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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/09
 LAST UPDATED 03/13/09 HB 715/aHBIC

SPONSOR Nunez

SHORT TITLE Pesticide Applicator Licensing Requirements SB _____

ANALYST Haug

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$1.0	\$1.5		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$65.0	\$65.0	\$130.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

Department of Agriculture (NMDA)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industries Committee amendment removes from the definition of noncommercial applicator a person who uses or demonstrates “any general use pesticide, when applied to sites or under conditions identified by rule promulgated by the board” and restores the language in current statute prohibiting application of a restricted use or state restricted use prohibited pesticide by a non-commercial applicator.

Synopsis of Original Bill

House Bill 715 amends 76-4-3 NMSA 1978 changing the definition of and requirements for pesticide license types for public applicators and non-commercial applicators. The amendment requires a license be obtained when a public or noncommercial pesticide applicator is applying general use pesticides to sites or under conditions to be specified by rule to include: schools, daycares, parks, medical facilities, apartments, or other multi-family dwellings.

FISCAL IMPLICATIONS

House Bill 715 contains no appropriation. The cost contained in the table above is NMDA's estimate to support the processing and issuance of additional licensing, and personnel and travel expenses to support inspections and training. NMDA would add one FTE inspector position to cover the additional regulatory activities. Initial cost of implementation will also include conducting multiple informational sessions to educate affected entities. NMDA states that it can absorb the additional cost from current resources.

Since this is an ongoing program, it is not known whether NMDA would need additional funding over time to maintain the FTE and associated costs resulting from the changes proposed in the amendment.

On the revenue side, NMDA reports that it will receive minimal revenue since there is currently no fee for licensing and testing for public applicators. Noncommercial applicators who choose to become licensed, pay a \$10 exam fee and \$50 annual licensing fee. NMDA estimates that no more than 100 individuals will obtain noncommercial licensing.

SIGNIFICANT ISSUES

NMDA states:

Licensed pesticide applicators are required to demonstrate adequate knowledge to properly apply pesticides by passing a written examination. Licensees attend further training to meet the continuing education requirement necessary for renewal of the license.

Public and noncommercial applicator licenses are currently only required for use of restricted use pesticides (RUPs). RUPs are rarely used in urban situations due to high toxicity and label restrictions. Currently, the New Mexico pesticide control act (NMPCA) requires, public applicator licensing for employees who apply RUPs as part of their job for federal, state, local government agencies or other designated political subdivisions. This includes parks department employees, school maintenance and grounds personnel, and building maintenance personnel, among others. The NMPCA also requires noncommercial applicator licensing to apply RUPs to business property they or their employer owns. Examples include greenhouse workers, apartment managers, and commercial bakery personnel.

Licensing, and therefore demonstration of adequate knowledge and training, is not required for public and noncommercial applicators using general use pesticides, which are the majority of pesticides used in urban settings. General use pesticides can still be

toxic and cause environmental damage when misused. Employees not trained or knowledgeable in the proper use and safety of pesticides create increased risk for others working, living, and playing in these areas, even when using only general use products. NMDA currently has limited authority to adequately address misuse involving general use pesticides applied by unlicensed persons.

The proposed amendment extends the license requirement to include use of a general use pesticide for sites and under conditions specified by regulation. The proposed changes will affect pesticide use in urban situations. The sites identified in regulation to require further licensing for public and noncommercial applicators will be schools, daycares, parks, medical facilities, apartments, or other multi-family dwellings.

NMDA lacks a mechanism to ensure violations of pesticide misuse by unlicensed persons applying pesticides in public settings are addressed, corrected and further problems prevented. Compliance by licensed applicators is ensured through annual inspection, compliance assistance, and enforcement actions directed to prevent pesticide misuse.

The commercial pesticide industry is required to maintain licensing for anyone applying any pesticide at the above sites and supports others falling under the same licensing, recordkeeping, and compliance requirements.

This action is a step to reduce need for further restrictions affecting currently licensed pesticide applicators in response to misuse by those lacking the same professionalism and knowledge.

OTHER SUBSTANTIVE ISSUES

NMDA reports that efforts are underway at the national level to develop standards and requirements for school integrated pest management (IPM) programs. Enactment of the bill will place NMDA in a proactive position to appropriately and effectively implement and oversee IPM in schools if national legislation mandates these programs in schools and other educational institutions.

GH/svb:mc