



DATE: May 25, 2016

FROM: Pesticide Certification and Licensing Program

SUBJECT: Enforcement Protocol - Pesticide application businesses that are unable to contact an individual listed on the Landscape Registry

Purpose:

Identify the necessary actions a pesticide application business must take to document that an individual requestor on the landscape registry cannot be reached via telephone. Pesticide application businesses primarily provide advanced notice by telephone. This is because sending hardcopy notice via USPS mail and delivering notice to the requester's address in person are options seldom used by industry due to time delays and expense. Currently, delivering notice by email or other electronic means to individuals listed on the registry is not allowed by Wis. Adm. Code, ch. ATPC 29.

Regulation:

Wis. Admin. Code, ch. ATPC 29.56(8) Advance Notice to Registered Individuals. Before making any landscape application, a person required to be licensed under Wis. Admin. Code, ch. ATPC 29.20 shall give at least 12 hours advance notice to every individual who is currently registered to receive notice of that application... A person may give advance notice... by telephone, or may mail or deliver notice to the requester's address as listed in the registry. Notice, if given by mail, shall be postmarked at least 2 business days before the person makes the landscape application... If a landscape application date is changed after the person making the application gives notice... that person shall give a revised notice to each individual previously notified...

Current Enforcement Strategy:

A landscape pesticide application cannot be made at a listed property until adequate advanced notice is provided to individuals registered on the Landscape Registry. To comply with this requirement, a pesticide application business can leave a voicemail message that contains all the required advanced notice information per Wis. Admin. Code, ch. ATPC 29.56(8)(b). If a voicemail cannot be left, the business must schedule the landscape application for the listed property to occur after contact is made with the requestor, or three valid attempts are made to contact the requestor. Making an application prior to three valid attempts to phone the requestor will be deemed as non-compliant with the requirements set forth per Wis. Admin. Code, ch. ATPC 29.56(8).

When a call to the Registry participant's contact phone is not answered, and it is not possible to leave a voicemail, the business must attempt to contact the listed individual a total of three times. The phone calls should occur once per day over the course of three days, and shall be made at three different times of day (e.g. morning, afternoon, early evening). Businesses shall document the time and date for each call, and why the business was unable to provide the information (e.g. no voicemail, number is disconnected, voicemail box is full, etc.). A business that is unable to contact the listed individual after three valid attempts may proceed with the landscape pesticide application to the listed property.

**Current Process for Updating Incorrect Registry Information:**

Reports of Landscape Registry account information that is inaccurate, and reports of other issues such as the inability to leave a voicemail will be verified by department staff. The below steps will be used when the landscape registry is in effect for the season (March 15 to October 31).

Program staff will check the Landscape Registry to ensure that the reported data is actually listed in the Registry. If the requestor information or listed address is not in the Registry (e.g. business is referring to previous year's Registry) staff will notify the individual reporting the data to DATCP of our determination.

When the reported information is correctly listed in the Registry, staff will evaluate the need to update the database. When a business alleges that it is unable to leave a voicemail message or speak with the requestor, program staff will collect the contact information for the requestor listed on the registry as well as the intended application address. Staff will call the telephone number to confirm the complaint. If there is an issue with the phone number staff will flag the Registry account as appropriate (e.g. no voicemail, disconnected phone, requestor moved). If staff is able to contact the individual over the telephone they will inform the requestor that industry is attempting to call. Staff will also confirm the three attempt policy to inform the requestor that they cannot avoid answering their phone to indefinitely delay landscape applications to properties listed on the Registry.

After confirming the status of the phone number, staff will report our findings and actions with the individual who contacted the department. The same process will be used to vet other Registry data complaints (e.g. listed addresses outside of allowed area). Staff will also confirm with the Registry requestor by phone or email, when available, of any changes to the status of their account.

Note, there is no requirement within Wis. Admin. Code, ch. ATCP 29 that requires industry to report incorrectly listed properties or other invalid Registry information. Pesticide application businesses that are unable to contact, via telephone, an individual who listed properties on the Landscape Registry are encouraged to contact DATCP to report the incident. Lacking industry information, the department will likely be unaware of incorrect Registry information or accounts requiring updates.