



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

May 21, 2021

NOTICE OF FILING

ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rules #20-126-AC)
Legislative Service Bureau (Secretary of State Filing #21-05-10)
Department of Agriculture and Rural Development

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2020-126-AC (Secretary of State Filing #21-05-10) on this date at 2:43 P.M. for the Department of Agriculture and Rural Development entitled, "Regulation 637-Pesticide Use".

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson
Secretary of State

A handwritten signature in cursive script that reads 'Melissa Malerman /MK'.

Melissa Malerman, Departmental Supervisor
Office of the Great Seal

Enclosure



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

May 21, 2021

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2020-126 AC

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated February 5, 2021 for the Department of Agriculture and Rural Development "**Regulation 637 – Pesticide Use**". We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely, 

Michigan Office of Administrative Hearings and Rules



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
AND RURAL DEVELOPMENT

GARY MCDOWELL
DIRECTOR

April 20, 2021

CERTIFICATE OF ADOPTION

Pursuant to authority conferred on the director of the department of agriculture by 1994 PA 451, MCL 324.8325, the Michigan Department of Agriculture and Rural Development adopts its revised "Regulation 637, Pesticide Use."

R 285.637.11 of the Michigan Administrative Code was amended.

April 20, 2021

Date

A handwritten signature in black ink that reads "Gary McDowell".

Gary McDowell Director



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated February 5, 2021, in which the Department of Agriculture and Rural Development proposes to modify a portion of the Michigan Administrative Code entitled "**Regulation No. 637. Pesticide Use**" by:

- ◆ Amending R 285.637.11.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: April 14, 2021

Michigan Office of Administrative Hearings and Rules

By:

Katie Wienczewski,
Attorney



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Agriculture and Rural Development dated February 5, 2021, amending R 285.637.11 of the Department's rules entitled "Regulation No. 637. Pesticide Use." I approve the rules as to form, classification, and arrangement.

Dated: April 13, 2021

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,
Legal Counsel

DEPARTMENT OF AGRICULTURE
AND RURAL DEVELOPMENT

PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

REGULATION NO. 637. PESTICIDE USE

Filed with the secretary of state on May 21, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of agriculture and rural development by section 8325 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8325)

R 285.637.11 of the Michigan Administrative Code is amended, as follows:

R 285.637.11 Commercial notification and posting requirements.

Rule 11. (1) The requirements of this rule do not apply to general-use ready-to-use pesticide.

(2) When making a broadcast, foliar, or space application of pesticides to an ornamental or turf site, other than a golf course or farm production operation, a commercial applicator shall comply with both of the following provisions:

(a) In addition to requirements specified in R 285.637.12(1) and (2), an applicator shall inform a customer that lawn markers should remain posted for 24 hours, after which time the customer should remove the lawn markers.

(b) Immediately following the application, a commercial applicator shall place a lawn marker sign at the primary point or points of entry. Lawn markers specified in this subrule (2) must only be used when making pesticide applications and must comply with all of the following specifications:

(i) Be 4 inches high by 5 inches wide.

(ii) Be constructed of rigid, weather-resistant material.

(iii) Be attached to a supporting device with the bottom of the marker extending not less than 12 inches above the turf.

(iv) Be identically printed on both sides in green letters on a white background using the indicated point type size.

(v) Include only the following information:

(A) The statement "CAUTION" in 11/16-inch high (72-point) type.

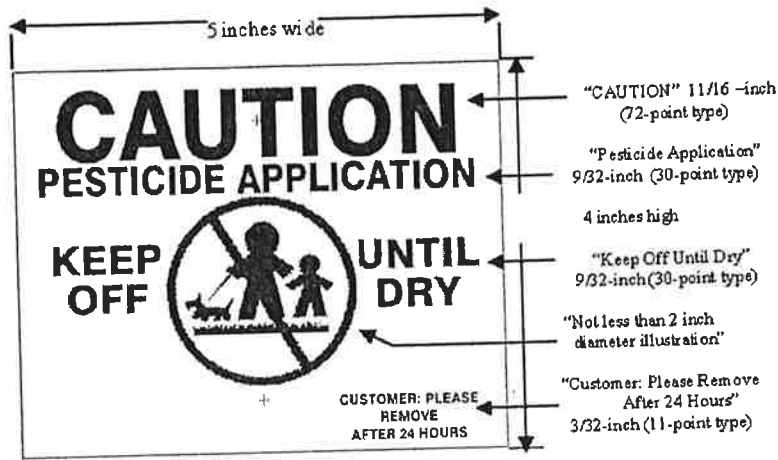
(B) The statement "Pesticide Application" in 9/32-inch (30-point) type.

(C) The statement "Keep Off Until Dry" in 9/32-inch (30-point) type.

(D) Have not less than a 2-inch diameter circular illustration that depicts an adult and child walking a dog on a leash. The illustration must depict, using a diagonal line across the circle, that this action is prohibited.

(E) The statement "Customer: Please Remove After 24 Hours" in 3/32-inch (11-point) type.

(F) Additional information not required under this subrule may only be placed on the lawn marker or supporting device with the written approval of the department.



(3) All broadcast, foliar, or space pesticide applications that are made to public or private golf courses by a commercial applicator must comply with all of the following provisions:

(a) Applicators shall notify users of, or visitors to, the golf course in accordance with all of the following requirements:

(i) Notification of pesticide application must be provided on a poster or placard that is constructed of all-weather material.

(ii) The poster or placard must contain a general statement that from time to time pesticides are in use in the management of turf and ornamental pests.

(iii) The poster or placard must state that questions or concerns that arise in relation to the pesticide application must be directed to the golf course superintendent or his or her designated representative.

(iv) The poster or placard must state that, upon request, the superintendent or his or her representative will supply the information specified in subdivision (b) of this subrule.

(v) The poster or placard must be displayed prominently in the pro shop, locker rooms, or registration area.

(b) At the time of broadcast, foliar, or space pesticide application to golf course property, the applicator shall post on the first and tenth tees, in a conspicuous place, a sign that states all of the following information:

(i) The date and time of application.

(ii) The common name of the pesticide applied.

(iii) The areas treated.

(iv) The label reentry precautions.

(v) The name of a person who may be contacted for further information.

(c) Posting requirements must remain in effect until specific label reentry requirements have been fulfilled.

(4) A commercial applicator who makes a broadcast, foliar, or space insecticide application in a commercial building, public building, or health care facility shall comply with all of the following:

(a) The applicator shall, upon completion of an insecticide application, provide a sign to be displayed in a readily observable place at the primary point of entry by the building manager.

(b) The applicator shall instruct the building manager that the sign must be displayed and remain posted for not less than 48 hours after the most recent application of an insecticide.

(c) The building manager shall post all signs provided by the applicator in accordance with this subrule.

(d) Signs that are used for posting must comply with the following specifications:

(i) The sign shall be a minimum of 2 1/2 inches high by 2 1/2 inches wide.

(ii) Information must be in black letters on a muted background.

(iii) The sign must have an illustration that is not less than 1 3/4 inches high by 2 inches wide that depicts a cloud symbol encompassing a house. This illustration shall serve to inform the public that insecticides have been applied in the building.

(iv) The sign must have a space provided in which the date of application is to be indicated by the applicator. This information must read: "DATE _____" in a minimum 1/8-inch (16-point) type.

(5) All of the following provisions apply to notification requirements for community or right-of-way applicators:

(a) A commercial applicator shall not make a broadcast or foliar application of pesticides for community or right-of-way pest management without making documented efforts to provide prior notification to persons who own or reside on property that is

within the target area or to their authorized representatives. Prior notification shall be provided by the commercial applicator or his or her agent.

(b) Documented efforts to notify property owners, their agents, or persons who own or reside on property that is within the target area for community mosquito control pesticide applications include at least 1 of the following methods:

(i) Personal contact.

(ii) A comprehensive community outreach program, which must be filed annually with the director.

(iii) Prior written notification.

(c) Commercial applicators who make community pesticide applications for mosquito control shall do all of the following:

(i) Provide prior notification to persons who request it.

(ii) Exclude mosquito pesticide applications from the property of those persons who request to be excluded.

(iii) Provide general information or literature about the pesticide application in response to inquiries within the targeted community. This does not include any proprietary or confidential business information.

(d) Reasonable efforts to notify property owners, their agents, or persons residing within the target area for right-of-way or community pesticide applications other than those for mosquito control must include at least 1 of the following methods:

(i) Personal contact.

(ii) Advertisement in at least 1 newspaper of general circulation within the area of application. The notice must be placed in the legal advertisement section.

(iii) Prior written notification.

(e) Notification of property owners must include all the following information:

(i) The name, address, and phone number of the application firm or individual.

(ii) The brand name and active ingredients of the pesticide or pesticides used.

(iii) The method of application.

(iv) The scheduled date or dates of application.

(v) The name, address, and phone number of a person who may be contacted and who is responsible for supplying updated information concerning the application for those people who request it.

(vi) Any reentry restrictions.

(f) Multiple-use areas must be posted for not less than 24 hours at the primary point or points of entry immediately after a pesticide application has occurred within the area. The posting must state all of the following information:

(i) The name, address, and phone number of the application firm or individual.

(ii) The brand name and active ingredients of the pesticide or pesticides used.

(iii) The date of the application.

(iv) Precautionary warnings or reentry restrictions that appear on the label of the pesticide or pesticides that are applied.

(g) Upon petition, the director may exempt community or area-wide applicators from the requirements of subdivision (f) of this subrule if there is sufficient documentation to indicate that residues of a particular pesticide are not detectable after application.

(h) Upon a determination by the director of the Michigan department of health and human services that an imminent danger to the health or lives of individuals exists in this

state, the director shall cooperate and provide assistance and recommendations to eliminate or mitigate the danger. The director may waive or modify notification and exclusion requirements of this rule to facilitate response.

FILED WITH SECRETARY OF STATE

ON 5/21/21 AT 2:43PM.