuring concentrated materials.....	\$25 to \$100	\$50 to \$301
(f) Failing to maintain a uniform mixture	\$25 \$50 to \$100	\$25 \$50 to \$301
(g) Failing to confine in a substantial manner the material applied to the premises where the land, crop, livestock, ornamental, soil or pest which is being treated:		
(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 clean thoroughly all equipment after use.....	\$25 \$50	\$25 \$50
(i) Failing to store undiluted pesticides in a locked facility or failing to handle serviceperson's kits with extreme caution or leaving the kits where children or other unauthorized persons might remove the contents:		
(1) If it is a nonserious violation	\$50 to \$500	\$301 to \$1,000

LICENSEES LICENSED AND UNLICENSED PERSONS	FIRST OFFENSE	SUBSEQUENT OFFENSE
(2) If it is a serious violation	\$501 to \$5,000	\$1,001 to \$5,000
15. For a violation of NAC 555.410, if the violation is for:		
(a) Failing to keep an accurate and legible record of each property treated for 2 years	\$100 to \$500	\$501 to \$1,000
(b) Failing to record an item of information required for the record	\$25 to \$100	\$50 to \$301
(c) Failing to report to the Director his or her designee 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

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST SUBSEQUENT
OFFENSE OFFENSE

16. 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, *using any registered pesticide for a purpose other than the purpose for which the pesticide was registered or using a pesticide not registered with the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7*

<i>U.S.C. §§ 136 et seq.</i>	100	100
<i>(a) If it is a nonserious violation</i>	<i>\$100 to \$500</i>	<i>\$501 to \$1,000</i>
<i>(b) If it is a serious violation.....</i>	<i>\$500 to \$1,000</i>	<i>\$1,001 to \$5,000</i>

17. For a violation of NRS 555.420, if the violation is for failing to respond to a request for an inspection or other activity specified in that section or to submit to such an inspection or activity

\$100 to \$1,000 \$100 to \$5,000

18. For a violation of NAC 555.415

\$100 to \$1,000 \$301 to \$1,000

19. For a violation of NAC 555.425, if the violation is for:

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

	FIRST	SUBSEQUENT
	OFFENSE	OFFENSE

(a) Failing to display prominently his or her permanent license number and the name of the business on all service vehicles of the business 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	\$100
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(b) Failing to equip a service vehicle used in the custom application of pesticides with:

(1) Clothing and equipment designed to provide protection against any pesticide carried on or in the vehicle.....

	\$100	\$150
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(2) Absorbent material capable of absorbing and containing more than 1 gallon of pesticide that has been spilled.....

	\$100	\$150
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(3) Equipment designed to store safely materials contaminated with pesticide.....

	\$100	\$150
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(4) A sufficient quantity of potable water to wash skin exposed to pesticide.....

	\$100	\$100
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20. For a violation of NAC 555.427, if the violation is for:

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST
OFFENSE SUBSEQUENT
OFFENSE

<p>(a) Failing to submit the form entitled “Termiticide Pretreatment Notification Form”.....</p>	<p>\$301 to \$1,000</p>	<p>\$1,001 to \$5,000</p>
<p>(b) Failing to include each item of information required on the form entitled “Termiticide Pretreatment Notification Form”.....</p>	<p>\$25 to \$100 (per item not included)</p>	<p>\$50 to \$301 (per item not included)</p>
<p>(c) 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.....</p>	<p>\$500 to \$1,000</p>	<p>\$1,001 to \$5,000</p>
<p>(d) 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</p>	<p>\$301 to \$1,000</p>	<p>\$1,001 to \$5,000</p>

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

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST SUBSEQUENT
OFFENSE OFFENSE

<p>(a) Falsifying or failing to record legibly and accurately the information required on the tag for preconstruction treatment.....</p>	<p>\$301 to \$1,000</p>	<p>\$1,001 to \$5,000</p>
<p>(b) Failing to include each item of information required on the tag for preconstruction treatment</p>	<p>\$50 to \$100 (per item not included)</p>	<p>\$100 to \$301 (per item not included)</p>
<p>(c) Failing to affix securely a tag for preconstruction treatment at the site of the preconstruction treatment immediately after an application of termiticide.....</p>	<p>\$301 to \$1,000</p>	<p>\$301 to \$1,000</p>
<p>22. For a violation of NAC 555.430, if the violation is for:</p>		
<p>(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 or on an electronic form approved by the Department.....</p>	<p>\$100</p>	<p>\$150</p>

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

	FIRST OFFENSE	SUBSEQUENT OFFENSE
(b) Failing to file a report with the district or 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 keep a copy of each report for at least 3 years after preparation of the report	\$100 to \$500	\$501 to \$1,000
(e) Failing to affix or deliver a tag as required upon completion of an inspection or after an application of a pesticide	\$100	\$300
(f) Failing to record each item of information required on the tag	\$25 to \$100 (per item not included)	\$100 to \$301 (per item not included)

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST
OFFENSE SUBSEQUENT
OFFENSE

(c) Failing to provide employees with the 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 serious violation	\$501 to \$5,000 (per item not provided)	\$1,001 to \$5,000 (per item not provided)

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

\$50 to \$300 (per item not maintained)	\$301 to \$1,000 (per item not maintained)
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(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	\$301 to \$1,000
(2) If it is a serious violation	\$501 to \$5,000	\$1,001 to \$5,000

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST SUBSEQUENT
OFFENSE OFFENSE

(f) Failing to use an accurately calibrated
metering device when dispensing a termiticide.... \$100 to \$301 \$301 to \$1,000

24. For a violation of NAC 555.445, if the
violation is for:

(a) Failing to attach abbreviated labels to a
service container \$50 to \$100 \$50 to \$301

(b) Failing to include each item of
information required on an abbreviated label \$50 to \$100 \$50 to \$301

(c) Failing to carry a complete label for each
pesticide in the vehicle..... \$50 to \$100 \$50 to \$301

25. 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 to \$500 \$301 to \$1,000

(b) Failing to exercise reasonable precautions
to prevent access of animals to areas where
harmful residues remain \$100 to \$500 \$301 to \$1,000

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST SUBSEQUENT
OFFENSE OFFENSE

(a) Failing to give notice personally or by telephone *or electronic mail* to an apiarist within the required time \$100 to \$500 \$301 to \$1,000

(b) Failing to give notice of his or her intent to apply specified pesticides to each apiarist within 2 miles of the field to be treated within the required time \$100 to \$500 \$301 to \$1,000

(c) Failing to provide each item of information required to be included in the notice \$100 to \$500 \$301 to \$1,000

27. For a violation of NAC 555.510, if the violation is for:

(a) Fumigating without the supervision of a person who is a certified applicator and licensed pursuant to subparagraph (4) of paragraph (c) of subsection 2 of NAC 555.280 *or subparagraph (10) of paragraph (d) 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

~~LICENSEES~~ **LICENSED AND
UNLICENSED PERSONS**

FIRST
OFFENSE SUBSEQUENT
OFFENSE

(b) Except as otherwise provided by NAC 555.510, 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 \$1,000	\$1,001 to \$5,000

(c) Failing to have 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, if required, a copy of the fully developed site-specific fumigation management plan

\$50 to \$300	\$501 to \$1,000
(per item not provided)	(per item not provided)

(d) Failing to have the antidote, if any, and instructions for administering it as prescribed by the manufacturer of the fumigant.....

\$50 to \$300	\$301 to \$1,000
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PERSONS WHO DO NOT HOLD A LICENSE OR CERTIFICATE	FIRST OFFENSE	SUBSEQUENT OFFENSE
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28. For a violation of:

<p>(a) NRS 555.280 , <i>as amended by section 23 of Assembly Bill No. 32, chapter 80, Statutes of Nevada 2017, at page 345</i>, or 555.285 , <i>as amended by section 24 of Assembly Bill No. 32, chapter 80, Statutes of Nevada 2017, at page 346</i>, by a person who does not hold a license issued by the Director</p>	\$50 to \$1,000	\$1,001 to \$5,000
<p>(b) NRS 555.351 by a person who does not hold a certificate issued by the Director</p>	\$50 to \$1,000	\$1,001 to \$5,000
<p><i>(c) NAC 555.440 by a person who does not hold a license or certificate issued by the Director if the violation is for:</i></p> <p><i>(1) Failing to exercise reasonable precautions to protect persons, animals, crops or property:</i></p> <p><i>(I) If it is a nonserious violation</i></p> <p><i>(II) If it is a serious violation</i></p>	<p><i>\$50 to \$500</i></p> <p><i>\$501 to \$5,000</i></p>	<p><i>\$301 to \$1,000</i></p> <p><i>\$1,001 to \$5,000</i></p>

PERSONS WHO DO NOT HOLD A LICENSE OR CERTIFICATE	FIRST OFFENSE	SUBSEQUENT OFFENSE
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<p><i>(2) 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.....</i></p>	<p><i>\$100 to \$301</i></p>	<p><i>\$301 to \$1,000</i></p>
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<p><i>(3) Failing to provide employees with the required information, precautions and safety equipment:</i></p>		
<p><i>(I) If it is a nonserious violation</i></p>	<p><i>\$50 to \$500</i></p>	<p><i>\$301 to \$1,000</i></p>
	<p><i>(per item not provided)</i></p>	<p><i>(per item not provided)</i></p>
<p><i>(II) If it is a serious violation</i></p>	<p><i>\$501 to \$5,000</i></p>	<p><i>\$1,001 to \$5,000</i></p>
	<p><i>(per item not provided)</i></p>	<p><i>(per item not provided)</i></p>

<p><i>(4) Failing to maintain the required safety equipment in good working order.....</i></p>	<p><i>\$50 to \$300</i></p>	<p><i>\$301 to \$1,000</i></p>
	<p><i>(per item not maintained)</i></p>	<p><i>(per item not maintained)</i></p>

PERSONS WHO DO NOT HOLD A LICENSE OR CERTIFICATE	FIRST OFFENSE	SUBSEQUENT OFFENSE
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(5) 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.:

<i>(I) If it is a nonserious violation</i>	<i>\$50 to \$500</i>	<i>\$301 to \$1,000</i>
<i>(II) If it is a serious violation</i>	<i>\$501 to \$5,000</i>	<i>\$1,001 to \$5,000</i>

(6) Failing to use an accurately calibrated metering device when dispensing a termiticide.....

<i>\$100 to \$301</i>	<i>\$301 to \$1,000</i>
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Sec. 7. NAC 555.613 is hereby amended to read as follows:

555.613 1. The fields of licensed primary principal commercial applicators are:

(a) Aerial—The use of aircraft for the application of pesticides on standing or running water, rangeland, agricultural crops, forest, idle cropland and noncropland associated with the production of agricultural crops.

(b) Agricultural ground—The use of ground equipment for the application of pesticides on livestock, rangeland, agricultural crops, idle cropland and noncropland associated with the production of agricultural crops.

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

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

(a) Aerial:

(1) ~~Insect~~ *Agricultural plant* pests—The application of insecticides, miticides, ~~and~~ acaricides ~~and~~, *fungicides, bactericides and nematocides.*

(2) Weeds—The application of herbicides, ~~and~~ plant regulators, ~~and~~

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

~~(4) Fungi pests—The application of fungicides, bactericides and nematocides.~~

(b) Agricultural ground:

(1) ~~Insect~~ *Agricultural plant* pests—The application of insecticides, miticides, ~~and~~ acaricides ~~and~~, *fungicides, bactericides and nematocides.*

(2) Weeds—The application of herbicides, ~~and~~ plant regulators, ~~and~~

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

~~(4) Fungi pests—The application of fungicides, bactericides and nematocides.~~

~~(5)~~ (3) Vertebrate pests—The application of various substances on agricultural ground for the control of vertebrate pests, including, without limitation, the use of fumigants for burrowing rodents. This category does not include the control of vertebrate pests in, on or around industrial complexes, institutional complexes, dwelling units or other structures designed for use by humans, or on ornamentals or turf in, on or around such structures.

(4) Soil fumigation—The use of various substances, including, without limitation, fumigants for the control of any pest that is present in the soil at the time of treatment,

including, without limitation, plant-parasitic nematodes, soil-borne pathogens, weeds and insects.

(c) Urban and structural:

(1) Limited landscape—The control of insect pests, vertebrate pests 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 insect pests and vertebrate pests 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 insect pests, weeds and vertebrate pests in aquatic areas that are used or are intended for use in and around industrial complexes, institutional complexes and dwelling units.

(6) Weeds—The control of weeds in the maintenance of landscapes, turf and rights-of-way, including, without limitation, public roads, power lines, pipelines and railway rights-of-way. This category does not include the control of aquatic weeds.

(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. 8. 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 licensed primary principal commercial applicator, nonprimary principal commercial applicator or private applicator applying or supervising the application of restricted-use pesticides shall, in addition to the provisions of subsections 2 to 10, inclusive, of NAC 555.400:

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

(a) Date of treatment;

(b) First and last name of the nonprimary principal 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) The item or site treated or, in the case of a spot treatment, the term “spot treatment” must be noted, followed by a description of the treatment area and the spot or spots treated; and

(2) The amount of diluted material used and the concentration of the pesticide that was applied or the 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, aquatic pest control, forest pest control, fumigation pest control, ornamental and turf pest control, right-of-way pest control or mosquito control, or in the private categories agricultural pest control plant, chemigation, greenhouse and

nursery pest control, aquatic pest control, forest pest control, fumigation pest control 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 by telephone within 24 hours to the Director or his or her designee 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 more than 1 gallon of liquid or 4 pounds of dry weight of a pesticide at any site of operations of pesticides.
 3. Report by telephone to the Director or his or her designee within 48 hours any case of apparent pesticide poisoning requiring medical treatment.
 4. Have contact with any applicator under his or her direct supervision at least once every hour at night and at least once every 2 hours during daylight hours.
 5. Pay for the cost of any cleanup resulting from pesticides spilled in the course of operations for pest control.

↪ As used in this section, “spot treatment” means the application of pesticide to a spot or two or more noncontiguous spots, the total coverage of which does not exceed one-tenth of the size of the total ~~treatment~~ *potentially treatable* area. The size of each individual spot for indoor applications must not exceed 2 square feet and for outdoor applications must not exceed 4 square feet.

Sec. 9. Section 2 of LCB File No. R093-15 is hereby amended to read as follows:

1. “Consultant” means a person who ~~is~~:

~~—(a) Is employed by a person who~~ is ~~subject to~~ *licensed by* the ~~provisions of chapter 586 of NRS; and~~ *Department in the appropriate category and field pursuant to NAC 555.280 and solicits customers and prospective customers to provide:*

(a) Pest control or pest control services;

~~(b) Publicly holds himself or herself out as being in the business of identifying pests~~

Technical information on pesticides or ~~recommending pesticides for the purpose of detecting, preventing, controlling or exterminating pests.~~ *pest control;*

(c) Pest identification;

(d) Recommendations for pesticides or other products used for pest control; or

(e) Any combination of paragraphs (a) to (d), inclusive.

2. The term does not include ~~the~~:

(a) A provider of continuing education ~~the~~;

(b) A governmental agency;

(c) A general merchandise store whose activities as a distributor of pesticides do not significantly influence a person’s purchasing decision and are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers in face-to-face transactions by direct sales or through an Internet website;

(d) A specialty store, including, without limitation, a hardware store, nursery, drugstore and grocery store, whose activities as a distributor of pesticides do not significantly influence a person’s purchasing decision and are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly

to walk-in customers in face-to-face transactions by direct sales or through an Internet website;

(e) A wholesale distributor of pesticides or pesticide manufacturer representative if accompanied by a licensed pesticide applicator at the time of soliciting an intended customer;
or

(f) A wholesale distributor of pesticides or pesticide manufacturer representative providing technical information relating to pesticides or pest control at a conference or similar event.

Sec. 10. Section 4 of LCB File No. R093-15, is hereby amended to read as follows:

“Termiticide” means a pesticide ~~†~~:

~~—1. That is registered with the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136a;~~

~~—2. For which the brand is registered with the Director under the provisions of NRS 586.250 to 586.300, inclusive; and~~

~~—3. For which the label provides directions for use to control~~ *† intended for preventing, destroying, controlling, repelling, attracting or mitigating* termites.