DEPARTMENT OF AGRICULTURE

PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

REGULATION NO. 637. PESTICIDE USE

Filed with the Secretary of State on February 21, 2008

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

R 285.637.1 Definitions; A to O.
Rule 1. As used in these rules:
(a) "Act" means 1994 PA 451, MCL 324.8301.
(b) "Broadcast" means any application of pesticides over an area, such as a lawn, field, room, crawl space, or other such surface. The term does not include crack and crevice or spot applications made to selected plants, insects, soil, or other surfaces.
(c) "Building manager" means the person who is responsible for the building's pest management program and to whom any reporting and notification shall be made pursuant to these rules.
(d) "Commercial building" means any building or portion thereof which is not a private residence where a business is located and which is frequented by the public.
(e) "Community pesticide application" means an application of pesticides to multiple properties for which the commercial applicator does not have **a** service agreement with each individual property owner or resident, such as local mosquito control and gypsy moth spray programs. Apartments, town houses or condominiums are considered a single property under this definition.
(f) "Crack and crevice" means the application of insecticide into openings commonly found at expansion joints, between different elements of construction, and between equipment and floors.
(g) "Dry break" means a 1 or 2-piece 'in-line' aperture or area used for accepting or drawing liquid, which is separate from the active circulating system, and not subject to positive or negative pressure during the application process. This aperture may include a spring operated plunger device to prevent leakage in the event of shutoff valve failure.
(h)"Emergency situation" means an occurrence which is not reasonably foreseeable and which requires attention and action before the time required for notice pursuant to MCL 324.8316(3) in order to protect or enhance the health or safety of those reasonably believed to be involved with, or exposed to, the occurrence.
(i) "FIFRA" means the federal insecticide, fungicide, and rodenticide act of 1947, as amended, 7 U.S.C. §136 et seq.
(j) "Health care facility" means a facility which is not a private home and at which people may stay 1 or more nights and receive medical care, such as a hospital or nursing home.
(k) "Mixing and loading facility" means a site for commercial applicators that has the following meanings:
(i) For commercial aerial applicators, the term means the primary location in Michigan at which pesticides are repackaged, loaded, mixed, or transferred from 1 container to another.

(ii) For all other commercial applicators, the term means a location or site where pesticides are transferred from one container to another, repackaged, or mixed in dry or liquid form for over 10 days in any calendar year, but does not mean a pesticide-producing establishment as defined by FIFRA, unless the establishment also transfers, repackages, or mixes dry or liquid pesticides. Transfer between containers includes transfers to pesticide application equipment and nurse tanks. Any mixing or loading site that is owned or operated within a 1/2-mile radius of another site that is owned or operated by the same person will be considered as the same facility or site.

(l) "Multiple-use areas" means developed outdoor public recreation areas, such as**,** but not limited to, campgrounds, rest areas, parks, playgrounds, picnic areas, and athletic fields. The term does not include undeveloped forested areas.

(m) "Nonpowered equipment" means pesticide application equipment that pumps or disperses pesticides without utilizing a motorized power source. Examples include manual pumps, aerosols, or other non-motorized self-contained or operated spray equipment.

(n) "Off-target direct discharge" means the direct application of pesticides ~~on~~**to a** property that is beyond the boundaries of the intended treatment area.

(o) "Off-target drift" means the physical movement of a pesticide at the time of application from the targeted site of application to any nontarget site. Off-target drift shall not include the off-target movement of a pesticide by means of erosion, volatilization, or windblown soil particles after the application of a pesticide.

(p) "Organic farm" means a location or site that is registered under MCL 286.911(4).

R 285.637.2 Definitions; P to W.

Rule 2. As used in these rules:

(a) "Pesticide-containing material" means any of the following:

(i) Any container of a pesticide product that has not been triple rinsed or the equivalent thereof.

(ii) Any rinsate that is derived from a pesticide container, pesticide application equipment, or equipment washing.

(iii) Any material that is used to collect or contain excess or spilled pesticide or rinsate.

(iv) Any mixture of pesticide and diluent.

(v) Material that is generated as a result of contact with or utilization of a pesticide in an application, containment, recovery, reuse, or treatment system. The term does not include personal protective equipment that contains pesticide residue.

(b) "Pesticide-producing establishment" means any site where a pesticide is manufactured, packaged, repackaged, prepared, processed, or held for distribution or sale.

(c) "Properties adjacent to" means properties which share a common boundary line or corner with the property to be treated or which are directly across an undivided road, stream, or right-of-way from the property to be treated.

(d) "Public building" means a building that is owned or operated by a federal, state, or local government, including public universities.

(e) "Registry" means a list of persons who must be notified before a pesticide is applied, as described in R 285.637.5.

(f) "Rinsate" means any material that may result from the rinsing of interior surfaces of pesticide containers, pesticide application equipment, or containment areas that has or may have pesticide residues.

(g) "School" means public and private schools, grades kindergarten through the twelfth grade.

(h) "Sensitive area" means any of the following:

(i) Occupied school buildings, together with any land that is part of the same property and is within 100 feet of such buildings, and including any playgrounds, athletic fields, or other such facilities which are in use at the time of the pesticide application.

(ii) Developed recreation areas that are in use and open to the public, including any of the following:

(A) Developed public or commercial campgrounds.

(B) Developed picnic areas.

(C) Marked roadside rest areas.

(D) Marked publicly owned or maintained hiking trails.

(E) Developed park and recreation facilities.

(F) Playgrounds.

(G) Other areas that are developed for organized sports or recreation.

(iii) Apiary locations.

(iv) Water bodies, including plotted streams, brooks, rivers, ponds, and lakes, if any such water body contains water at the time of the pesticide application.

(v) Organic farms as defined in R 285.637.1(p).

(vi) Health care facilities.

(vii) Commercial preschool and day-care centers that are located in buildings which are in use and identified by signs or other means and which are recognizable to the public.

(viii) Posted school bus stops which are identified by signs and which are recognizable to the public.

(i) "Space" means the application of a pesticide that is intended to discharge a pesticide into the air throughout an entire volumetric area.

(j) "Spill kit" means a portable kit or other equipment that is designed to recover, minimize, contain, or absorb spills, leaks, releases, or other discharges of pesticides.

(k) "Spot treatment" means a pesticide application to a portion of a definable area, such as floors, walls, ceilings, bases or undersides of equipment, turf, or ground. A "spot" shall not be more than 2 square feet, and the total area treated shall not exceed 20% of the definable area.

(l) "Use of a pesticide in a manner inconsistent with its label" means to use any pesticide in a manner that is not consistent with the labeling, except that the term does not apply to any of the following:

(i) Applying a pesticide at any dosage, concentration, or frequency that is less than that specified on the labeling, unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency.

(ii) Applying a pesticide against any target pest that is not specified on the labeling if the application is to the crop, animal, or site that is specified on the labeling.

(iii) Employing any method of application that is not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified on the labeling.

(iv) Mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

(v) Any use of a pesticide that is in compliance with the provisions of section 5, 18, or 24 of FIFRA.

(m) "Washing or rinsing facility" means a site for commercial applicators where pesticides and pesticide-containing materials are cleaned, washed, or rinsed from containers or from pesticide

application, handling, storage, or transportation equipment for more than 10 days in any calendar year.

(n) "Wash water" means water that is used to wash exterior surfaces of application, handling, storage, or transportation equipment where pesticide residues are likely to occur.

R 285.637.3 Terms defined in act.

Rule 3. Terms defined in the act have the same meanings when used in these rules.

R 285.637.4 Standards for pesticide use.

Rule 4. A pesticide application shall be made in compliance with all of the following provisions:

(a) A pesticide shall be used in a manner that is consistent with its label.

(b) Pesticide applications shall be made in a manner that prevents off-target direct discharges of pesticides.

(c) Pesticide application equipment shall be in sound mechanical condition and shall be free of leaks and other defects or malfunctions that might cause a pesticide to be deposited off-target or in a manner that is inconsistent with its label.

(d) Pesticide application equipment shall be properly calibrated.

(e) Pesticide application equipment shall have properly functioning shutoff valves or other mechanisms that enable the operator to prevent off-target discharge.

(f) Pesticide application or loading equipment that is designed to draw water shall have a properly functioning anti-siphoning device.

(g) At sites where pesticides are mixed, loaded, or transferred, an applicator shall maintain and utilize equipment in a manner that prevents the incidental release of pesticides to the environment.

(h) All commercial aerial applicators shall maintain pesticide application equipment in compliance with all of the following performance standards:

(i) Dry breaks shall be used to connect loading hoses to aircraft.

(ii) All hoses shall either be double clamped or the equivalent.

(iii) Mesh screens on loading hoses shall be at least 20 mesh or finer unless otherwise specified by the pesticide manufacturer or the product label.

(iv) Shutoff valves shall be in place at the discharge side of the loading pump and on each side of dry breaks.

(v) The loading system shall be flushed with clean water at the completion of each individual load, except when using undiluted material.

(vi) Equipment such as gaskets on quick-disconnect coupling, nozzle check valve diaphragms, and o-rings shall be replaced annually.

(vii) An aircraft that has a circulating pump system shall have an operating 3-way spray valve that, when in the off position, creates a negative pressure on the outlet or boom side.

(i) Applications shall not occur when weather conditions favor the off-target drift of pesticides or prevent the proper deposition of pesticides to the target area.

(j) Before applying a pesticide, the applicator shall identify any sensitive areas that are located on properties adjacent to the target area and shall use appropriate precautionary measures to prevent the direct discharge or drift of pesticides to those areas.

(k) Pesticides shall be applied in a manner that minimizes the exposure of nontarget humans, livestock, domestic animals, and wildlife to the pesticides. Unless permitted by the label, an

applicator shall take all reasonable precautions that will prevent a pesticide from being applied if unprotected persons are present within the application site or are present in adjacent areas when off-target drift may occur.

(l) A commercial applicator that is required to be licensed under the act, other than an aerial applicator, shall provide the following information, which shall be printed or affixed on the exterior of each vehicle that is used to transport a pesticide:

(i) The name of the licensed applicator firm.

(ii) The business telephone number, address, or United States department of transportation census number of the licensed applicator firm.

(iii) The printed information must be legible and visible.

(iv) The required information shall be in a typeface 3 inches high or larger.

(v) The director may grant an exemption from the requirements of paragraphs (i) and (ii) of this subdivision upon petition by a licensed applicator firm.

(m) Any person who mixes, loads, or otherwise uses pesticides shall have immediate access to a spill kit. Aerial applicator spill kits shall contain not less than 2 buckets, absorptive pillows, or another system for containing leaking nozzles. The spill kit requirement does not apply to a person who uses single containers of use dilution pesticides in a quantity that is less than 16 ounces.

R 285.637.5 Registry of persons requiring notification before turf and ornamental application of pesticides.

Rule 5. (1) The department shall maintain a voluntary registry of persons who, due to a verifiable medically documented condition, require notification before the application of pesticides on a property that is adjacent to their primary residences. Upon request, the department shall annually register a person who requires notification before the use of pesticides. Each year, the person shall submit a valid certificate from a physician who is licensed to practice medicine. The certificate shall be on forms provided by the department and shall indicate the following information:

(a) The current diagnosed condition or ailment of the person that specifies the need for notification.

(b) Any recommended additional distance notification deemed necessary and substantiated by the physician. The physician’s information shall include the recommended additional distance in feet.

(2) The certificate that is provided to the department pursuant to the provisions of subrule (1) of this rule shall be subject to review and approval by the department.

(3) Registration shall also include all of the following information on forms provided by the department:

(a) Name, address, other than a post office box number, and telephone number of a person who requires notification.

(b) Name, address, other than a post office box number, and telephone number of a designated contact person.

(c) A list of addresses of properties that are adjacent to the primary residence of the person requiring notification. Information shall be provided as follows:

(i) Street address and occupant name, or designation as vacant lot, direction (N, S, E, W), and estimated street address from notification person’s address.

(ii) Designation of multiple dwelling units such as apartments or condominiums, if applicable.

(iii) Designation as multiple use area or commercial property, if applicable.

(d) A list of names and addresses of additional property owners as provided for in subrule (1)(b) of this rule. Information shall be provided as follows:

(i) Street address and occupant name, or designation as vacant lot, direction (N, S, E, W), and estimated street address from notification person's address.

(ii) Designation of multiple dwelling units such as apartments or condominiums, if applicable.

(iii) Designation as multiple use area or commercial property, is applicable.

(4) The printed registry list shall remain confidential, to the extent permitted by law, except for the following information:

(a) Name, address, and telephone number of the designated contact person.

(b) Addresses of the adjacent properties or other properties as identified in subrule (1) (c) and (1) (d) of this rule.

(c) The address of a person who requires notification.

(5) The individual requiring prior notification, or his or her designated contact person, shall obtain a copy of the annual list and ensure that the specific information provided to the department is accurate and a component of the list.

(6) Initial applications may be submitted to the department at any time. Renewal registration forms supplied by the department shall be submitted annually on or before February 1. An applicant shall immediately notify the department of any address or contact person information change.

(7) The department shall annually publish a list, by March 15, of nonconfidential information provided by persons who request notification. Listings shall be provided to all of the following entities:

(a) Commercial pesticide applicator firms that are licensed in categories which will require the firms to notify persons on the registry.

(b) County public health departments.

(c) Upon request, commercial applicators who are certified in a category that will require the applicators to notify persons on the registry.

(8) Before a lawn or ornamental pesticide other than a general-use ready-to-use pesticide is applied on a property address listed on the most recent published registry, a commercial applicator shall notify the contact person on the registry. Notification shall take place before the application in accordance with all of the following provisions:

(a) By telephone the previous business day before a pesticide application or by written notification that is delivered in person to the residence of the listed contact person. Written notification shall include all information that is listed in subdivision (b) of this subrule and shall be left at the main entrance to the residence not less than 24 hours before application.

(b) Notification shall include all of the following information:

(i) Name, address, and telephone number of the commercial applicator or firm that makes the application.

(ii) Anticipated date and approximate time of the application.

(iii) Location of the application.

(iv) Name of the pesticide active ingredient or ingredients being applied.

(c) If the initial application date is postponed, new notification shall be issued before the next application as required by subdivision (a) of this subrule.

(d) The licensee's responsibility to notify a person who requires notification shall be considered discharged if any 1 of the following provisions is complied with:

(i) Telephone notification is attempted on the business day before application and, if unsuccessful, the applicator has left written notification at the person's residence at the time of application.

(ii) Written notification is delivered in person not less than 24 hours before application.

(iii) The applicator obtains written authorization from the contact person for alternate methods of notification.

(e) The registry shall be subject to annual review by the department.

(f) This rule shall not apply to applications of pesticides that are made through a closed injection system.

R 285.637.6 Mixing and loading facilities.

Rule 6. (1) Pesticide mixing or loading shall not occur at a mixing and loading facility unless the mixing or loading is in compliance with the provisions of this subrule. Mixing and loading shall only occur on a pad that is in compliance with all of the following requirements:

(a) The pad shall be constructed with impervious materials, such as sealed concrete, plastic, stainless steel, fiberglass or other approved materials.

(b) The pad shall be bermed, curbed, sloped, or otherwise designed to contain spills, leaks, releases, or other discharges that are generated during the mixing and loading of pesticides or pesticide-containing materials.

(c) Pesticides or pesticide-containing materials that are collected by the pad shall be contained either by the pad itself or drained, pumped, or transferred to an additional impermeable, aboveground holding tank or reservoir until utilized or disposed of in compliance with applicable local, state, and federal laws. The holding tank or reservoir shall be suitably constructed to prevent the release of pesticides or pesticide-containing materials to the environment.

(d) The pad or holding tank or reservoir shall be able to contain the amount of pesticide that could be discharged during 1 minute of mixing or loading.

(e) Mixing or loading pads which are located outdoors and which are not covered shall also meet either of the following criteria:

(i) Have the capacity to contain a 6-inch rainfall.

(ii) Be cleaned of all pesticide residues immediately after spills to prevent contaminants from entering rainwater runoff.

(f) Any portable pad or retractable pad that is stored in a manner to prevent the interception and subsequent runoff of pesticide-containing material shall not be subject to the provisions of subdivision (e) of this subrule.

(g) The mixing or loading of pesticides shall not occur unless a primary shutoff mechanism is immediately accessible. In addition, an emergency shutoff mechanism shall be located upstream from the primary shutoff mechanism and shall be positioned to be fully operated within 30 seconds.

(h) The requirements of this rule shall not apply to hand-held equipment.

(2) A pesticide-producing establishment that is in compliance with the provisions of R 285.640.10 pertaining to operational area containment is exempt from the provisions of this rule.

(3) An agricultural mixing or loading facility that maintains a mixing and loading pad in accordance with the provisions of this rule is exempt from maintaining a second mixing and loading pad at a location where pesticides are mixed with anhydrous ammonia for a period of not more than 60 days in any calendar year.

R 285.637.7 Washing and rinsing facilities.

Rule 7. The washing or rinsing of pesticide residues from application equipment, mixing equipment, or other items that are used for the storage, handling, or use of a pesticide shall not be performed at a washing or rinsing facility other than in a designated wash or rinse containment area as required by this rule. Washing and rinsing in a wash and rinse water containment area shall be in compliance with all of the following provisions:

(a) Washing and rinsing shall occur on a pad that is constructed of impervious materials, such as sealed concrete, plastic, stainless steel, fiberglass, or other approved material.

(b) The pad shall be designed to contain pesticides and pesticide-containing materials that are generated during washing and rinsing and prevent the release of such material to the environment.

(c) Washing and rinsing may occur at a mixing and loading facility.

(d) The requirements of this rule shall not apply to any of the following:

(i) Situations that constitute an emergency where washing or rinsing pesticide residues from equipment or other items is necessary to prevent imminent harm to human health or the environment.

(ii) Aircraft used by aerial applicators.

(iii) Hand-held equipment.

(iv) Any other equipment that is excluded by the director after a review of supporting documentation.

(v) Pesticide containers being prepared for disposal consistent with their label directions or R 285.637.8.

R 285.637.8 Management of excess pesticides and pesticide-containing materials.

Rule 8. (1) Persons who have pesticide-containing materials that consist of pesticides for which federal or state registration has not been suspended may, except as provided in subrules (3) and (4) of this rule, use these materials as a pesticide in accordance with the instructions for use on the label of the pesticide or pesticides they contain. Both of the following uses of pesticides or pesticide-containing material are considered to be uses in accordance with label directions:

(a) The application of a pesticide or pesticide-containing material to a labeled site so that the total application rate of the active ingredient does not exceed directions for use provided on the label.

(b) Pesticide-containing materials that are used as diluents in subsequent mixtures of pesticides and diluents if the subsequent applications of such mixtures are in compliance with the provisions of subdivision (a) of this subrule.

(2) Soils, sediments, debris, or other pesticide-containing material may be used as a pesticide under the provisions of these rules if the person who manages the material knows the amount of active ingredient in the material or can estimate the largest possible amount of active ingredient in the material being managed either because of having direct knowledge of the amount of pesticide that is contained in the material or as a result of testing the material. Application of material for which the amount of active ingredient is unknown or cannot be estimated is prohibited.

(3) A person who has quantities of pesticide-containing materials and who does not intend to use these materials as pesticides in compliance with the provisions of subrule (1) of this rule shall follow the instructions for product and container disposal on the label of the pesticide. A person who recycles, recovers, or otherwise handles pesticide-containing materials in compliance

with applicable local, state, and federal solid waste laws shall be considered to be in compliance with the label directions for disposal, even if a method of disposal or handling that is used is not specified in the instructions for disposal on the pesticide label.

(4) Soils, sediments, debris, or other solids that contain pesticides that may have been altered as a result of a fire or other occurrence shall not be used as a pesticide unless laboratory analysis is obtained to confirm that the material may still be effectively used as a pesticide.

(5) Spills, leaks, releases, or other accidental discharges of pesticides or pesticide-containing materials shall be promptly contained and recovered in a manner that assures the protection of human health and the environment. Surfaces that intercept such discharges shall be promptly cleaned to assure maximum recovery. Recovered pesticides and pesticide-containing materials and materials that are used to contain, minimize, absorb, or collect spills shall be managed in accordance with subrule (1)(a) of this rule.

(6) A person shall not dispose of or handle any pesticide or any pesticide-containing material as follows:

(a) In a manner that is inconsistent with its labeling.

(b) So as to cause or allow a discharge to the environment in a manner that is inconsistent with the label instructions for use or disposal.

(c) So as to violate any state or federal pollution control statute.

(d) So as to cause or allow burying in a land site in a manner that is not in compliance with applicable state and federal solid waste regulations.

(e) So as to cause or allow the storage of pesticides or pesticide-containing materials, including rinsate or wash water, in underground tanks. This prohibition does not apply to watertight catch basins that are used for temporary collection or other recirculating systems as approved by the director.

R 285.637.9 Personal protective equipment.

Rule 9. (1) A pesticide applicator shall follow label directions regarding personal protective equipment.

(2) Commercial applicators who use a pesticide shall comply with all of the following minimum protective equipment requirements, unless otherwise directed by the pesticide product label:

(a) Long pants shall be worn.

(b) Footwear that provides protection from exposure to the pesticide being used shall be worn.

(c) Long-sleeve clothing shall be worn. Short-sleeve clothing may be worn if water and soap or other protection is in place that provides comparable or great protection is immediately available and short-sleeve clothin**g** is not prohibited by the pesticide label.

(d) Gloves that are impervious to the pesticide in use shall be worn in any situation where the individual's hands are likely to come into contact with a pesticide, unless other protection is in place that provides comparable or greater protection.

R 285.637.10 Off-target pesticide drift.

Rule 10. (1) Pesticide applications shall be made in a manner that minimizes off-target drift, unless prior authorization and consent as specified in subrule (3) of this rule is obtained from the owner or resident of the land onto which drift may occur.

(2) Before making a pesticide application, an applicator shall do both of the following:

(a) Determine the likelihood of off-target drift.

(b) Determine the direction of possible off-target drift and any sensitive areas that may be impacted.

(3) When pesticide off-target drift is likely to occur due to the nature of the application or atmospheric conditions, including, but not limited to wind speed and direction, a drift management plan shall be utilized by the applicator to minimize the occurrence and adverse effects of off-target drift. The plan shall include provisions to secure the informed consent of residents in the affected area before making the application. If, in the course of making an application off-target drift occurs, the applicator shall notify the residents in the affected area either verbally or with written notification which includes the name, address, and phone number of a person who may be contacted and who is responsible for supplying information concerning the application before leaving the application site. The drift management plan shall include drift minimization practices. Such practices may include any of the following:

(a) The use of a possible combination of nozzles, pressure, or volume to manage droplet size.

(b) The use of equipment that is designed to minimize off-target drift.

(c) The consideration of release distance to target to maximize deposition.

(d) The use of drift reduction additives.

(e) The establishment of a no-spray buffer zone. The buffer zone may be treated with nonpowered equipment.

(f) The identification of the maximum wind speed and direction under which applications can be made.

(g) The use of wind shields or windbreaks to contain spray drift or deflect spray drift.

(h) Other specific measures stated in the plan that are effective in minimizing the incidence of off-target drift.

(4) Drift management plans shall be in writing. The plan will state the measures to be used and how those measures will reduce off-target drift. The drift management plan shall be annually reviewed by the person who utilizes the plan.

(5) A record of the sites where the drift management plan was implemented and a copy of the drift management plan shall be retained for a period of 1 year for general use pesticides and 3 years for restricted use pesticides and shall be made available to the director upon request.

(6) Operating under a drift management plan does not exempt an applicator from complying with appropriate federal or state statutes and regulations. However, the department shall consider the presence and use of a drift management plan as a factor in determining appropriate enforcement action.

R 285.637.11 Commercial notification and posting requirements.

Rule 11. (1) The requirements of this rule shall 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 subrule (2) of this rule

shall only be used when making pesticide applications and shall be in compliance 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.

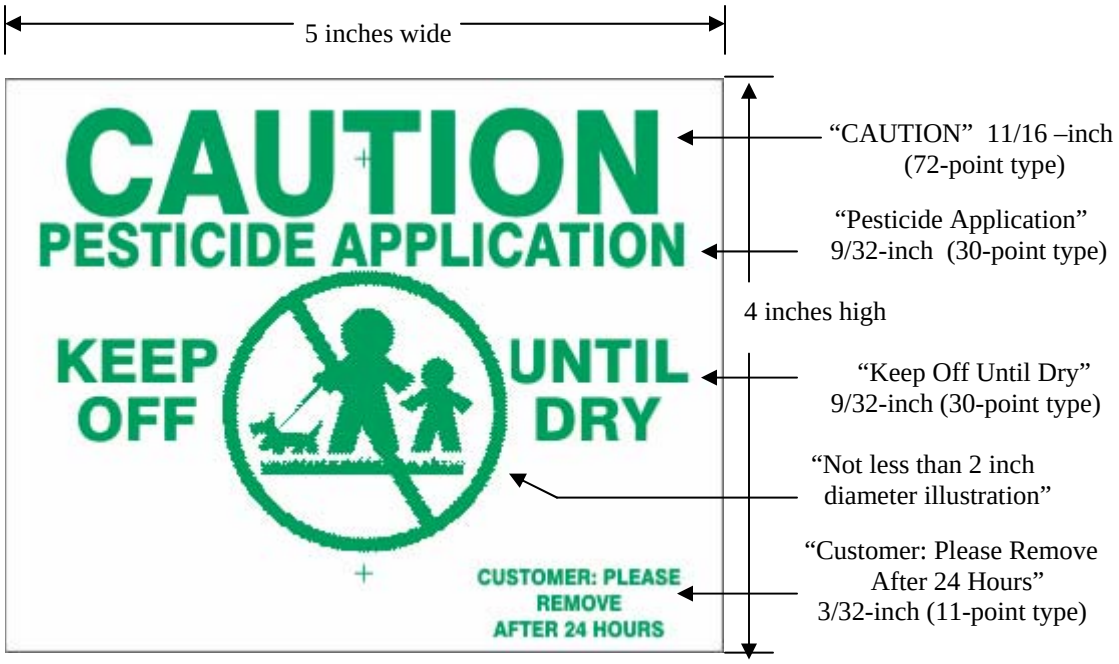
(B) The statement "Pesticide Application" in 9/32-inch (30-point) type.

(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 shall 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 subrule (2) of this rule 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 shall be in compliance 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 shall be provided on a poster or placard that is constructed of all-weather material.

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

(iv) The poster or placard shall 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 shall 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 shall 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 shall be in compliance 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 shall be in black letters on a muted background.

(iii) The sign shall have an illustration which is not less than 1 3/4 inches high by 2 inches wide and which 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 shall have a space provided in which the date of application is to be indicated by the applicator. This information shall 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 shall 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 shall 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 shall be placed in the legal advertisement section.

(iii) Prior written notification.
(e) Notification of property owners shall 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 shall 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 shall 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) Notification requirements shall be waived in the event of a public health emergency as determined by the Michigan department of community health.

R 285.637.12 Applicator service agreements.
Rule 12. (1) Before applying a pesticide, a commercial applicator who is required to be licensed by the act, or his or her authorized agent, shall enter into an oral or written service agreement with the customer or authorized agent. The agreement shall specify all of the following:
(a) The customer's consent to services.
(b) The name, address, and telephone number of the firm that provides the pesticide application services.
(c) The approximate schedule, frequency, and duration of anticipated services.
(2) A commercial applicator who is required to be licensed by the act, or his or her authorized agent, shall provide all of the following written information to the customer or to the customer's authorized agent:
(a) The name, address, and telephone number of the firm that provides the pesticide application services.
(b) The full name of the applicator who provides services.
(c) A general description of the target pest or pests to be controlled.
(d) A list of the pesticides applied, including the common name of the active ingredient.
(e) The time and date of the application.
(f) Applicable precautionary warnings or reentry restrictions which appear on the label of the pesticide or pesticides that are applied.
(3) The information required in subrule (2) of this rule shall be provided in one of two ways:
(a) Not later than at the time of each pesticide application.

(b) The information may be provided electronically within 48 hours after the application if the commercial applicator has the written approval of the customer or the customer's authorized agent prior to the application.

(4) Not later than at the time of initial pesticide application, a commercial applicator who is required to be licensed by the act, or his or her authorized agent, shall provide all of the following written risk and benefit information to the customer or the customer's authorized agent:

(a) The definition of a pesticide.

(b) A general description of how pesticides work.

(c) Why pesticides are used.

(d) General toxicity information related to all of the following:

(i) The type of compound used.

(ii) The environment in which the pesticide is applied.

(iii) General exposure information.

(iv) The amount or rate of pesticide applied.

(v) Proper pesticide applications in compliance with the label.

(e) Common sense precautionary measures for the customer regarding pesticides.

(f) General information on the environmental fate of pesticides.

(g) Instructions to the customer to discuss site preparation and precautionary measures with the pesticide applicator.

(h) Instructions to the customer to consult with a physician if an unusual reaction occurs.

(5) A commercial agricultural or aerial applicator may provide the information specified in both of the following provisions to the customer or the customer's authorized agent in place of the information requirements specified in subrules (2) and (3) of this rule:

(a) Oral instructions to the customer or the customer's authorized agent on labeled reentry and preharvest interval requirements before application.

(b) A copy of the risk and benefit information sheet or the pertinent section of the label that pertains to risks and benefits.

(6) If an emergency requires immediate pesticide application, the information that is required in subrule (2) of this rule may be provided after the application has occurred.

(7) The department reserves the right to review and prohibit the use of written information required to be provided to customers in subrule (3) of this rule if the director determines that the information does not meet the intent of subrule (3) of this rule.

(8) The duration of a service agreement shall not be more than 12 months unless either written notification of continuation of service is provided annually or unless the service agreement is a signed contract that specifies a definite time period during which the contract is valid. Written notification of continuation of service shall provide information to the customer regarding how to discontinue service.

(9) When requested by the customer or his or her authorized agent, the commercial applicator shall provide all of the following documents to the customer:

(a) Product labels.

(b) Material safety data sheets.

(c) Environmental protection agency fact sheets, if available.

(d) A document that specifies the rate of application of the active ingredients of the products applied.

(10) If the customer is acting in the interest of residents of the treated premises, then the customer shall make the information provided in this rule available to the residents upon request.

R 285.637.13 Misrepresentation of pesticide safety prohibited.

Rule 13. A commercial applicator shall not make false, misleading, deceptive, or fraudulent representations concerning pesticide safety. All of the following claims or statements are prohibited:

(a) Any statement that implies a pesticide is recommended or endorsed by any federal or state agency.

(b) Claims of absolute safety.

(c) Unsubstantiated or comparative statements on the safety of the pesticide, including but not limited to any of the following statements:

(i) "Contains all natural ingredients."

(ii) "Among the least toxic chemicals known."

(iii) "Pollution approved."

R 285.637.14 Integrated pest management.

Rule 14. For all pesticide applications other than sanitizers, germicides, disinfectants, or anti-microbial agents made in schools, public buildings, day care centers, and health care facilities, both of the following provisions shall be complied with before any pesticide application:

(a) A pesticide applicator shall have verifiable participation in a training program which is approved by the director, and which includes all of the following integrated pest management elements:

(i) Site evaluation, including all of the following:

(A) Site description.

(B) Site inspection.

(C) Site monitoring.

(D) The concept of threshold levels.

(ii) The relationship between pest biology and pest management methods.

(iii) Pest management methods, including population reduction techniques, such as mechanical, biological and chemical techniques, and pest prevention techniques, such as habitat modification.

(iv) The development and implementation of an integrated pest management program, with consideration for reducing the possible impact of pesticide use on human health and the environment, including people with special sensitivities to pesticides.

(v) Evaluation of an integrated pest management program to determine the program's effectiveness and need for modification.

(vi) Recordkeeping requirements for public buildings and health care facilities the same as those defined in MCL 324.8304(6)(b) for schools and day care centers.

(vii) The need to communicate with, and enlist the assistance of, building managers for the implementation of integrated pest management programs.

(b) A written integrated pest management program shall be in place for each building in which pesticide applications take place. A copy of the integrated pest management program shall be located at the school, public building, day care center or health care facility and shall include all the same elements as defined in MCL 324.8304(6) for schools and day care centers.

R 285.637.15 Pesticide use in and around schools and day care centers.

Rule 15. (1) All pesticide applications other than sanitizers, germicides, disinfectants, and anti-microbial agents that are made in and around schools, public buildings, day care centers, and health care facilities, are subject to the provisions of this rule.

(2) Outdoor ornamental and turf applications of liquid spray pesticides shall not be made on school grounds within 100 feet of occupied classroom buildings during normal school class hours or when persons are using the treatment area.

(3) An applicator shall notify the school or day care center's building manager of any reentry intervals that are required by labels of any pesticide that the applicator has applied in a school building or day care center, or on any school or day care center property.

(4) Annual notification of pesticide applications required under MCL 324.8316(2) shall include designation of the commonly used primary entrances at which posting of pesticide application information required under MCL 324.8316(3) shall occur.

(5) During the months when school is not in regular session, school administrators may utilize a message notification system that parents or guardians may access at least 1 day before application. If this alternative is utilized, parents or guardians shall be advised how the information may be obtained.

R 285.637.16 Organic farms; listing.

Rule 16. (1) The department shall annually compile a listing of organic farms.

(2) The department shall provide the listing to all commercial pesticide application firms that are licensed in agricultural, right-of-way, or aerial application.

(3) A person who owns or operates an organic farm may appear on the department's organic farm listing by doing both of the following:

(a) Submitting a request to the department, on the department's form, by March 1 of each year.

(b) Marking the organic farm so that a person who makes a pesticide application to an adjacent property can easily recognize the property as an organic farm.

R 285.637.17 Penalties for violation of local pesticide ordinances.

Rule 17. (1) A local unit of government shall utilize the following schedule of fines for violation of local ordinances authorized by section 21a(3) of the act:

(a) A violation of R 285.637.5(8), which requires prior notification to persons on the registry, shall be subject to a fine of $50.00 for the first offense, $100.00 for the second offense, $250.00 for the third offense, and $500.00 for the fourth offense.

(b) A violation of R 285.637.11(1), (2), (3) or (5), which requires posting of lawn and ornamental sites, golf courses, community applications, and rights-of-way, shall be subject to a fine of $25.00 for the first offense, $50.00 for the second offense, $100.00 for the third offense, and $200.00 for the fourth offense.

(c) A violation of R 285.637.11(4), which requires applicators to provide building managers of commercial or public buildings, health care facilities, day-care centers, and schools with signs, shall be subject to a fine of $25.00 for the first offense, $50.00 for the second offense, $100.00 for the third offense, and $200.00 for the fourth offense.

(d) A violation of R 285.637.11(4)(c) by a building manager shall be subject to a formal warning for the first offense, a fine of $50.00 for the second offense, a fine of $100.00 for the third offense, and a fine of $200.00 for the fourth offense.

(e) A violation of MCL 324.8316(2) to (4), requiring schools and day-care centers to provide information regarding pesticide applications to parents or guardians, shall be subject to a fine of $25.00 for the first offense, $50.00 for the second offense, $100.00 for the third offense, and $200.00 for the fourth offense.

(2) Multiple violations of a particular ordinance or rule that occur on the same day shall be treated as 1 violation.

(3) Each type of offense shall accumulate on a calendar year for each person subject to the local ordinance, so that at the beginning of each calendar year the offense cycle begins again, except that, for purposes of subrule (1)(d) of this rule, a building manager who has previously received a formal warning shall be subject to a fine of $25.00 for the first offense.

(4) All offenses shall be considered as a single violation of each type until a person is notified of the issuance of a citation by the authorized local government agency.

(5) A local unit of government shall notify the person or firm alleged to be in violation within 72 hours of the issuance of a citation.

(6) A person may appeal a citation and fine assessment to the department.

(7) A local unit of government shall refer a fifth or subsequent violation by a person within a calendar year to the department for investigation and enforcement action.

(8) A local unit of government shall notify the department within 10 working days of the issuance of a citation for a violation of a local ordinance pursuant to the act.

(9) A local unit of government shall not assess fines for violations that occur before there is an incident or complaint that precipitates an investigation or before there is an observation by a local official.