PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

Guidance for Registering Your Company Name When Applying for a Pesticide Application Business License

The Michigan Department of Agriculture and Rural Development (MDARD) follows the Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 83, Pesticide Control, and Regulation 636, Pesticide Applicators, when issuing companies Pesticide Application Business Licenses (PABLs).

APPLICABLE REGULATIONS

Act 451 states the following:

- 8313(3): The commercial applicator license application shall be on a form provided by the director and shall contain information regarding the applicant's qualifications and proposed operations, the type of equipment to be used by the applicant, and other information considered pertinent by the director.

- 8313(13): A commercial applicator that operates from a business location outside this state shall do either of the following:

  (a) Continuously maintain in this state a registered office and a resident agent, which agent may be an individual resident in this state whose business office or residence is identical with the registered office, a domestic corporation or limited liability company, or a foreign corporation or limited liability company authorized to transact business in this state and having a business office identical with the registered office. The commercial applicator shall file with the department the name, address, and telephone number of the resident agent and shall maintain and make available records required by this part...

  (b) Maintain and make available to the department records required by this part…pay all costs incurred by the department in auditing the records if they are held at an out-of-state location.

Regulation 636 states the following:

- Rule 12(1): application for a PABL shall be made on a form prescribed by the director.

- Rule 12(3): requires that when firms submit an application for a PABL and an assumed name is used, a registered assumed name certificate must be included with the application.

- Rule 12(4): states that a foreign corporation shall attach to the license application a certificate of authority to transact business in the state of Michigan which is issued from the Michigan Department of Licensing and Regulatory Affairs (LARA) under 1972 PA 284, MCL 450.1101.

BUSINESS NAME REGISTRATION REQUIREMENTS

This section was adapted from *Guide to Starting and Operating a Small Business*, Michigan Small Business Development Center, and the LARA website. Please see the guide and LARA's website for extended descriptions of types of businesses (links are listed at the end of this document).

How a company registers its business name(s) depends on how the company is organized:

1) **Sole Proprietorships and Partnerships**

- A sole proprietorship or partnership using the name(s) of the owner(s) is not required to do anything to register their business name.

- If the business operates under a name other than the individual's name, a "Certificate of Persons Conducting Business Under Assumed Name" must be filed with the county clerk in every county in which business is transacted.

2) **Corporations and Limited Liability Companies (LLC)**

- A corporation registers its name by filing its Articles of Incorporation; an LLC registers its name by filing its Articles of Organization. Either one is filed with the Corporations Division of LARA, at Michigan.gov/Corporations. It is recommended that you conduct a state entity search at Michigan.gov/EntitySearch prior to filing your paperwork to ensure a chosen name is not already taken.

- A corporation or LLC may choose to operate the business under a name different than the LLC or corporation, or it may choose to operate multiple businesses through the one business. For corporations or LLCs filed at the State of Michigan, this form of "DBA" ("doing business as") is different from the one filed with a county. The corporation or LLC must file a Certificate of Assumed Name for each name used by the business, which can be done through the Corporations Division of LARA at Michigan.gov/Corporations.

- A foreign corporation is one that is incorporated under laws other than the laws of this state and is either located in another state or country. A foreign corporation, whether profit or nonprofit, is required to obtain a Certificate of Authority if it is transacting business or conducting affairs in this state. If a Certificate of Authority is required, the corporation should file an Application for Certificate of Authority (form CSCL/CD-560). All corporations are required to continuously maintain a registered office and resident agent in Michigan.

WHEN APPLYING FOR A PABL

MDARD's PABL application requires companies to submit to MDARD, when applicable:

1) For **sole proprietorships or partnerships,** submit a copy of each DBA Certificate issued from county clerk offices. A DBA Certificate is required in each county where the firm operates.

2) For **corporations and limited liability companies,** submit a Corporation ID number and any associated Certificates of Assumed Names filed with LARA. Contact LARA, Michigan Corporation Division, Phone: 517-241-6470, Fax: 517-334-8329. For more information, visit LARA's website at Michigan.gov/Corporations.

3) For **out-of-state firms** (also known as **"foreign corporations"),** submit Certificate of Authority to do business in the State of Michigan AND designation of a Michigan resident agent. Out-of-state companies must be authorized to conduct business in the State of Michigan. A copy of that authorization must be on file with MDARD. You can apply for this authorization at LARA, Michigan Corporation Division, Phone: 517-241-6470, Fax: 517-334-8329. For more information, visit LARA's website at Michigan.gov/Corporations.

Regulation 636, Rule 12(4) requires out-of-state firms to either make available all required records under Act 451 and pay for all costs when MDARD conducts an audit, OR, maintain a registered office and resident agent in Michigan. LARA further requires that a **registered office and resident agent** must be included in the Articles of Incorporation or Articles of Organization. A resident agent is someone appointed by the corporation to receive any documents, notices, or demands served upon the corporation. The resident agent may be either an individual resident in this state whose business office or residence is identical with the registered office; a domestic corporation or a limited liability company; or a foreign corporation or limited liability company authorized to transact business in this state that has a business office identical with the registered office. If a resident agent and registered office are not named in the Articles of Incorporation, the submitter will be contacted by LARA to obtain the information.

For more information on applying for a PABL, visit Michigan.gov/mdardpest.

FREQUENTLY ASKED QUESTIONS ABOUT DBA (Doing Business As) CERTIFICATES, Compiled by the Second District of the Michigan Association of County Clerks, and the Michigan Department of Consumer & Industry Services.

1. **Why do I need to file a DBA (Doing Business as Assumed)?**
   The law requires that a sole proprietor or co-partners file their business (other than the real name of the person) at the county clerk's office [MCL 445.1]. The law also requires that corporations, limited liability companies and limited partnerships be filed with the State of Michigan. Therefore, corporations shall not be filed with county clerks. The purpose of the law is to place on Public Record who is conducting or transacting business under an assumed name.

2. **Can I use any name I want?**
   There are many regulations that apply when a company name is chosen. The general rules governing names for Corporations, Nonprofit Corporations, Limited Liability Companies, and Limited Partnerships only apply to those entities. The Co-partnership Act and Fictitious Name Act require that the name of a sole proprietorship or co-partnership cannot be the same or similar to a name already on file with the county so as to cause confusion or deception.

3. **What if I do business in the next county?**
   When you file an assumed name as a sole proprietorship or co-partnership, you must file in each county in which you will be doing business.

4. **I filed in this county; what if the next county has a business with the same name, now what do I do?**
   If you find that someone else is using the same name then you need to do some research to find out how long they have been using that name. If they have been in business for a long time, you might want to change your assumed name so there is no confusion to the public. Filing your business name does not create substantive rights to the use of that name.

5. **Can I use a different name in a second county that I am doing business in?**
   If the business is a separate business with a different name you would file with the actual name you are doing business under. However, if you are doing business with the same name as in the first county you should file with the same name in the second county.

6. **I need a DBA today for my bank, but I have my business incorporated, so what should I do?**
   If you are incorporated, the only place you should file an assumed name is with the State of Michigan, the same as your Articles of Incorporation. Currently, you can file using MICH-ELF, which will soon be replaced by the Corporations Online Filing System (COFS). The instructions and application for filing electronically can be found on

the State of Michigan's website, Michigan.gov/LARA. Expedited service is available for an additional fee. The nonrefundable expedited service fee is based on the level of expedited service requested and is in addition to the regular fees applicable to the specific document. If the bank has questions, have them contact LARA's Corporation Division at 517-241-6470.

7. **Can I file the business name with the county and state that I am incorporated?**

   No. If you are incorporated the only place you should file an assumed name is with the State, the same as your Articles of Incorporation. Filings at the county level are for sole proprietorships and co-partnerships only.

8. **Can I file to do a DBA today and when my attorney has my corporation papers filed can I dissolve the DBA?**

   You can file a Reservation of Corporate Name with the State of Michigan to hold your corporate name. If you are incorporated, the only place you should file is with the State.

9. **If I file a DBA in all 83 counties of Michigan, will that protect my business name?**

   No. Filing your business name does not create substantive rights to the use of that name. This is the same whether it is a Corporate name, Limited Liability Company name, Limited Partnership name, Sole Proprietorship name or Co-partnership name.

10. **Can I file a DBA if I am less than 18 years old?**

    No. A person who is at least 18 years of age is an adult of legal age for purposes of signing contracts.

HELPFUL LINKS

- State of Michigan, LARA, "Entrepreneur's Guide"
- Michigan.gov/LARA
  Select "Corporations, Securities, & Commercial Licensing" in left column. In the middle of the page, select "Corporations Division." This website has links for corporations, LLCs, LLPs, and LPs.
- LARA – Corporations
- Guide to Starting and Operating a Small Business, from the Michigan Small Business Development Center. Chapter 3, Registering a Business Name and Ways to Legally Structure a Business, pp. 20-23.