

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

LCB File No. R062-10

Effective January 13, 2011

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

AUTHORITY: §1, NRS 555.277 and 555.400; §§2, 3, 5, 6, 8, 9, 14 and 15, NRS 555.400; §4, NRS 555.300 and 555.400; §§7 and 16, NRS 555.390 and 555.400; §10, NRS 555.380, 555.390 and 555.400; §§11 and 12, NRS 555.380 and 555.400; §13, NRS 555.400 and 555.470.

A REGULATION relating to pesticides; revising provisions relating to licensing requirements and restrictions; prohibiting an applicant for a license as a principal or operator from copying or removing any portion of an examination; revising provisions governing the records and reports of certain persons engaged in the application of pesticides; requiring the use of certain equipment for a preconstruction treatment using a liquid termiticide; revising fumigation procedures; establishing and increasing the amount of certain fines; revising provisions relating to categories of certified applicators; making various other changes to provisions relating to the application of pesticides; and providing other matters properly relating thereto.

Section 1. NAC 555.259 is hereby amended to read as follows:

555.259 As used in NRS 555.277, the Director will interpret the term “incidental” to mean the application of a pesticide, using hand-powered equipment, to a lawn or to an ornamental as part of the performance of a contract for the development or maintenance of a landscape if:

1. The application of the pesticide comprises not more than 20 percent of the services performed pursuant to the contract; and
2. The person using the hand-powered equipment does not publicly hold himself out as being in the business of applying pesticides ~~or~~ *or performing pest control.*

Sec. 2. NAC 555.260 is hereby amended to read as follows:

555.260 NAC 555.250 to 555.530, inclusive, do not apply to:

1. Services for domestic or industrial sanitation, which use sanitizers and disinfectants;
2. Services for the maintenance of swimming pools, which uses algicides, bactericides or fungicides;
3. Any person who uses preservatives in the treatment of fabrics;
4. Veterinarians or persons in pet salons who treat animals;
5. A person who controls vertebrate pests by means other than the use of ~~chemicals;~~ *pesticides*; or

6. A person who:

- (a) Conducts inspections for; or
- (b) Performs services for the control of,

↳ a mold or other fungus detrimental to human health.

Sec. 3. NAC 555.290 is hereby amended to read as follows:

555.290 1. A person may not be employed ~~[,]~~ or retained ~~[as an independent contractor,]~~ in the position of a principal or primary principal for more than one pest control business at any time.

2. Each primary principal, principal, operator or agent of a pest control business shall:

(a) Ensure that the license issued to him or her by the Director is on his or her person or in his or her service vehicle while engaging in pest control; and

(b) Produce the license upon request by the Director or a person designated by the Director as a field agent or inspector pursuant to subsection 2 of NRS 561.225.

3. The primary principal of a pest control business shall, within 15 days after the change, notify the Director of any change in the status of authority of any primary principal, principal,

operator or agent of the pest control business or any change in the information given on the application for the license for the pest control business.

4. A license is not assignable or transferable. If a change in ownership occurs, a new application and fee must be submitted. No fee is required for a change in the name of the business if the application for the change is accompanied by a declaration under penalty of perjury that there is no change in ownership.

5. A separate licensing fee for a principal, operator or agent must be paid by the employer. No additional fee is required for a designation as a primary principal.

6. A principal or operator may apply to the Director for amendment of his or her license to include additional categories of pest control or have restrictions removed. Except as otherwise provided in NAC 555.325, upon examination, the principal or operator is entitled to have the license so amended without any additional licensing fee.

7. Any former licensee whose license has not been active during the 2 years immediately preceding his or her application for a new license must demonstrate his or her qualifications for the license. The demonstration must include written or oral examinations, or both, currently in use to determine the qualifications of any other applicants.

8. A licensee who cannot provide services in a particular category of pest control because he or she fails to meet the requirements for insurance for that category may apply to have his or her license for that category declared inactive. The license for that category may be reactivated at any time upon submission of proof of insurance to the Director.

9. The Director may refuse to issue a license to a pest control business in a name that is:

- (a) The same or similar to a name used by another licensee;
- (b) Likely to be confused with a governmental agency or trade association; or

(c) Misleading.

10. An agent shall not apply any pesticide or provide a recommendation or any other advice to a person concerning the use of a pesticide.

11. The Director may refuse to issue a license to an applicant to perform pest control work if, at the time the applicant submits the application:

(a) A fine imposed against the applicant pursuant to NAC 555.530 remains unpaid; or

(b) Any hearing or other matter that is within the jurisdiction of the Director is pending against the applicant.

Sec. 4. NAC 555.340 is hereby amended to read as follows:

555.340 1. Each applicant for a license as a principal or operator must pass a written examination to demonstrate his knowledge of:

(a) Operations for pest control;

(b) Pertinent laws and regulations;

(c) Safety in handling and dispensing pesticides;

(d) Pests;

(e) An integrated approach to pest management; and

(f) Recommended practices for controlling pests.

2. The examination for:

(a) Each principal or operator consists of a general examination required for all applicants and a specific examination for each category of pest control in which the applicant has requested to be examined.

(b) Each agent consists of an examination based upon a presentation.

3. The Director may require an applicant to pass a practical examination that demonstrates his ability properly to inspect or use and apply pesticides in any category of pest control for which the applicant applies.

4. The passing score is 70 percent for each examination for a principal and 65 percent for each examination for an operator or agent.

5. An applicant who fails to receive a passing score on a section of the examination may be retested upon the expiration of the following minimum waiting periods:

(a) If he applied for an operator's license, 7 days.

(b) If he applied for a principal's license, 10 days.

6. Any applicant who uses an unauthorized aid during an examination *or who copies or removes any portion of an examination* must be excluded from the remainder of the examination and must not be allowed to take another examination for at least 6 months.

Sec. 5. NAC 555.374 is hereby amended to read as follows:

555.374 1. To obtain accreditation from the Director for a course of continuing education, the sponsor of the course must submit to the Department, at least 1 day before the first day of the course:

(a) A detailed outline of the subject matter to be presented;

(b) A description of the method of presentation;

(c) A curriculum vitae or other biographical statement of the instructor; and

(d) Any other information required in the application for accreditation.

2. To equal one unit of continuing education, the course for which the application is submitted must consist of at least 50 minutes of instruction and be directly related to:

(a) The control or management of pests;

- (b) The classification or usage of pesticides;
- (c) The safe handling or dispensing of pesticides; or
- (d) A law or regulation concerning the use of pesticides.

3. The information required by subsection 1 must be submitted on an application prescribed by the Director.

4. The sponsor of a course accredited by the Director shall submit to the Department, within 30 days after the completion of the course, a list that includes:

- (a) The name of the course;
- (b) The course number assigned by the Director pursuant to NAC 555.375;
- (c) The number of units of continuing education that a person who successfully completes the course may receive;
- (d) The name of each person who attended the course;
- (e) The identification number assigned by the Department to the licensee, nonprimary principal commercial applicator or private applicator wishing to receive credit for completing the course;
- (f) The name of the business or governmental agency that employs the licensee, nonprimary principal commercial applicator or private applicator;
- (g) The signature of the licensee, nonprimary principal commercial applicator or private applicator; and
- (h) A statement prepared by the sponsor of the course indicating that:
 - (1) The licensee presented to the sponsor the licensee's license as a primary principal, principal [,] *or* operator [~~or agent~~] or any other form of identification issued by a governmental agency that includes a photograph of the licensee; or

(2) The nonprimary principal commercial applicator or private applicator presented to the sponsor a form of identification issued by a governmental agency that includes a photograph of the nonprimary principal commercial applicator or private applicator.

5. The sponsor of a course shall maintain a record of the information set forth in subsection 4 for at least 4 years after the completion of the course. The records must be made available to the Director upon request.

6. Except as otherwise provided in subsection 7, courses of continuing education that may be accredited by the Director include, without limitation:

- (a) A seminar;
- (b) A meeting;
- (c) An adult education class;
- (d) A correspondence class;
- (e) An Internet class;
- (f) A college or university class;
- (g) A video or other media presentation; and
- (h) Any equivalent activity approved by the Director.

7. A person who attends a meeting of the Nevada Pest Control Association may receive credit for attending the meeting without obtaining approval for the meeting pursuant to this section.

8. A person who successfully completes a course of continuing education is not entitled to receive credit for attending the course unless, at the time the sponsor of the course recorded the attendance of the person at the course, the person presented to the sponsor the identification specified in paragraph (h) of subsection 4.

9. A licensee, nonprimary principal commercial applicator or private applicator may not receive credit more than once in a calendar year for attending the same course with the same course number assigned by the Director pursuant to NAC 555.375.

Sec. 6. NAC 555.385 is hereby amended to read as follows:

555.385 1. Every person licensed to engage in pest control shall return his license to the Department within 15 working days after:

- (a) He ceases engaging in pest control; or
- (b) His employment with a pest control business is terminated.

2. A primary principal, principal, operator or agent of a pest control business shall provide written notice to the Department of the *date of* termination of the employment of a primary principal, principal, operator or agent from the pest control business within 15 days after the date on which that termination occurs.

Sec. 7. 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 ~~fa-record~~ *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.

(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.

~~(7)~~ (8) The purpose for which the crop or site was treated.

~~(8)~~ (9) The time the treatment was started and the time the treatment was finished.

~~(9)~~ (10) The temperature at the start and finish of the treatment.

~~(10)~~ (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.

(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 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 ~~Soil Treatment~~ *Service* 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 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://www.hud.gov/offices/adm/hudclips/forms/files/npma99b.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. 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 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.

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

Sec. 8. NAC 555.415 is hereby amended to read as follows:

555.415 An unlicensed person who ~~applies pesticides~~ *performs pest control* under the immediate supervision of a primary principal, principal or operator pursuant to NAC 555.400 shall not prepare, distribute, *appear on* or sign on his behalf or on behalf of the primary principal, principal or operator:

1. Any invoice, estimate or bid for pest control;

2. Any report prepared pursuant to NAC *555.410 or* 555.430; or
3. Any contract or other agreement for pest control.

Sec. 9. NAC 555.428 is hereby amended to read as follows:

555.428 1. The Department shall supply a tag for preconstruction treatment to a licensee who performs preconstruction treatment. A licensee who performs a preconstruction treatment shall complete a tag pursuant to this section. The tag must include at least the following information:

- (a) The name of the pest control business that performed the preconstruction treatment;
- (b) The date that the preconstruction treatment was performed;
- (c) The trade name of the termiticide that was applied;
- (d) If the termiticide was diluted, the concentration of the diluted termiticide that was applied, written as a percentage of the active ingredient of the diluted termiticide that was applied;
- (e) The total number of gallons of the diluted termiticide that was applied;
- (f) The printed full name of the licensee who performed the preconstruction treatment;
- (g) A statement indicating whether the licensee performed a preconstruction treatment to soil, a preconstruction treatment to wood, or a combination thereof;
- (h) If the licensee performed a preconstruction treatment to soil, a statement indicating whether the licensee applied the termiticide vertically, horizontally, or in both manners; *and*
- (i) If the licensee must leave the site before completing the preconstruction treatment, a statement indicating that the preconstruction treatment is incomplete.

2. The information required to be included on a tag for preconstruction treatment pursuant to subsection 1 must be legible and an accurate and truthful representation of the preconstruction treatment performed.

3. Each tag for preconstruction treatment must be:

(a) Affixed securely at the site of each preconstruction treatment immediately after each application of termiticide; and

(b) Except as otherwise provided in subsections 4 and 5, prominently displayed:

(1) On the pipes for plumbing;

(2) On a board that is located at the site of the construction and includes the permit or records of inspection of the contractor of the structure under construction; or

(3) Any other location approved by the Director.

4. If the licensee performed a preconstruction treatment to soil and the soil adjacent to the exterior of the foundation was not treated during the initial treatment, after its treatment, the portion of the tag containing the information relating to the final treatment must be placed in the electrical box of the structure and must include the following information:

(a) The name of the pest control business that performed the preconstruction treatment;

(b) *The full name of the licensee who performed the preconstruction treatment;*

(c) The date that the final treatment was applied;

~~(d)~~ (d) The trade name of the termiticide that was applied;

~~(d)~~ (e) The number of gallons of the diluted termiticide that was applied; and

~~(e)~~ (f) If the termiticide was diluted, the concentration of the diluted termiticide that was applied, written as a percentage of the active ingredient of the diluted termiticide that was applied. ~~(g)~~

5. If the contractor of the structure under construction on which the preconstruction treatment is being performed requests a tag for preconstruction treatment, the licensee shall:

(a) Prepare a duplicate tag;

(b) Print the word “DUPLICATE” in capital letters on the tag; and

(c) Post the tag on the site in the location requested by the contractor or deliver the tag to the contractor.

Sec. 10. 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 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]~~ *If an* application of a pesticide was made ~~[~~
~~—(i)]~~ :

(1) *The date of the treatment.*

(2) *An identification of any area to which a pesticide was applied.*

(3) The *pesticide* name ~~[]~~ *and* the registration number assigned by the Environmental Protection Agency . ~~[and the total diluted amount and concentration of any pesticide that was applied.~~

~~—(j)]~~ (i) A statement of whether there is *or is not* evidence of active or inactive infestations of termites, other wood-destroying insects or wood-destroying fungi. Mold 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)]~~ (j) A statement of whether there is *or is not* 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.

(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 and less than four areas permitting ventilation. The term “insufficient ventilation” does not include a crawlspace which is:

- (I) Mechanically ventilated; and
- (II) Free of wood-destroying fungi and excessive moisture.

(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.

~~(k)~~ (k) 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.

~~(l)~~ (l) 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.

~~[(a)]~~ (m) The full name , *license number* and signature of the ~~[inspector.]~~ *licensee performing the inspection and application of a pesticide if an application is performed.*

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. 11. NAC 555.440 is hereby amended to read as follows:

555.440 1. A licensee or certified applicator 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 shall ensure that all empty containers are removed from the operations work site or otherwise safeguarded.

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

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

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

4. A licensee or certified applicator 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. 12. NAC 555.510 is hereby amended to read as follows:

555.510 1. Fumigation may be performed only under the supervision of a person who is certified pursuant to NAC 555.600 to 555.700, inclusive.

2. The person exercising supervision over the fumigation shall be:

(a) Physically present at the premises being fumigated; ~~and~~

(b) Available to provide immediate guidance and instruction to each person performing the fumigation ~~and~~; *and*

(c) Licensed in the category of fumigation pursuant to subparagraph 4 of paragraph (c) of subsection 2 of NAC 555.280 or hold a nonprimary principal commercial applicator certification in the category of fumigation pest control as set forth in NAC 555.620 or hold a private applicator certification in the category of fumigation as set forth in NAC 555.640.

3. Except as otherwise provided in subsection 4, ~~the person exercising 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] **at** least one licensee and one person under the supervision of that licensee **[is] shall**
be present **[during:**~~

~~— (1) The] :~~

(a) *During the* release of the fumigant; and

~~{(2) The}~~

(b) *Until the* ventilation *and aeration* process ~~[until]~~ *is complete and* 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.~~

~~—4.— If the requirements for use and warnings listed on the label of the fumigant are more stringent than the requirements set forth in subsection 3, the person exercising supervision over the fumigation shall ensure that the requirements listed on the label of the fumigant are satisfied.~~

~~—5.— In addition to the requirements set forth in subsection 3 or 4, the person exercising 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 3 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.~~

~~— 6.]~~

4. Unless otherwise specified on its label, a fumigant in tablet or pellet form that is used in the custom application of pesticides must be applied by at least one licensee who is present during the introduction of the fumigant.

5. The person exercising 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~~ *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 5 to measure the concentration of the fumigant in the air during the fumigation process or the ventilation process;~~

~~—(4)]~~ *(a)* 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 ~~[(5)]~~, *and, if required, a copy of the fully developed site-specific fumigation management plan;* and

~~[(5)]~~ *(b)* 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.

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:

CERTIFICATION

COMMERCIAL

PRIVATE

APPLICATOR

APPLICATOR

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

~~[\$50]~~ *\$100* to \$1,000

~~[\$25]~~ *\$50* to \$300

(b) If it is a serious violation

\$1,001 to \$5,000

\$301 to \$1,000

~~[2.]~~ 3. For a violation of NRS 555.359, if

the violation is for:

(a) Knowingly applying ineffective or

improper materials

\$300

~~[\$25]~~ *\$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

~~[\$50]~~ *\$100* to \$1,000

~~[\$25]~~ *\$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

~~[\$25]~~ *\$100*

~~[\$25]~~ *\$50*

(d) Applying pesticides in a faulty, careless

or negligent manner:

(1) If it is a nonserious violation

~~[\$50]~~ *\$100* to \$1,000

~~[\$25]~~ *\$50* to \$300

(2) If it is a serious violation

\$1,001 to \$5,000

\$301 to \$1,000

CERTIFICATION	COMMERCIAL APPLICATOR	PRIVATE APPLICATOR
(e) Aiding or abetting an uncertified person to avoid the provisions of NRS 555.351 to 555.357, inclusive.....	\$100 <i>to \$1,000</i>	\$50 <i>to \$300</i>
(f) Conspiring with an uncertified person to evade the provisions of NRS 555.351 to 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 supervision:		
(1) If it is a nonserious violation	[\$50 to] \$100 <i>to \$500</i>	[\$25] \$50 <i>to \$300</i>
(2) If it is a serious violation	\$1,001 to \$5,000	\$301 to \$1,000

~~13.]~~ **4.** 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:

CERTIFICATION

COMMERCIAL

PRIVATE

APPLICATOR

APPLICATOR

(1) If it is a nonserious violation ~~[\$50]~~ **\$100** to \$1,000 ~~[\$25]~~ **\$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*

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

(1) If it is a nonserious violation ~~[\$50]~~ **\$100** to \$1,000 ~~[\$25]~~ **\$50** 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)

CERTIFICATION

COMMERCIAL

PRIVATE

APPLICATOR

APPLICATOR

(d) Failing to maintain the required safety equipment in good working order..... ~~[\$50]~~ **\$100** to \$1,000 ~~[\$25]~~ **\$50** to \$300
 (per item not maintained) (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]~~ **\$100** to \$1,000 ~~[\$25]~~ **\$50** to \$300
 (2) If it is a serious violation \$1,001 to \$5,000 \$301 to \$1,000

~~[4.]~~ **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:

(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

CERTIFICATION

COMMERCIAL

PRIVATE

APPLICATOR

APPLICATOR

(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 and instructions for administering it, if any, 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 ~~[a]~~ *an accurate and legible* record of each property treated for 2 years

\$100

\$50

(b) Failing to maintain required information for 2 years

~~[\$50]~~ *\$100*

~~[\$25]~~ *\$50*

CERTIFICATION	COMMERCIAL APPLICATOR	PRIVATE APPLICATOR
(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
(e) Failing to have contact with an applicator under his direct supervision at least once every hour at night and at least once every 2 hours during daylight hours	[\$50] \$100	[\$25] \$50

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
5.] 7. Except as otherwise provided in this section, for a violation of a provision of NRS 555.2605 to 555.460, inclusive.....	\$100 to \$500	\$301 to \$1,000
6.] 8. For a violation of NRS 555.280	\$500	\$1,000
7.] 9. For a violation of NRS 555.285	\$500	\$1,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<p>18.1 10. For failing to supervise adequately an applicator who does not have a license issued by the Director</p>	\$500	\$500
<p>19.1 11. For a violation of NAC 555.290, if the violation is for:</p> <p>(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 request by the Director or a designated field agent or inspector.....</p>	\$25	\$25
<p>(b) Failing to notify the Director of any change in the status of authority of any primary principal, principal, operator or agent or of any change in the information given on the application for the license of the pest control business.....</p>	\$100	\$100
<p>(c) Failing to submit a new application and fee if a change in ownership occurs.....</p>	\$25	\$25

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<p>{10.} 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</p>	\$25	\$25
<p>{11.} 13. 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, operator or agent from the pest control business within 15 days after the date on which that termination occurs</p>	\$100	\$100
<p>{12.} 14. 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> <p>(b) Using a method or equipment for applying a pesticide which is not capable of properly applying materials</p>	\$500	\$1,000
	\$100 <i>to</i> \$500	{100} \$301 <i>to</i> \$1,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(c) Applying pesticides where climatic, pest or crop conditions are not proper for controlling the pest for which the application is made:		
(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
(d) Failing to keep pest control equipment in good condition	\$25 <i>to \$100</i>	[\$25] <i>\$50 to \$301</i>
(e) Not using devices which are accurately calibrated to the smallest possible unit when measuring concentrated materials.....	\$25 <i>to \$100</i>	[\$25] <i>\$50 to \$301</i>
(f) Failing to maintain a uniform mixture	\$25	\$25
(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:		
(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	\$25

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<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>13. 15. For a violation of NAC 555.410, if the violation is for:</p>		
(a) Failing to keep a 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 \$25 to \$100	\$25 \$50 to \$301
(c) Failing to keep a copy of each report prepared pursuant to NAC 555.430 for 5 years after the report is completed	\$100 to \$500	\$501 to \$1,000
(d) Failing to report to the Director within 48 hours any cases of apparent pesticide poisoning which require medical treatment:		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(1) If it is a nonserious violation	\$100	\$100
(2) If it is a serious violation	\$500	\$500
(e) Failing to file the required monthly report on or before the 15th day of the following month	\$100	\$100
14. 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	\$100	\$100
15. 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
16. 18. For a violation of NAC 555.415...	\$100 to \$1,000	\$301 to \$1,000
17. 19. For a violation of NAC 555.425, if the violation is for:		

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

~~18.7~~ **20.** For a violation of NAC 555.427, if the violation is for:

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

~~19.~~ **21.** 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] <i>\$50 to \$100</i>	[\$50] <i>\$100 to \$301</i>
	(per item not included)	(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
20.] 22. 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

LICENSEES	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 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 <i>to \$100</i> (per item not included)	[\$50] <i>\$100 to \$301</i> (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 the Director:		

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE									
(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>21. 23. For a violation of NAC 555.440, if the violation is for:</p> <p>(a) Failing to exercise reasonable precautions to protect persons, animals, crops or property:</p> <tr> <td>(1) If it is a nonserious violation</td> <td style="text-align: center;">\$50 to \$500</td> <td style="text-align: center;">\$301 to \$1,000</td> </tr> <tr> <td>(2) If it is a serious violation</td> <td style="text-align: center;">\$501 to \$5,000</td> <td style="text-align: center;">\$1,001 to \$5,000</td> </tr> <p>(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.....</p> <tr> <td></td> <td style="text-align: center;">\$100 <i>to \$301</i></td> <td style="text-align: center;">[\$100] <i>\$301 to \$1,000</i></td> </tr> <p>(c) Failing to provide employees with the required information, precautions and safety equipment:</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		\$100 <i>to \$301</i>	[\$100] <i>\$301 to \$1,000</i>
(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									
	\$100 <i>to \$301</i>	[\$100] <i>\$301 to \$1,000</i>									

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(1) If it is a nonserious violation	\$50 to \$500	\$301 to \$1,000
	(per item not provided)	(per item not provided)
(2) If it is a serious <i>serious</i> violation	\$501 to \$5,000	\$1,001 to \$5,000
	(per item not provided)	(per item not provided)
(d) Failing to keep the required safety equipment in good working order.....	\$50 to \$300	\$301 to \$1,000
	(per item not maintained)	(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	\$301 to \$1,000
(2) If it is a serious violation	\$501 to \$5,000	\$1,001 to \$5,000

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<i>(f) Failing to use an accurately calibrated metering device when dispensing a termiticide.....</i>		
	<i>\$100 to \$301</i>	<i>\$301 to \$1,000</i>
22. 24. For a violation of NAC 555.445, if the violation is for:		
(a) Failing to attach abbreviated labels to a service container		
	<i>\$50 to \$100</i>	<i>\$50 to \$301</i>
(b) Failing to include each item of information required on an abbreviated label		
	[\$25] <i>\$50 to \$100</i>	[\$25] <i>\$50 to \$301</i>
(c) Failing to carry a complete label for each pesticide in the vehicle.....		
	<i>\$50 to \$100</i>	<i>\$50 to \$301</i>
23. 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		
	<i>\$100 to \$500</i>	[\$100] <i>\$301 to \$1,000</i>

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(b) Failing to exercise reasonable precautions to prevent access of animals to areas where harmful residues remain.....	\$100 <i>to</i> \$500	[\$100] \$301 <i>to</i> \$1,000
(c) Failing to exercise reasonable precaution to avoid contaminating water containing fish.....	\$100 <i>to</i> \$500	[\$100] \$301 <i>to</i> \$1,000
(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

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
<p>(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:</p>		
(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
<p>24. 26. For a violation of NAC 555.470, if the violation is for:</p>		
(a) Failing to give notice personally or by telephone to an apiarist within the required time	\$100 <i>to \$500</i>	[\$100] <i>\$301 to \$1,000</i>
(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 <i>to \$500</i>	[\$100] <i>\$301 to \$1,000</i>

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(c) Failing to provide each item of information required to be included in the notice.....	[\$25] <i>\$100 to \$500</i>	[\$25] <i>\$301 to \$1,000</i>

~~[\$25]~~ 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 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

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
(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
(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] <i>Except as otherwise provided by NAC 555.510, failing</i> 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

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
[(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
—— (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

LICENSEES	FIRST OFFENSE	SUBSEQUENT OFFENSE
—(l) Failing to have the required first aid kit, respiratory protective devices or testing device on the premises while fumigating.....	\$50 to \$300 (per item not provided)	\$301 to \$1,000 (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 (per item not maintained)	\$301 to \$1,000 (per item not maintained)]
<i>(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.....</i>	<i>\$50 to \$300 (per item not provided)</i>	<i>\$501 to \$1,000 (per item not provided)</i>

LICENSEES

FIRST
OFFENSE

SUBSEQUENT
OFFENSE

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

fumigant

\$50 to \$300

\$301 to \$1,000

Sec. 14. 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 ~~[-]~~, *and excluding fumigation pest control.*

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 ~~[-]~~, *excluding fumigation pest control.*

4. Forest pest control: The control of any pest in rangeland, forests, forest nurseries and forest seed-producing areas.

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.]~~ *which includes:*

(a) Commodity fumigation: The control of any pest which infests raw agricultural and processed commodities, animal feeds and commodity storage facilities where they are held or stored and are subject to infestations of insects, rats, mice, fungi and bacteria, including, but not limited to, grain elevators, rail cars, truck trailers, vans, shipholds, air and sea containers, other static sealable enclosures, food processing plants with raw or processed commodities, tarpaulin fumigations with raw or processed commodities, prepared bins with raw or processed commodities, warehouses or other areas where raw or processed commodities are stored, beehives and other beekeeping equipment, and excluding fumigation pest control.

(b) Rodent burrow fumigation: Outdoor applications for the control of nonprotected or endangered burrowing rodents and moles, including, but not limited to, fumigants applied to underground burrow systems for the control of marmots, woodchucks, Norway rats, roof rats, house mice, ground squirrels, moles, voles, pocket gophers and chipmunks, and excluding fumigation pest control.

(c) Soil fumigation: The control of any soil pest when present in the soil at the time of treatment, including, but not limited to, plant-parasitic nematodes, soil-borne disease causing organisms, weeds and insects.

(d) Structural fumigation: The control of any industrial or institutional pest, wood-destroying fungi or wood-destroying pest, as defined in NAC 555.2535, 555.2577 and 555.258, which is in, on or around any structure, including, but not limited to, homes, apartments,

dwelling units, storage sheds, warehouses, offices, casinos, motels, stores, hospitals, schools and similar institutions, and excluding commodity fumigation, rodent burrow fumigation and soil fumigation.

6. Greenhouse and nursery pest control: The control of any pest in the maintenance or production of greenhouse or nursery stock ~~H~~, *excluding fumigation pest control.*

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 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, *fumigation 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 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, *fumigation 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 ~~H~~, *and excluding fumigation pest control.*

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

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 ~~H~~, *and excluding fumigation pest control.*

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

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

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.

13. Seed treatment: The treating of seeds to control insects, fungi, bacteria and other microorganisms ~~H~~, *and excluding fumigation pest control.*

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. 15. 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 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 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 including places on or in which poultry is confined, including, but not limited to, coops and pens. *This category excludes fumigation.*

(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. *This category excludes fumigation.*

(2) Row crop pest control: The control of any pest in, on or around row crops. *This category excludes fumigation.*

(3) Seed crop pest control: The control of any pest in, on or around seed crops. *This category excludes fumigation.*

(c) Speciality crops:

(1) 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.

(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. *This category excludes fumigation.*

(3) Industrial farm pest control: The control of any pest, excluding predators, in, on or around apiaries and industrial farmsteads, including, but not limited to, grain silos, equipment

buildings, barns, warehouses and any other building associated with a farm operation. *This category excludes fumigation.*

(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. *This category excludes fumigation.*

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

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.

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.~~ *which includes:*

(a) Commodity fumigation: The control of any pest which infests raw agricultural and processed commodities, animal feeds and commodity storage facilities where they are held or stored and are subject to infestations of insects, rats, mice, fungi and bacteria. Sites for commodity fumigations include, but are not limited to, grain elevators, rail cars, truck trailers, vans, shipholds, air and sea containers, other static sealable enclosures, food processing plants with raw or processed commodities, tarpaulin fumigations with raw or processed commodities, prepared bins with raw or processed commodities, warehouses or other areas where raw or processed commodities are stored, beehives and other beekeeping equipment.

(b) Rodent burrow fumigation: Outdoor applications for the control of nonprotected or endangered burrowing rodents and moles, including, but not limited to, fumigants applied to

underground burrow systems for the control of marmots, woodchucks, Norway rats, roof rats, house mice, ground squirrels, moles, voles, pocket gophers and chipmunks, and excluding structural fumigation.

(c) Soil fumigation: The control of any soil pest when present in the soil at the time of treatment, including, but not limited to, plant-parasitic nematodes, soil-borne disease causing organisms, weeds and insects.

Sec. 16. 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 9, inclusive, of NAC 555.400:

1. Keep and maintain ~~{a}~~ *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) Item or site treated; and

(2) 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 ~~[5]~~ *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 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.]~~

**Informational Statement for the Adoption of Changes to NAC 555
LCB File Number R062-10**

Prepared by Charles Moses, Acting Administrator, Plant Industry Division
December 28, 2010

1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary;

1. Notices of Workshop and Hearing were sent to the County Public Libraries for posting and notices were posted at all Nevada Department of Agriculture Offices. Attached are the notice of workshop (attachment 1) and the notice of hearing (attachment 2). These notices indicated points of contact for copies of the proposed regulation changes. In addition to this, an informational brochure was mailed out to all certified applicators who hold the fumigation category, along with a copy of the notice of hearing (attachment 3).

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation;

2. A summary of the regulation workshop was prepared (attachment 4). A summary of the regulation hearing was prepared (attachment 5).

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary;

3. See response to question 1. Regulation changes were distributed and discussed during two Nevada State Board of Agriculture meetings. The board is made up of industry representatives, whose industries are regulated by the State Department of Agriculture. Workshop and hearing comments were distributed to board members as well. Also, all pesticide dealerships that sell pesticide fumigants were sent the same informational brochure sent referred to in the response to question 1 (attachment 3).

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed;

4. Changes were made to the initial proposed regulation based on LCB revisions, comments received during the workshop/hearing, and federal pesticide fumigant label changes. In the first draft of the regulation, changes were made to the fumigation section based on staff estimates as to what the proposed federal regulation changes would be. Once those changes were finalized by the U.S. Environmental Protection Agency, they were incorporated into the regulations. Some regulation language was streamlined and eliminated from the current regulation. However, staff members were careful not to make the regulation less protective of health and safety after the final revision was made.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects;

5. The economic effects are discussed in the notice of hearing (attachment 2).

6. The estimated cost to the agency for enforcement of the proposed regulation;

6. There is no additional cost to the agency for enforcement of the proposed regulation revisions. The agency receives grant funding from the U.S. Environmental Protection Agency to perform enforcement activities and certification related activities (also see response to question #8). Streamlining of regulations will add clarity and reduce some costs to the agency.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency;

7. See response to question # 4. Most existing regulation language that could be considered to be duplicative and/or overlapping has been removed, with the exception that pesticide applicators comply with provisions on the federal pesticide label.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions; and

8. There is one fumigation provision added which is more stringent than what is proposed by the federal government. The federal regulation requires that an additional category be added to an applicators certificate which would specifically address soil fumigation. At the present time, only one general fumigation category exists. The new federal regulation requires that a special soil fumigation exam. This would also require that soil fumigant training material be developed. If this reasoning is taken a step further, it can be argued that there are actually four different categories of fumigation. Specialized exams/training material would need to be developed for each. Some of the training material already exists in some form under our pesticide license program. Applicator competency and safety will be maximized and training will be tailored specifically for the fumigant that is to be applied. The four subcategories will be commodity fumigation, structural fumigation, soil fumigation, and rodent burrow fumigation.

9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.

9. There are no new fees or increases to an existing fee.

**NAC CHAPTER 555 CUSTOM PEST CONTROL REGULATION CHANGE
PROPOSAL WORKSHOP COMMENTS & RESULTS**

WORKSHOP DATE: May 13, 2010

LOCATIONS: Nevada Department of Agriculture offices in Las Vegas & Sparks (video conferenced to both locations, beginning at 10 a.m. and ending at 12:30 p.m.).

ATTENDEES: Lee Lawrence, NDOA-Sparks
Scott Conner, Cats Eye Pest Control
Charles Moses, NDOA-Sparks
George Botta, J.S. Pest Control
Scott Cichowlaz, NDOA-Las Vegas
Jay Steele, NDOA-Las Vegas
Kurt Trombetti-Enviro Safe Pest Control Inc
Keith Pratt-Keith's Pest Control
Jim Fitzgerald-Far West Agri Business (via conference call)

COMMENTS RECEIVED ABOUT PROPOSED REGULATION AMENDMENTS-

NAC 555.259.2. No comment. Proposed amendment agreed with as written.

NAC 555.260.5. No comment. Proposed amendment agreed with as written.

NAC 555.340.6. Proposed amendment agreed with, but with the word "*takes*" replaced with the word "*removes*".

NAC 555.374.4.h.1. No comment. Proposed amendment agreed with as written.

NAC 555.385.2. No comment. Proposed amendment agreed with as written.

NAC 555.410.1. Proposed amendment agreed with, but changes were made to its wording. Through discussion it was determined that the original wording, "...*an accurate, legible and truthful...*" would be more useful if it were changed to, "...*an accurate and legible...*"

NAC 555.410.6. No comment. Proposed amendment agreed with as written.

NAC 555.410.7.IV. No Comment. Proposed amendment agreed with as written.

NAC 555.410.7.VI. Explanations were given about the necessity of ensuring that pest control record keeping requirements be the same for licensed pest control operators and restricted use pesticide applicators. Proposed amendment agreed with as written.

NAC 555.410.8. Discussions were held about the need to amend this section to ensure that record keeping requirements for termite pre-construction treatments are not duplicated. Proposed amendment agreed with as written; AND, because the Form 99-B is available free of charge at a

government website, information about ordering it, etc., was struck out, and the web address amended to reflect new web address (as proposed).

NAC 555.415. Proposed amendment was agreed with. After a discussion about the wording of the first paragraph, the words, "...*applies pesticides...*" were removed and amended with, "...*performs pest control...*" (as proposed).

NAC 555.415.2. After a discussion about the wording in this sentence, it was decided that for the intent of the regulation to be complete, "...*NAC 555.410...*" needed to be added (as proposed).

NAC 555.425.1. It was agreed that the proposal to remove the crossed out section highlighted in red would be a mistake. This section is to remain unchanged from its original presentation.

NAC 555.428.1. Many comments were made about the "usefulness" of the proposed changes and if they could improve termite pre-construction treatment practices. It was agreed that the proposed amendments would not significantly improve treatment standards and was therefore not supported by the majority. This section is to remain unchanged from its original presentation.

NAC 555.428.4.f. No Comment. Proposed amendment agreed with as written.

NAC 555.430.3.d. It was determined that adding the "full" name of a person who requests a wood-destroying pest inspection report was not necessary; and that adding their "address" was not as important as originally thought. This section is to remain unchanged from its original presentation.

NAC 555.430.3.e. For similar reasons given above, it was decided that this section should not be modified and should remain unchanged from its original presentation.

NAC 555.430.3.f. Comments about this proposed change indicated that it would be too difficult to enforce because the full name of the property owner may be too difficult to determine in cases of short-sales and foreclosures. This section is to remain unchanged from its original presentation.

NAC 555.430.3.g. It was agreed that with so many short-sales and foreclosures, any revisions or removal of this section should not take place at this time. This section is to remain unchanged from its original presentation.

NAC 555.430.3.h.1.2.3. The proposed additions to this section were agree to since they already exist on the wood-destroying pest inspection report; and the end of the sentence in point 3 was decided to be kept and remain unchanged from its original presentation.

NAC 555.430.3.i. No comment. Proposed amendment agreed with as written.

NAC 555.430.3.j. No comment. Proposed amendment agreed with as written.

NAC 555.430.3.j.1.V. Representatives from the pest control industry in southern Nevada were not too concerned about the proposed changes to this section. However, industry representatives in northern Nevada believed this section should remain as written in its original presentation. This section is to remain unchanged entirely from its original presentation.

NAC 555.430.3.k. No comment. Proposed amendment agreed with as written.

NAC 555.430.3.l. No comment. Proposed amendment agreed with as written.

NAC 555.430.3.m. Few comments were received regarding this proposed amendment since it already exists on the wood-destroying pest inspection report and is being filled out by most of the pest inspectors. The Proposed amendment was agreed with as written.

NAC 555.440.3.a. No comment. Proposed amendment agreed with as written.

NAC 555.440.5. Discussions about this regulation proposal revealed that the pest control industry understood and agreed that a measuring/metering device is necessary to ensure the correct application of soil applied termiticides and therefore supported this section of the proposed regulation addition.

NAC 555.440.5.a. Comments received by the pest control industry indicated minimal support for the required use of flow meters. The lack of support was due primarily to what the industry described as chronic problems with flow meters and malfunctions due to sand particles interfering with them and the propensity of the meters to get out of calibration. High costs of the meters were also a concern by some.

NAC 555.440.5.b. With respect to requiring some sort of measuring/metering device for the application of soil applied termiticides, the industry supported point *(b)* in its entirety as proposed.

NAC 555.510. Due to current federal changes regarding the use of fumigants, all proposed changes to this section have been cancelled. This section is to remain unchanged entirely from its original presentation.

CERTIFICATION & LICENSEES

NAC 555.530. Discussions were heard regarding the advantages and disadvantages of having “fine ranges”. The pest control industry supported fine ranges for “serious violations”, but for the most part did not support fine ranges for “non-serious violations”. The department explained its reasoning for fine ranges and its past and current experience with them and need to include them in fine assessments for non-serious violations. In the end, the industry left the final decision up to the department, of which the department gave its final endorsement to support the change. In addition, the proposal to raise minimum fine amounts was supported. One industry representative was of the opinion that no fine should be less than \$100.00. The addition of fines regarding the use of accurately calibrated metering devices when dispensing termiticides was supported as proposed in **NAC 555.530.22.f.** Amendments and adjustments were made to the fine portion of NAC 555.530 to reflect the changes made in the body of the text.

NAC 555.700. No comment. Proposed amendment agreed with as written.

NAC 555.700.1. Proposed amendment agreed with, but changes were made to its wording. Through discussion it was determined that the original wording, “...*an accurate, legible and truthful...*”, would be more useful if it were changed to, “...*an accurate and legible...*”.

**NAC CHAPTER 555 CUSTOM PEST CONTROL REGULATION CHANGE
PROPOSAL HEARING COMMENTS & RESULTS**

HEARING DATE: December 9, 2010

LOCATIONS: Nevada Department of Agriculture offices in Las Vegas & Sparks (video conferenced to both locations, beginning at 10 a.m. and ending at 12:30 p.m.).

ATTENDEES: Lee Lawrence, NDOA-Sparks
Scott Conner, Cats Eye Pest Control
Charles Moses, NDOA-Sparks
Jon Carpenter, NDOA-Sparks
George Botta, J.S. Pest Control
Scott Cichowlaz, NDOA-Las Vegas
Jay Steele, NDOA-Las Vegas
Kurt Trombetti-Enviro Safe Pest Control Inc
Dan Hetrick, Hetrick Farms, Orovada (via conference call)

COMMENTS RECEIVED ABOUT PROPOSED REGULATION AMENDMENTS-

SECTION 1: No comments received.

SECTION 2: No comments received..

SECTION 3: NAC 555.290.1: Discussions were heard regarding the language which restricts only one primary principal per pest control business and the need to remove confusing wording about independent contractors. It was determine that removing the words: “...*as an independent contractor...*” would not limit the intent of the regulation; but would better clarify its meaning and limit confusion about questions regarding primary principal subcontractors which are not allowed to operate as independent contractors.

SECTION 4: No comments received.

SECTION 5: No comments received.

SECTION 6: No comments received.

SECTION 7: No comments received.

SECTION 8: No comments received.

SECTION 9: No comments received.

SECTION 10: No comments received.

SECTION 11: No comments received.

SECTION 12: One comment was made about NAC 555.440.5, and how the NDOA would check flow meters and what would be the consequences if meters were slightly off. The question was addressed and the proposed amendment was agreed with as written.

SECTION 13: NAC 555.510: Newly released federal requirements for fumigant pesticides require the adjustment of existing regulations to ensure there are no conflicts, language duplications or other issues relating to the new requirements and those in NAC Chapter 555. Language has been added and large areas deleted (struck out) that are no longer relevant in their current presentation. No comments received.

NAC 555.510.2.b.c.1.2.3..3.a.1.2.b: This proposal was discussed to ensure everyone understood the reasoning of only having one person on site during the introduction of a “solid-form” fumigant. The proposed amendment was agreed with as written.

NAC 555.510.4.a.1: This proposal was necessary to ensure compliance with new federal pesticide fumigation management plan requirements. No comments received.

SECTION 14: NAC 555.530, CERTIFICATION: No comment was received for the previously proposed and discussed changes to this section.

To ensure regulatory consistency and compliance with the previously described changes to new federal pesticide fumigant requirements outlined in Section 13, enforcement authority was proposed, and authority was given. In short, no comments received.

NAC 555.530, LICENSEES: No comment was received for the previously proposed and discussed changes to this section.

To ensure regulatory consistency and compliance with the previously described changes to new federal pesticide fumigant requirements outlined in Section 13, enforcement authority was proposed, and authority was given. To limit duplication, some enforcement language had to be deleted (struck out). In short, no comments received..

SECTION 15: NAC 555.620.1.b: The proposed language addition was made to ensure pesticide fumigants are not included in the meaning of plant pest control. No comments received.

NAC 555.620.3: The proposed language addition was made to ensure pesticide fumigants are not included in the meaning of chemigation. No comments received.

NAC 555.620.5.a.b.c.d: The proposed amendments were made to ensure compliance with new federal pesticide fumigation requirements that require each state to develop licensing and restricted use pesticide categories specific to pesticide fumigant use. No comments received.

NAC 555.620.6: The proposed language addition was made to ensure pesticide fumigation is not included in the meaning of greenhouse and nursery pest control. No comments received.

NAC 555.620.7.a.b.c: The proposed language additions were made to these sections to ensure pesticide fumigation is not included in the meaning of industrial, institutional, structural and health related pest control. No comments received.

NAC 555.620.9: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of ornamental and turf pest control. No comments received.

NAC 555.620.13: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of seed treatment pest control. No comments received.

SECTION 16: NAC 555.640.1.a.3: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of poultry pest control. No comments received.

NAC 555.640.1.b.1: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of forage, grain, pasture and range pest control. No comments received.

NAC 555.640.1.b.2: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of row crop pest control. No comments received.

NAC 555.640.1.b.3: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of seed crop pest control. No comments received.

NAC 555.640.1.c.2: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of greenhouse and nursery pest control. No comments received.

NAC 555.640.1.c.3: The proposed language additions were made to ensure fumigation is not included in the meaning of industrial farm pest control. No comments received.

NAC 555.640.1.c.4: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of ornamental and turf pest control. No comments received.

NAC 555.640.2: The proposed language additions were made to ensure pesticide fumigation is not included in the meaning of chemigation pest control. No comments received.

NAC 555.640.4.a.b.c: The proposed language additions were made to this section to ensure compliance with new federal requirements which require states to develop specific pest control fumigation categories for commodity fumigation, rodent burrow fumigation and soil fumigation. No comments received.

SECTION 17: NAC 555.700.1: The proposed language changes were made to ensure that licensed primary principal commercial applicators would be included and that proper records were being kept by them. No comments received.

NAC 555.700.1.f: To remain consistent with the other revisions, this section was revised to include the necessary categories. No comments received.

NAC 555.700.5: This section was deleted (struck out) because it duplicates existing federal and state regulatory language. No comments received.