



**DATE:** April 6, 2016

**TO:** Bureau of Agrichemical Management

**FROM:** Mike Murray, Pesticide Certification and Licensing Program Manager

**SUBJECT:** Interpretation – Subcontracting Pesticide Applications, Recordkeeping and Information to Customers

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**Introduction:** Businesses and/or individual(s) that manage/own property/sites for other businesses and/or themselves, in some instances, will contract with an independent company to treat that site for a particular pest. When the use of a pesticide product occurs, the company/individual that uses that product[s] (i.e., commercial pesticide application) must comply with a multitude of regulatory requirements. Specific to this document are the recordkeeping, and information to customer requirements as they pertain to companies that have contracted/subcontracted with others for those application types.

**Intention:** This interpretation is to clarify the intended flow of pesticide application information (e.g., notification, etc.) from a commercial pesticide application business/applicator to a customer (e.g., homeowner, producer, business) for pesticide applications that are made via a subcontracted service.

**Assumptions:** Individuals/companies whom fall within the Worker Protection Standard (WPS) requirements will have received all necessary information for compliance with their portion of the WPS.

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## **I. Subcontracting Agricultural Pesticide Applications Record Keeping and Information to Customer**

A business hired by a customer is legally responsible for providing specific pesticide application information in a timely manner. When the originally hired business subcontracts the pesticide application to another business, both businesses share this responsibility. While the two businesses may make arrangements for which entity will provide the information to the customer (e.g., landowner), the responsibility of providing this information cannot be delegated to the subcontracted business. Additionally, the subcontracted business must provide information to the business that hired them, and in some instances provide information directly to the original customer (e.g., landowner) or others. The example illustrates how the ATCP 29 requirements apply to subcontracting pesticide applications.

**Example:** Clover Belt Farm hires Spray King (1) to apply pesticides to their corn. In this instance, Spray King's (1) customer is Clover Belt Farm. Another company, Ag Force (2), has been subcontracted by Spray King (1) to make the pesticide application to Clover Belt Farm's cornfield(s).

Responsibilities:

Worker Protection Standard (WPS) – Wis. Admin. Code, chs. ATCP 29.61 and 29.51(5)

1. Ag Force (2) shall notify Spray King (1) and Clover Belt Farm about what pesticides they will use, and the WPS precautions.

Warning Signs – Wis. Admin. Code, ch. ATCP 29.52

1. Dual notice pesticides – Ag Force (2) and the producer (e.g., Clover Belt Farm) are jointly responsible for posting signs at the application site Wis. Admin. Code, ch. ATCP 29.52(1)(b).
2. Non-Ag Pesticide Application with a Restricted Entry Interval (REI) – Clover Belt Farm and Ag Force (2) are responsible for the posting requirements set forth within Wis. Admin. Code, ch. ATCP 29.52(3).
3. Chemigation – Ag Force (2) shall post per Wis. Admin. Code, ch. ATCP 29.52(4).

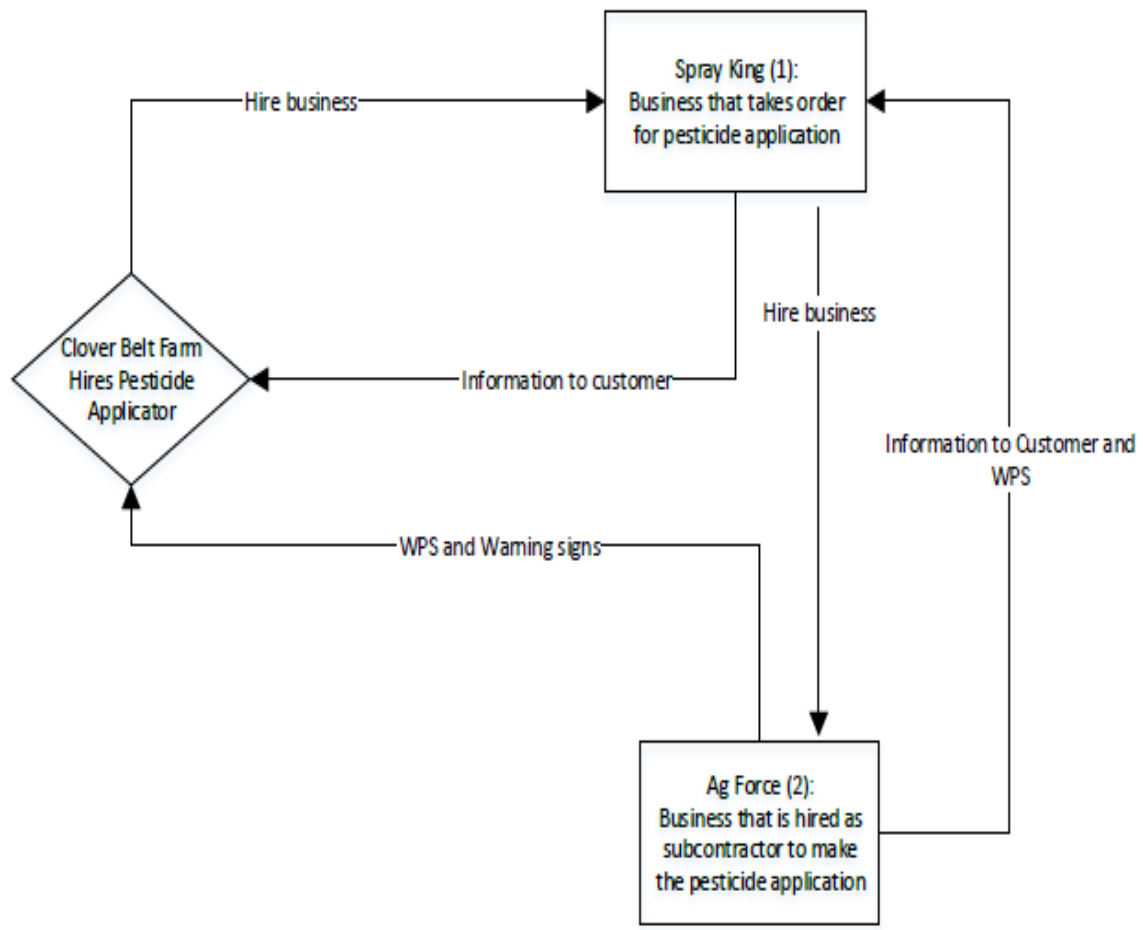
Application Record – Wis. Admin. Code, chs. ATCP 29.21 and 29.33

1. Completed by Ag Force's (2) applicator.
2. Spray King (1) shall keep an application record that identifies the Individual Commercial Applicator License number of the applicator from Ag Force (2) and other required elements provided by Ag Force (2).

Information to Customer – Wis. Admin. Code, ch. ATCP 29.22

Provide in time for the customer (e.g., Clover Belt Farm and Spray King) to take necessary precautions, no later than 30 days.

1. Ag Force (2) shall provide information to Spray King (1).
2. Spray King (1) shall provide information to Clover Belt Farm. Spray King (1) can put this information on their letterhead as long as the Individual Commercial Applicator License number of the Ag Force (2) applicator and other information specific to the application Ag Force (2) made is provided. The subcontracting business name is not required.
  - a. Original customer (i.e., Clover Belt Farm) is at the application site – provide the information within the required timeframe.
  - b. Absentee customer that is not at the application site (e.g. an out of state landowner) – If the information cannot be left at with the customer at the application site, provide the information to the absentee landlord within the required timeframe. Post application precautions that must be provided immediately shall be received by the customer within 24 hours.



## II. Subcontracting Residential Pesticide Applications Record Keeping and Information to Customer

A business hired by a customer is legally responsible for providing specific pesticide application information in a timely manner. When the originally hired business subcontracts the pesticide application to another business, both businesses share this responsibility. While the two businesses can make arrangements for which entity will provide the information to the customer (e.g., homeowner), the responsibility of providing these requirements cannot be delegated to the subcontracted business. Additionally, the subcontracted business must provide information to the business that hired them, and in some instances provide information directly to the original customer (e.g., homeowner) or others (e.g., tenant). The example illustrates how the ATCP 29 requirements apply to subcontracting pesticide applications.

**Example:** Best Rentals hires Westpest (1) to treat for bed bugs in an apartment complex owned by Best Rentals. In this instance, Best Rentals is Westpest's (1) customer. Another company, Bedbug Unit (2) has been subcontracted by Westpest (1) to make the pesticide application to Best Rentals apartment complexes.

Responsibilities:

Advanced Notice – Wis. Admin. Code, chs. ATCP 29.51(3) and 29.55(2)(a)

1. Bedbug Unit (2) shall offer Westpest (1) pre-application info in writing.
2. Westpest (1) shall offer Best Rentals pre-application info in writing.

Notice to Residents – Wis. Admin. Code, chs. ATCP 29.52(5) and 29.55(3)

1. At the time of the application, Bedbug Unit (2) shall provide the residents of Best Rentals tenants with information in writing.
  - a. Application made within a dwelling unit – Give to adult resident or post on entrance to dwelling.
  - b. Application made to a common area or perimeter barrier – Post at entryway or other conspicuous location.
2. Westpest (1) shall ensure all the required Wis. Admin. Code, chs. ATCP 29.52(5) and 29.55(3) information is received by the residents (i.e., Best Rentals tenants) of the structure.

Warning Signs – Wis. Admin. Code, chs. ATCP 29.52(3) and 29.55(4)

1. Restricted Entry Interval (REI), nonagricultural pesticide – Bedbug Unit (2) and Best Rentals are responsible for posting at each entrance to treated area.

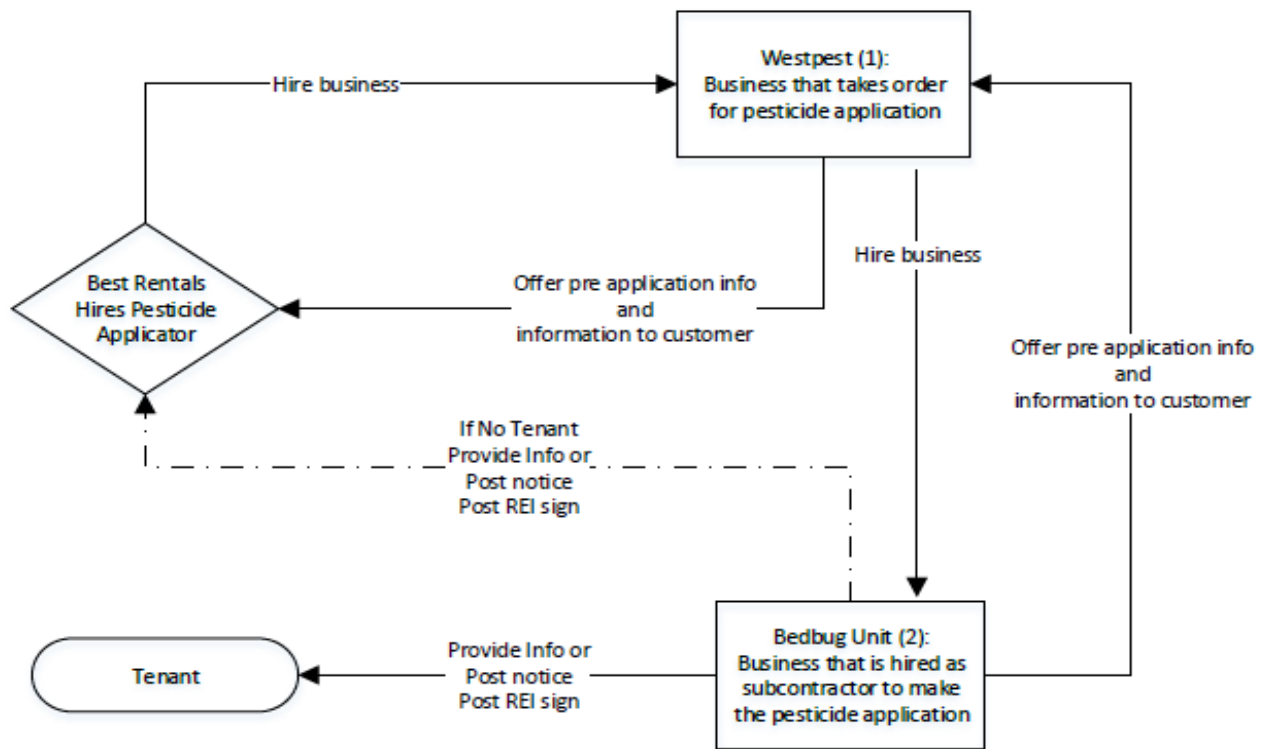
Application Record – Wis. Admin. Code, chs. ATCP 29.21 and 29.33

1. Completed by Bedbug Unit's (2) applicator.
2. Westpest (1) shall keep an application record that identifies the Individual Commercial Applicator License number of the applicator from Bedbug Unit (2) and other required elements provided by Bedbug Unit (2).

Information to Customer – Wis. Admin. Code, ch. ATCP 29.22

Provide in time for the customer (e.g., Best Rental and Westpest) to take necessary precautions, no later than 30 days.

1. Bedbug Unit (2) shall provide information to Westpest (1).
2. Westpest (1) shall provide information to Best Rental. Westpest (1) can put this information on their letterhead as long as the Individual Commercial Applicator License number of the Bedbug Unit (2) applicator and other information specific to the application Bedbug Unit (2) made is provided. The subcontracting business name is not required.
  - a. Customer is at the application site – provide the information within the required timeframe.
  - b. Absentee customer that is not at the application site e.g. landlord lives at a different location than application site – If the information cannot be left at with the customer at the application site, provide the information to the absentee landlord within the required timeframe. Post application precautions that must be provided immediately shall be received by the customer within 24 hours.



### III. Subcontracting Landscape Pesticide Applications Record Keeping and Information to Customer

A business hired by a customer is legally responsible for providing specific pesticide application information in a timely manner. When the originally hired business subcontracts the pesticide application to another business, both businesses share this responsibility. While the two businesses can make arrangements for which entity will provide the information to the customer (e.g., homeowner), the responsibility of providing these requirements cannot be delegated to the subcontracted business. Additionally, the subcontracted business must provide information to the business that hired them, and in some instances provide information directly to the original customer (e.g., homeowner) or others. The example illustrates how the ATCP 29 requirements apply to subcontracting pesticide applications.

**Example:** John Doe (e.g., original customer) hires Stoner Landscaping (1) to spray his lawn for weeds. In this instance, John Doe is Stoner Landscaping's (1) customer. Another company, Zippies (2) has been subcontracted by Stoner Landscaping (1) to make all pesticide applications to John Doe's lawn.

Responsibilities:

Landscape Registry and Advanced Notice – Wis. Admin. Code, chs. ATCP 29.51(4); 29.56(2) and ATCP 29.56(8)

1. Stoner Landscaping (1) shall offer John Doe, and provide if requested, pre-application information in writing.
2. Zippies (2) shall offer Stoner Landscaping (1), and provide if requested, pre-application information in writing.
3. Zippies (2) shall notify individuals listed on the Landscape Registry.

Warning Signs – Wis. Admin. Code, chs. ATCP 29.52(6), 29.56(3) and 29.56(4)

1. Zippies (2) shall post the landscape warning sign.
2. The landscape warning sign may have the name and number of either Zippies (2) or Stoner Landscaping (1).

Information Provided Upon Request – Wis. Admin. Code, ch. ATCP 29.56(6)

1. Zippies (2) shall provide information to those requesting it.

Application Record – Wis. Admin. Code, chs. ATCP 29.21 and 29.33

1. Completed by Zippies (2) applicator.
2. Stoner Landscaping (1) shall keep an application record that identifies the Individual Commercial Applicator License number of the applicator from Zippies (2) and other required elements provided by Zippies(2).

Information to Customer – Wis. Admin. Code, chs. ATP 29.22 and 29.56(2)(c)

Provide immediately after application is complete:

1. Zippies (2) shall provide this information to Stoner Landscaping (1) immediately after the application is made.
2. Stoner Landscaping (1) shall provide this information to John Doe immediately after the application is made. Stoner Landscaping (1) can put this information on their letterhead as long as the Individual Commercial Applicator License number of the Zippies (2) applicator and other information specific to the application made is provided. The subcontracting business name (i.e., Zippies) is not required.
  - a. Customer (i.e., homeowner) is at the application site – provide the information within the required timeframe.
  - b. Absentee customer that is not at the application site (e.g. an out of state business that owns an office complex) – If the information cannot be left with the customer at the application site, provide the information to the absentee landlord within the required timeframe. Post application precautions that must be provided immediately shall be received by the customer within 24 hours.

