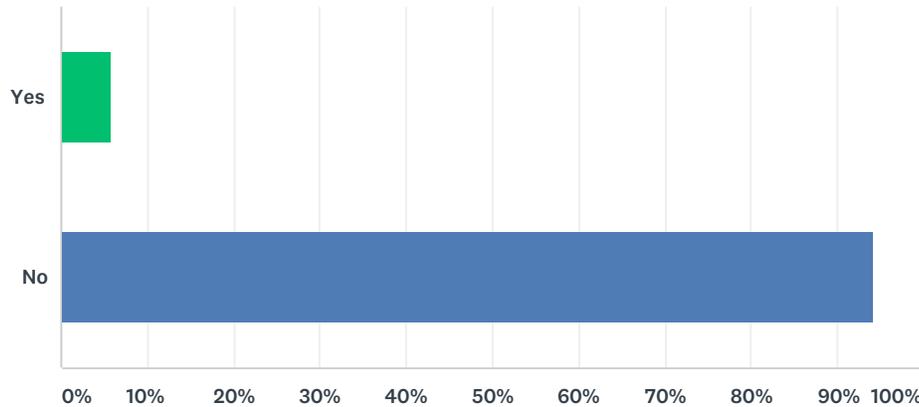


Q1 Do you have subcontractor provisions in your law?

Answered: 34 Skipped: 0



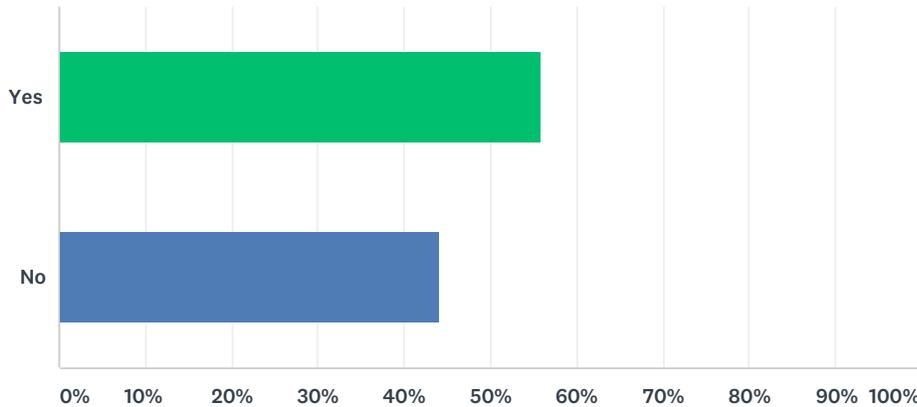
ANSWER CHOICES	RESPONSES
Yes	5.88% 2
No	94.12% 32
TOTAL	34

#	COMMENTS	DATE
1	Our law does not have specific language pertaining to subcontracting but our regulations do require someone working under a business registration must be an employee. We interpret this as meaning that they must receive a W-2.	7/30/2019 10:51 AM
2	In Hawaii, they would need to take and pass the commercial applicator exam to obtain a pesticide license (applicable only if they will be applying RUPs), otherwise, for general use products, they could be hired directly as an independent contractor/subcontractor. If the applications are WPS labeled pesticide products, they would be required to follow the standards regarding commercial pesticide handler employers, as well as, additional worker employer requirements.	7/29/2019 10:15 AM
3	Our definition is similar to yours. We have not had anyone argue this. Very interesting.	7/29/2019 6:45 AM
4	Oregon Response: Yes, subcontractors are covered but that term is not used specifically in the law. Oregon law (ORS 634) requires a "person who owns or operates a business" engaged in pesticide application on another's property to be licensed as a commercial pesticide operator (business/organization). Licensed commercial pesticide applicators (individual applying the pesticide) must be "employed" by a licensed commercial pesticide operator. Our Department considers a subcontractor (more frequently referred to as a "independent contractor" in Oregon) to meet the definition of a pesticide operator. However, ORS 634 does not define "employed", "subcontractor" or similar terms. ORS 634.006(13) "Pesticide operator" means a person who owns or operates a business engaged in the application of pesticides upon the land or property of another. ORS634.006(9) "Pesticide applicator" or "applicator" means an individual who: (a) Is spraying or applying pesticides for others; (b) Is authorized to work for and is employed by a pesticide operator; and (c) Is in direct charge of or supervises the spraying or other application of pesticides or operates, uses, drives or physically directs propulsion of equipment, apparatus or machinery during the spraying or other application of pesticides, either on the ground or, if certified under ORS 634.128, by aircraft.	7/26/2019 3:24 PM
5	Any applicator must be associated with a business that has an IN pesticide business license (and insurance).	7/26/2019 10:00 AM
6	State law makes no distinction between employee or subcontractor, the business license is required of any person or company making or arranging to make aerial pesticide applications.	7/26/2019 8:01 AM

7	Each person making an application for compensation or hire must be certified in the appropriate category and must be tied to a licensed company.	7/26/2019 7:33 AM
8	Not in our pesticide act or rules.	7/26/2019 7:09 AM
9	NC law requires that there be a licensed contractor for each aerial application operation. That contractor can then employ multiple pilots. so we have a contractor license and a pilot license. There is also an aerial apprentice license for pilots who lack 125 yours and one year's flying experience in the field of aerial pesticide application	7/26/2019 7:06 AM

Q2 Do you require they license as a commercial application business?

Answered: 34 Skipped: 0



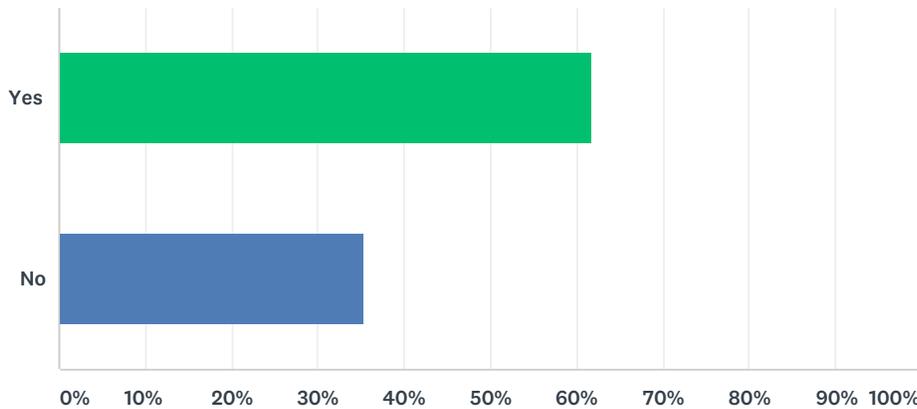
ANSWER CHOICES	RESPONSES	
Yes	55.88%	19
No	44.12%	15
TOTAL		34

#	COMMENTS	DATE
1	Currently no however we are still having discussions around this issue.	8/2/2019 4:47 AM
2	We license individuals, not businesses	7/30/2019 11:17 AM
3	Any persons making applications for hire in Maine must have a Maine commercial applicator license. The company must also hold a Maine spray contracting firm license, unless it is a sole proprietor with no employees.	7/29/2019 10:52 AM
4	The Hawaii Department of Commerce and Consumer Affairs does require a business license and testing if applicators are conducting business as a pest control operator.	7/29/2019 10:15 AM
5	In SC, only Category 7 applicators (Structural, Institutional, and Health Related Pest Control) must obtain a business license in addition to their applicator license/certification. All aerial applicators making applications of restricted-use pesticides agriculturally in SC must be licensed in Category 11. Aerial applicators making public health applications (Category 8) for mosquito control must obtain that category for application of general or restricted use pesticides. SC grants reciprocal licenses/certifications to aerial applicators from all states with which we reciprocate.	7/29/2019 7:44 AM
6	However, we have always, as you previously did, looked at them as an employee of the licensed AZ company.	7/29/2019 6:45 AM
7	Oregon Response: Yes. Independent contractors must obtain a commercial pesticide operator license for their business (ORS 634.116(1)). In addition, the individual employed by the independent contractor who applies pesticides by aircraft would need a commercial pesticide applicator and an aerial pesticide applicator license.	7/26/2019 3:24 PM
8	For "Professional Applicators", applicators spraying for hire, Idaho does not require a company license. Individual applicators are licensed under a company's profile, and their license is only active if the company has a current insurance certificate on file.	7/26/2019 10:15 AM
9	They must be working for a location that has the business license for IN.	7/26/2019 10:00 AM
10	All commercial applicators are required to be certified as a pesticide applicator and work for a pesticide business licensed in the state to apply pesticides.	7/26/2019 9:09 AM

11	In Florida, no, the aerial license is an individual license and is not in any way associated with a business so we do not impose any business license requirements on the applicator.	7/26/2019 8:25 AM
12	State law requires any person actually making the application to either hold the business license or work for a company/person who holds the license. We do not limit those business licenses to only resident companies, which then allows us to license out-of-state persons or companies.	7/26/2019 8:01 AM
13	We require individuals applying the pesticide to be individually licensed and employed at a licensed business.	7/26/2019 7:42 AM
14	Any company making commercial applications must be licensed with the State and must have at least one certified applicator.	7/26/2019 7:33 AM
15	If paid with 1099, then they are considered a sub and need their own pesticide business licensing (along with commercial applicators license). If paid with W2 then just the commercial applicator license.	7/26/2019 7:11 AM
16	We license only the individual, not the business	7/26/2019 7:09 AM
17	In North Carolina, we license the individual, NOT the business. That said again, each aerial pesticide application business has to have at least on aerial contractor, who is responsible for the business's compliance . Each pilot licensed in North Carolina has to work under a licensed contractor. Each licensed aerial apprentice (see above) also must work under a licensed contractor.	7/26/2019 7:06 AM

Q3 Do you just allow them to obtain an "individual" license and work under the commercial application business?

Answered: 34 Skipped: 0



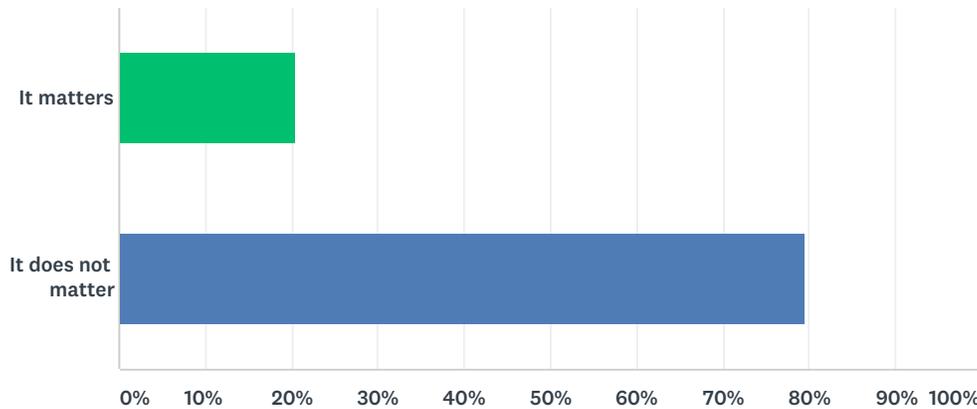
ANSWER CHOICES	RESPONSES
Yes	61.76% 21
No	35.29% 12
TOTAL	34

#	COMMENTS	DATE
1	Currently yes still discussing this issue.	8/2/2019 4:47 AM
2	The applicator would obtain a certified commercial applicator license with the business name they are working for listed on their license.	7/30/2019 11:17 AM
3	Only if they are applying RUPs. For general use products, they could be hired directly as an independent contractor/subcontractor.	7/29/2019 10:15 AM
4	All aerials in TN are required to obtain a license and certification. In addition, they are required to obtain a photo ID. TDA will reciprocate for the certification but not the license, they must obtain the initial license in TN and pay the fees yearly.	7/29/2019 3:42 AM
5	The only way they could work under another entity's business license number is if they were a registered employee of that company. Even if the licensed business brings them in as a subcontractor they would be required to obtain the proper business license and certifications.	7/29/2019 3:18 AM
6	A person working for an aerial applicator is required to get their Operator's license. The person they work for is licensed as well; called the Primary Principal.	7/28/2019 2:08 PM
7	Oregon Response: No. For independent contractors (and any other person meeting the definition of a pesticide operator), both the business and the employee applying pesticides need to be properly licensed. In a one-person operation (owner is also the applicator) the owner would need a commercial pesticide operator, commercial pesticide applicator, and aerial pesticide applicator license.	7/26/2019 3:24 PM
8	As long as the commercial application business has current insurance on file.	7/26/2019 10:15 AM
9	If there are repeated offenses by applicators from any one company, we can suspend the business license.	7/26/2019 10:00 AM
10	See previous response.	7/26/2019 9:09 AM
11	The Commercial Applicator (business) (CA) is responsible for licensing the company as well as all power equipment, including those used for aerial application, under that company. The individual must be licensed as a Commercial operator and employee of that CA.	7/26/2019 9:04 AM

12	But as an individual commercial license holder, they still do not have to associate themselves with a business. They are a stand alone entity whether they work for themselves or a business. It does not matter to the state.	7/26/2019 8:25 AM
13	When a for hire applicator seeks an individual license they must inform the department which licensed business they are employed by. If they	7/26/2019 7:42 AM
14	They may obtain a State certification and added to the local company license or they may apply and get their own company license.	7/26/2019 7:33 AM
15	Not if paid via 1099.	7/26/2019 7:11 AM
16	A individual can work under a business with a applicators license, but could also work under an applicator with a operators license.	7/26/2019 7:09 AM
17	But they Business/Owner/Operator must register the applicator with the business.	7/26/2019 7:08 AM
18	Again, in North Carolina, we license the individual, NOT the business we have a contractor's license; a Pilot's license; and an aerial apprentice license.	7/26/2019 7:06 AM

Q4 Does it or would it matter in your state if they are paid as an "employee" (issued a W-2) or as a subcontractor (issued a 1099)?

Answered: 34 Skipped: 0



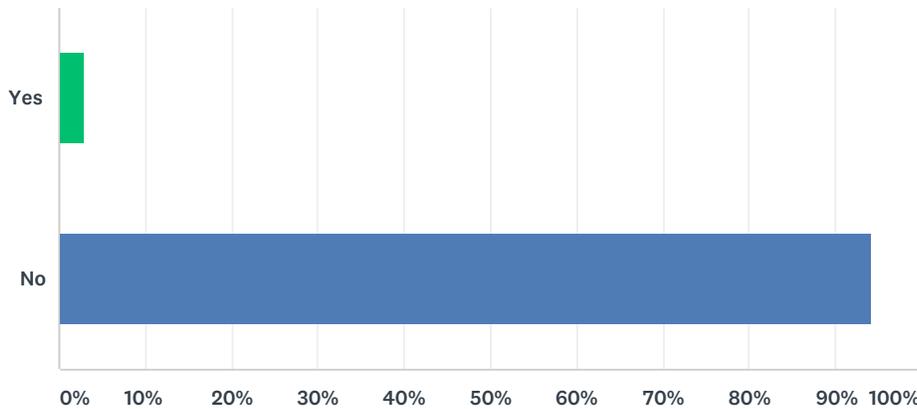
ANSWER CHOICES	RESPONSES
It matters	20.59% 7
It does not matter	79.41% 27
TOTAL	34

#	COMMENTS	DATE
1	Not currently but the issue is being discussed. Other state agencies come into play.	8/2/2019 4:47 AM
2	However, if the applications are WPS labeled pesticide products, they would be required to follow the standards regarding commercial pesticide handler employers, as well as, additional worker employer requirements.	7/29/2019 10:15 AM
3	I can not recall ever checking if pay was recorded on W-2 or 1099.	7/29/2019 10:00 AM
4	As of this point, no one has tried to argue this point. However, my guess is legally they would need a custom applicator's license.	7/29/2019 6:45 AM
5	I'm not sure if we have ever looked at W-2's or 1099's. We just don't have reciprocity. Someone can work in NV while not licensed only if there is immediate supervision (the licensed operator is right there with them). Before they can be turned loose, they must get licensed. Any company coming to NV to do work must get licensed; even if they're licensed in other states.	7/28/2019 2:08 PM
6	Oregon Response: According to the Oregon Bureau of Labor and Industries (BOLI), even if a person operates under a contract and reports income under a Form 1099 it does not by itself establish someone as an independent contractor. Rather, "the worker in question must satisfy the legal criteria required of an independent contractor" (see "economic realities test" and "right-to-control test" here: https://www.oregon.gov/BOLI/TA/pages/T_FAQ_Independent_Contractors_11-2010.aspx) Currently, our Department does not ask about W-2 or 1099 forms during the license application process. Rather, we ask that they provide the name, address, contact information, and operator license number of their employer on their license application. Our enforcement staff have indicated that they have never had to assess an applicator's status as an employee versus an independent contractor to determine compliance with ORS 634 (though they would if required). While a 1099s and W-2s are not definitive evidence in Oregon, it does seem like an effective way to establish their intent to work as an independent contractor or employee, and could serve as an additional check in our licensing process. Oregon will consider utilizing such information in the future.	7/26/2019 3:24 PM
7	What matters is who accepts the liability of the applicator when making applications in Idaho.	7/26/2019 10:15 AM
8	Dont care, dont ask.	7/26/2019 10:00 AM

9	A subcontractor would be considered a separate company and must be licensed as a separate Commercial Applicator and obtain all appropriate categories on their license.	7/26/2019 9:04 AM
10	If an individual tells us they are not actually employed at a business but working as a subcontractor for the business we inform the individual that they need to obtain a business license in addition to their individual license.	7/26/2019 7:42 AM
11	Our only concern is that the individual is licensed in North Carolina	7/26/2019 7:06 AM

Q5 Do you have any additional insurance coverage requirements for those out-of-state aerial applicators coming into your state?

Answered: 34 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	2.94% 1
No	94.12% 32
TOTAL	34

#	COMMENTS	DATE
1	They would need to comply with in state requirements.	8/2/2019 4:47 AM
2	We require all commercial applicators to provide proof of liability insurance, with a minimum of \$50,000 per occurrence.	7/30/2019 11:17 AM
3	All registered pesticide businesses must show proof of insurance as required by our regulations Part 325.23(g).	7/30/2019 10:51 AM
4	None other than our regular non-liability insurance requirements for all companies	7/30/2019 5:45 AM
5	There is no market for aerial application in Hawaii. Thus no issue with out-of-state aerial applicators crossing state lines.	7/29/2019 5:15 PM
6	We only allow individuals who have passed our licensing exams to operate in our state. All companies must produce an insurance affidavit.	7/29/2019 10:52 AM
7	Hawaii Department of Commerce and Consumer Affairs could better answer this question.	7/29/2019 10:15 AM
8	For hire applicators are required to obtain either bond or insurance, possible exception is ornamental & turf applicators.	7/29/2019 10:00 AM
9	same for all aerial businesses	7/29/2019 6:45 AM
10	Just the standard certificate of insurance	7/28/2019 2:08 PM

11	<p>Oregon Response: No. Oregon law (ORS 634) requires that commercial pesticide operators to hold insurance meeting certain criteria specified in law (see below). The standards are the same regardless of whether a business is in-state or coming from out-of-state. I've provided excerpts from Oregon law pertaining to insurance requirements below. ORS 634.116(5) The department shall not issue or renew a pesticide operator's license until the applicant or licensee has furnished evidence to the department, in the form of a public liability policy issued by an insurance company qualified to do business in Oregon, protecting the applicant or licensee against liability for injury or death to persons and loss of or damage to property resulting from the application of pesticides, or in lieu of a policy, has furnished a deposit of cash, surety bond or other evidence of financial responsibility acceptable to the department that may be applied by the department to the payment of damages resulting from operator liability. However: (a) Except as required under paragraph (b) of this subsection, the financial responsibility required by this section shall not apply to damages or injury to crops, real or personal property being worked upon by the applicant. (b) If the applicant or licensee is to be engaged in the business of controlling or eradicating structural pests, or pests within a public or private place, or pests within private or public places where food is served, prepared or processed or where persons are regularly housed, the financial responsibility required by this section shall apply to damages or injury to real or personal property being worked upon, as well as all the other real and personal property set forth in this section. ORS 634.116(6) The financial responsibility required by subsection (5) of this section must be not less than \$25,000 for bodily injury to one or more persons and not less than \$25,000 for property damage. ORS 634.116(7) Notwithstanding the provisions of ORS chapter 183, if the licensed pesticide operator fails to maintain the financial responsibility required by subsections (5) and (6) of this section, the license is automatically suspended until the department again verifies the pesticide operator is in compliance with subsections (5) and (6) of this section. The liability insurance company shall notify the department in writing at least 30 days prior to any cancellation of an insurance policy required by this section. ORS 634.116(10) If the pesticide operator is or employs a pesticide applicator to spray or otherwise apply pesticides by aircraft, in addition to other provisions of this section relating to financial responsibility, the department may by rule allow the pesticide operator to reduce, suspend or terminate the liability insurance, applicable to spraying or otherwise applying pesticides by aircraft, and required by subsections (5) and (6) of this section during certain periods of the year. OAR 603-057-0102(3) As provided in subsection (10) of ORS 634.116, a pesticide operator engaged in the business of applying pesticides by aircraft may have his public liability policy of insurance limited to the time period within which such pesticide operator is actually engaged in the application of pesticides by aircraft, subject to the following: (a) The Department is furnished the documentation required by section (1) of this rule; and (b) The public liability policy of insurance identifies the specific aircraft to which it applies.</p>	7/26/2019 3:24 PM
12	Aerial applicators in general have additional insurance coverage requirements, but they apply regardless of residency status.	7/26/2019 10:45 AM
13	No additional coverage. The company which their license is listed under must have current insurance on file.	7/26/2019 10:15 AM
14	Insurance requirements are the same for in-state aerial applicators and out-of-state aerial applicators. Insurance is not required to be presented upon aerial license issuance, but is required upon registration of the aircraft with the Department prior to any pesticide application.	7/26/2019 8:25 AM
15	State law requires no insurance or bonding for aerial applications.	7/26/2019 8:01 AM
16	Our Pesticide Board rescinded its aerial insurance requirements back in the 1970s. thus, it is up to the individual licensee as to whether and how much insurance coverage they choose to have	7/26/2019 7:06 AM

Q6 Please provide any different licensure scenarios that don't neatly fit into the described scenario above and/or any regulatory citations for your state law if possible. The is very much appreciated, thank you for your help!

Answered: 20 Skipped: 14

#	RESPONSES	DATE
1	We now have temporary businesses that have commercial applicators that may work for lawn care industries.	8/2/2019 4:47 AM
2	n/a	7/30/2019 11:17 AM
3	It sounds like our law/regulations are similar to yours, that is, anyone working under a business registration must be employed by that business and that means paid a wage and receive a W-2.	7/30/2019 10:51 AM
4	Please see previous comment.	7/29/2019 5:15 PM
5	N/A	7/29/2019 10:15 AM
6	Other than forestry work, we don't have issues with out-of-state contractors. We require subcontractor to be licensed and insured simply because of liability for drift/overspray incidents. The primary contractor is responsible for subcontracting to only State licensed applicators. Like Colorado we would require all other applicators to be employees working under licensed applicator, and differentiate between employees and subcontractors.	7/29/2019 10:00 AM
7	There is virtually no aerial application in Alaska. In the last 10 years we had ONE aerial application of rotenone to a swamp/lake system. We currently have zero aerial applicators certified in Alaska	7/29/2019 7:44 AM
8	N/A	7/29/2019 6:45 AM
9	Please let me know if you have any questions. Colton Bond Oregon Department of Agriculture 503-986-6485 cbond@oda.state.or.us	7/26/2019 3:24 PM
10	IDAHO DEPARTMENT OF AGRICULTURE RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION, IDAPA 02.03.03.250.01 states, "FINANCIAL RESPONSIBILITY. Proof of Financial Ability. A professional applicator's license will not be issued by the Department until an applicant submits written proof of financial responsibility..." https://adminrules.idaho.gov/rules/current/02/020303.pdf Each "applicant" does not need to submit written proof a long as the company they'll be working for has current insurance on file. Kevin Kostka Pesticide Compliance Program Manager Idaho State Department of Agriculture 208-332-8608 kevin.kostka@isda.idaho.gov	7/26/2019 10:15 AM
11	We allow out of state aerial guys/gals to associate themselves with in state companies. Obviously the applicator has to have our license via reciprocity.	7/26/2019 10:00 AM
12	The South Dakota Dept. of Agriculture (SDDA) requires ALL aerial applicators to fill in an 'Aerial Applicator Form' which is forwarded to the South Dakota Dept. of Transportation (SD DOT) Aeronautics Division for verification that the aircraft they will be applying with in South Dakota has been registered (paid) for the current year. IF the aircraft is not registered with SD DOT then SDDA will not issue that individual an Applicator License.	7/26/2019 9:42 AM
13	NA	7/26/2019 9:09 AM
14	Chapter 487.051 Florida Statutes Rule 5E-9 Florida Administrative Code	7/26/2019 8:25 AM
15	We avoided the whole employee/employer relationship problem by simply requiring all persons applying any pesticide by aircraft to obtain or work for a licensed business, no matter how the applicator is paid.	7/26/2019 8:01 AM

16	Applicators must provide application information to their customer. A subcontractor's customer is technically the business they are contracting with, and the contracting business is responsible for providing information about the application, WPS, REI etc. to the individual that hired them. This can result in the person paying for the application not receiving application information because the business and subcontract both thought the other entity would provide the data.	7/26/2019 7:42 AM
17	In reference to question #3. We used to have Oklahoma companies get out of state pilots certified and add them to their license when the need arises. The Oklahoma companies were having problems with these out of state pilots, lets just say they may have not been as careful as they should have been, basically their line of thinking was we don't live hear so we don't care what issues we cause kind of mentality. I have been encouraging in state Oklahoma licensees when extra help is needed to get the out of state individual licensed, it only cost them \$200 to get licensed in Ag plant and Aerial. The thought behind this is, if the in state company gets behind they can "sub" out to the out of state entity if needed, the applications will be made under the out of state license holder, who has their own license and importantly own insurance. So that if an incident occurs the claim will go against their(out of state) insurance not the in state licensee. The in state Oklahoma applicators like this and have been operating this way, the way our law and rules are set up enforcement action, 99% of the time, goes against the licensed company. So if they hire out of state individuals, they get an Oklahoma business license, the Oklahoma guys can pass the applications on to them, if the out of state guys do a shoddy job it comes back on them. Obviously the in state guy will have to do damage control with his clients since he was the one hired to do the application, but most of the time they are clear from any enforcement action or insurance claims. Sorry for the long winded response, feel free to contact me if you want to discuss further. ryan.williams@ag.ok.gov	7/26/2019 7:33 AM
18	I think industry is under the impression that other states don't require it because we (certainly not Utah) don't ask reciprocal aerial applicants how they will be paid or their business arrangements. We just focus on the reciprocal. If we were to ask the 1099 or W2 question, then we would probably get the situation you're having. Good going for being thorough Scott!	7/26/2019 7:11 AM
19	Nothing comes to mind at the moment, but if I think of something I'll pass the info along.	7/26/2019 7:09 AM
20	None	7/26/2019 7:08 AM