

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

LCB File No. R147-08

Effective February 11, 2009

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

AUTHORITY: §1, NRS 555.390 and 555.400.

A REGULATION relating to pesticides; revising certain reporting requirements for a person who is licensed to apply pesticides in the aerial or agricultural ground field; and providing other matters properly relating thereto.

Section 1. 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~~ *Management* Association Form 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~~ *Management* Association Form 99-B is available from CBS Forms by mail at ~~10109 Tiburon~~ *11652 Agarwood* Drive, ~~Florence,~~ *Walton*, Kentucky ~~41042, from CBS Forms~~ *41094*, by telephone at (800) 324-7676 ~~[, from CBS Forms]~~ *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, ~~[Client Information and Policy System,]~~ free of charge, at the Internet address ~~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 \$28, plus shipping and handling.]~~ *http://www.hud.gov/offices/adm/hudclips/forms/files/99b.pdf.*

2. Keep a copy of each report prepared pursuant to NAC 555.430 for 5 years after completing the report.

3. 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.

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

5. ~~{File}~~ *If the person is licensed in the aerial or agricultural ground field, file* with the Director on forms to be furnished by him 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) ~~{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.~~

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

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R147-08**

The Director of the State Department of Agriculture adopted regulations assigned LCB File No. R147-08 which pertain to chapter 555 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

Summary of Workshop and Hearings on Certification Regulation Changes:

R146-08: 6 month waiting period for re-testing for use of an unauthorized aid during the certification examination

R147-08: revising monthly restricted use pesticide reporting requirements for non-agricultural applicators

R148-08: \$25 penalty/fine for duplicate certification credential

Workshop Date and Time: Thursday, July 10, 2008, 3:00 P.M.

Hearing Date and Time: Friday, July 11, 2008, 3:00 P.M.

The workshop and hearing were held in the NDOA Las Vegas Office and teleconferenced to the NDOA Reno Office.

In attendance for the workshop: NDOA staff members in Reno and Las Vegas along with Mr. Dave Barton of Pro-Tech Pest Control (Las Vegas).

Only NDOA staff were in attendance for the hearing.

LCB R148-08: NAC 555.690:

Workshop: A question was raised whether we could print on the new card that there would be a re-issue fee on the credential, but it was determined that there would be no room for the statement. Also, a question was raised on the number of credentials which were re-issued this year. It was stated that there were approximately 8 thus far. It was also pointed out that applicators are not required to carry credentials and certification numbers could be checked on-line. Therefore, if an applicator did not want to pay for the duplicate certificate, he would not have to. No objections were raised.

Hearing: No objections to the penalty/fee were voiced. Discussion centered around why the term "penalty" was changed to "fee" by LCB and no answer was given thus far by LCB. It was suggested that many credentials are re-issued because an applicant will give an incomplete, incorrect, or non-legible addresses. It was suggested that this language be added to the regulation. LCB is working on this change.

Economic effect of these proposed amendments on the businesses which it is to regulate:

1. Adverse effect: Businesses will pay a replacement fee of duplicate certificates.
2. Beneficial effects: This change will help offset the cost to the Department of manufacturing duplicate credentials.
3. Immediate and long term effect: Same as #1 and #2 above.

Economic effects of the proposed amendments on the public:

1. Adverse effects: None
2. Beneficial effects: None
3. Immediate and long-term effects: None

There will be no additional costs to the Department for enforcement of the amendments. This regulation does not overlap or duplicate any other state, local or federal regulation.

The proposed amendments do not include any provisions more stringent than any federal regulation with the same activity

LCB R147.08: NAC 555.410:

Workshop: It was suggested that new language be added for clarification and this was agreed to by Mr. Dave Barton.

Hearing: Copies of the LCB draft were reviewed more closely and it was determined that LCB had already incorporated equivalent language and made other changes to the regulation that would be consistent with our proposed revision. LCB also updated the address for the HUD website related to the wood destroying pest inspection form.

Economic effect of these proposed amendments on the businesses which it is to regulate:

1. Adverse effect: None
2. Beneficial effects: Relief of paperwork burden; reduction in monetary penalties to pest control companies for non-reporting.
3. Immediate and long term effect: Same

Economic effects of the proposed amendments on the public:

1. Adverse effects: None
2. Beneficial effects: None
3. Immediate and long-term effects: None

There will be no additional costs to the Department for enforcement of the amendments. No

This regulation does not overlap or duplicate any other state, local or federal regulation. No

The proposed amendments do not include any provisions more stringent than any federal regulation with the same activity.

LCB R146-08: NAC 555.670:

Workshop: The discussion was supportive and none were opposed. It was made clear that the applicant does not have an opportunity to contest the office manager's final decision if it is determined that an unauthorized testing aid was used to take the certification test.

Hearing: LCB changes were reviewed and there was no opposition to this revision.

Economic effect of these proposed amendments on the businesses which it is to regulate:

1. Adverse effect: Some applicators are required to pass an examination to qualify for certain employment and to get pay upgrades. This may affect an applicant who is caught with an unauthorized testing aid.
2. Beneficial effects: This change will deter cheating on certification exams administered by the Department.
3. Immediate and long term effect: Same as #1 and #2 above.

Economic effects of the proposed amendments on the public:

1. Adverse effects: None
2. Beneficial effects: This provision will help assure that certified applicators are competent when applying chemicals.
3. Immediate and long-term effects: Same

There will be no additional costs to the Department for enforcement of the amendments.

This regulation does not overlap or duplicate any other state, local or federal regulation. The proposed amendments do not include any provisions more stringent than any federal regulation with the same activity. Federal regulations authorize the Department to give certification examinations. It is left up to us on how testing will be administered and testing procedures enforced.

**NEVADA DEPARTMENT OF AGRICULTURE
SMALL BUSINESS IMPACT DISCLOSES PROCESS
PURSUANT TO 233B "Nevada Administrative Procedures Act"**

The purpose of this Small Business Impact Form is to provide a framework 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 question two (2) is answered with a **YES**, then a small business impact statement is required prior to conducting a public workshop(s) 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: NAC 555.690 & NAC 555.410 & NAC 555.670

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).