



AGENCY OF AGRICULTURE, FOOD & MARKETS

Public Health & Agricultural Resource Management Division  
Steve Dwinell, Director

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January 25, 2023

**RE: Vermont Regulations for Control of Pesticides (22P006); Request for Extension of Adoption Date Under 3 V.S.A. § 843(c)**

Dear Members of LCAR,

The Vermont Agency of Agriculture, Food and Markets respectfully requests that the Legislative Committee on Administrative Rules (LCAR) exercise its discretion under 3 V.S.A. § 843(c) to extend the adoption deadline for the above-referenced Rule to February 9, 2023.

Pursuant to 3 V.S.A. § 843(c), an agency has eight months from the date of initial filing with the Secretary of State to adopt a rule. The Agency filed the Rule with the Interagency Committee on Administrative Rules on January 13, 2022 and filed with the Secretary of State on April 7, 2022.

Last Thursday—January 19, 2023—LCAR approved the Rule with modifications that stakeholders supported to address concerns that were raised in the Final Proposed Rule Filing. Regrettably, we miscalculated the filing deadline for the Adopted Rule and believed it was due yesterday, Tuesday, January 24, 2023. The Agency made its Adopted Rule Filing earlier yesterday, but the Secretary of State's Office returned it after concluding that the Agency missed LCAR's most recent extended deadline. The Agency sincerely regrets this unfortunate mistake and apologizes for it.

The Rule that LCAR approved four business days ago represents many months of effort and negotiation between the Agency and various stakeholders. We also participated in four LCAR hearings and granted multiple extensions to LCAR which LCAR reciprocated to the Agency. Unfortunately, the last extension included only one business day for the Agency to submit the Rule before a Sunday deadline (when the State is not open for business) and we miscalculated the filing date. We appreciate the care and attention that LCAR provided during this process, and respectfully request a short extension so we may timely submit the Adopted Rule.

While we thoroughly regret our mistake, a short filing extension will simply enable the Agency to adopt the Rule that LCAR approved late last week—it will not alter the intended course or cause harm. Conversely, restarting the rulemaking process over a technical two-day filing error would prioritize form over substance. It would also needlessly delay rule implementation, unnecessarily consume significant State resources, create a duplicative rulemaking process, introduce regulatory uncertainty, and keep a stale three-decades-old-rule in place.

Substantial effort, input, and participation underlie the new Rule that LCAR carefully reviewed and approved. We appreciate LCAR's important role in shaping the approved Rule, and respectfully request an extension of the Rule adoption deadline so the Secretary of State may accept the Adopted Rule Filing

and the Rule may go into effect as LCAR intended last week.

I apologize for this oversight and am happy to discuss this further if LCAR has any questions. Thank you so much for your consideration.

Respectfully submitted,

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David M. Huber

Deputy Director, Public Health & Agricultural Resource Management Division

Vermont Agency of Agriculture, Food & Markets