

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Agriculture and Rural Development

2. Bureau:

Pesticide and Plant Pest Management Division

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Regulation no. 634. Commercial fertilizers

5. Rule numbers or rule set range of numbers:

R 285.634.1 - R 285.634.8

6. Estimated time frame:

6 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The rules provide for details on the sale of commercial fertilizers, both protecting consumers through requirements on guaranteed nutrients and labeling standards, as well as providing for standards on slow-release fertilizers. The rules also include a provision on reporting requirements for amounts sold. Proposed updates:

Rule 1 & Rule 2 Update the element percentage solubility guarantee.

- Align the minimum nutrient guarantee figures with specific and actual plant uptake, in addition to improved and more accurate laboratory testing technology. Meaning, plants can only utilize a given amount of each nutrient. Allowing a minimum guarantee that is smaller and more in line with plant uptake allows farmers to apply less fertilizer, which protects the environment from non-utilized nutrients being lost to soils, groundwater, and surface water.
- Adopt the current nationally used standards, set by the American Association of Plant Food Control Officials (AAPFCO).
- Remove redundant language.

Rule 7 Update report due dates to annually.

- Streamlines reporting for industry.
- Eases administrative burdens.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

The director of the department shall enforce this part and may promulgate rules.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 324.8516, 324.8503(2) and 324.8506(2).

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

The content for Rules 1-6 is called for by 324.8503(2); the content of Rule 7 is called for by 324.8506(2); MCL 324.8516.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The current rules are out of date and no longer align with similar provisions in other states. The amendments in this proposed rulemaking will adopt language from the 2020 AAPFCO Official Publication, Rules and Regulations Section Page 49, which will bring Michigan into alignment with other states in the Great Lakes region.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

The MDARD website contains a reporting fertilizer tonnage webpage that provides guidance on how to submit what is required in statute and rule. The proposed standards also exist in AAPFCO's model fertilizer rules and regulations referenced above.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The proposed changes would bring Michigan into alignment with other states that have based their standards on the AAPFCO model, with some variation of specific water-soluble guarantees. These changes also move tonnage reporting from a twice-per-year requirement to a once-per-year requirement; most other states retain a bi-annual requirement.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

Industry has suggested that reporting once a year would be more efficient.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules have not been changed since the Administrative Code was adopted in 1979.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No, these rules are still necessary to provide a level playing field between sellers and buyers of fertilizers. Furthermore, they provide a standard recognized across most states to ensure uniform regulation nationwide.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No