

Administrative Rule Analysis



COMMERCIAL FERTILIZERS

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Rule Set No.: R 285.634

Submitted to JCAR: January 5, 2022

Analysis available at
<http://www.legislature.mi.gov>

Department: Agriculture and Rural Development

Agency: Pesticide and Plant Pest Management Division

Enabling Statute: Part 85 of the Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.8501 et seq.

Analysis Complete to: January 25, 2022

BACKGROUND AND SUMMARY OF PROPOSED RULES

Part 85 of the Natural Resources and Environmental Protection Act (NREPA) provides for the regulation of fertilizer. Part 85 gives authority for the state fertilizer regulatory program to the Michigan Department of Agriculture and Rural Development (MDARD). The regulatory program is administered by the department's Pesticide and Plant Pest Management (PPPM) division.

Section 8504 requires the licensing of persons who manufacture or distribute fertilizer in this state.

Sections 8502 and 8503 establish certain labeling requirements with respect to fertilizer distributed in the state, including a guaranteed analysis showing a minimum percentage of plant nutrients claimed.

Section 8506 establishes fertilizer regulatory and inspection fees and directs that "the payment of the inspection fee shall be made on the basis of tonnage reports setting forth the number of tons of each grade of fertilizer and soil conditioner and the number of cubic yards of peat or peat moss sold or distributed in this state. The reports shall cover the periods of the year and be made in a manner specified by the director in rules, and shall be filed with the department not later than 30 days after the close of each period."

Section 8516 gives the department director broad authority to enforce Part 85 regulations and to promulgate rules.

Regulation 634, R 285.634.1 et seq, are the Administrative Rules governing the fertilizer product labeling, specific minimum guaranteed analysis of plant nutrients claimed, and the form and timing of tonnage reports. The current rule was established in 1979 and has not been updated since then.

The proposed rules would change the defined minimum guarantees on fertilizer product labels to conform to national standards set by the Association of American Plant Food Control Officials. The proposed rules would also change the timing of tonnage reports from semi-annual reports to a single annual report for licensees. MDARD indicates that the proposed changes in minimum guarantees will allow for the application of less fertilizer and less fertilizer waste and runoff. MDARD also indicates that the change from two tonnage reports per year to a single annual tonnage report will be more efficient for the department and less burdensome for licensees.

The proposed rule is supported by the Michigan Agri-Business Association. Current administrative rules associated with MDARD regulatory functions are found on the department's website: <https://www.michigan.gov/mdard/about/laws>

Part 85 governing the regulation of fertilizer in Michigan was amended in 2015 by House Bill 4391, enacted as 2015 PA 118. The House Fiscal Agency legislative analysis of the bill provides additional information on the fertilizer regulatory program as well as related environmental protection programs funded from water quality protection fees assessed on fertilizer sales.
<http://legislature.mi.gov/doc.aspx?2015-HB-4391>

The tonnage reports, which are the subject of Regulation 634, are used to determine the fertilizer regulatory fees established in Section 8506, as well the water quality protection fee levied on fertilizer sales as established in Section 8715 of NREPA. The tonnage reports are subject to audit by the department.

FISCAL IMPACT OF PROPOSED RULES

The department indicates that approximately 1,400 hours are annually logged by department PPPM technicians to process tonnage reports. [2,040 hours are generally assumed to represent one full-time equated position.] The department indicates that the change from two tonnage reports per year to a single annual tonnage report will be more efficient for the department and would result in a cost savings. The department did not estimate the amount of cost savings but indicated that the savings in personnel time would allow for staff to focus on higher-priority activities.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.