



Michigan Agri-Business Association

January 9, 2026

Michigan Department of Agriculture & Rural Development
c/o Jamie Guardiola, Department of Legal Affairs and Emergency Management
525 W Allegan Street
Lansing, MI 48933

RE: Michigan Agri-Business Association (MABA) Comments on Rule Set 2024-38 AC, Administrative Rules for Regulation No. 641. Commercial Fertilizer Bulk Storage

The Michigan Agri-Business Association (MABA) appreciates the opportunity to provide comments on the Michigan Department of Agriculture and Rural Development's (MDARD) proposed revisions to Regulation 641 governing commercial fertilizer bulk storage. These written comments are submitted to complement the verbal comment provided by MABA President Chuck Lippstreu at the Public Hearing held January 5, 2026.

MABA is the nonprofit, state-level industry organization representing manufacturers and retailers of fertilizer, and other businesses serving the agricultural industry. Our members are among the most impacted by these proposed changes. Beyond the direct impact to fertilizer handlers and retailers, the proposed rules will impact the entire agricultural system in Michigan, including Michigan farmers who count on these businesses for access to crop nutrients.

MABA has appreciated MDARD's collaborative approach to this rulemaking process since issuance of its Request for Rulemaking in August 2024, and its consideration of input from industry subject matter experts. Discussions with MDARD staff in recent months underscore the shared commitment of industry and government to achieve regulatory certainty, equip Michigan's agricultural industry for success and maintain strong environmental protections.

Regulated fertilizer businesses in Michigan are leaders in environmental stewardship and the proper, safe handling of crop nutrients. They maintain a strong working relationship with MDARD officials at all levels and have developed a track record of partnership with the Department. As a result, industry has taken an active role in providing technical input and assistance with regard to these proposed rules.

Following are our Association's comments on the proposal, including overall comments as well as comments related to specific rule sections. MABA notes many of our members' questions and concerns have been addressed by the Department in recent months. Our Association's comments are focused on (1) top priority issues for the final rule changes and (2) areas where we feel improvements can still be made.

Support for Alignment with National Industry Standards

MABA recognizes the Department's overall approach of aligning rule changes with American Association of Plant Food Control Officials (AAPFCO) and United States Coast Guard (USCG) standards. Many proposed changes reflect updates to rules to align with national standards, due to changes in the standards during the past two decades. State rulemaking that aligns with national, recognized industry standards provides greater clarity for our member businesses, many of which operate in multiple states.



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Support for Common-Sense Phase-In of Changes

The proposed rules contain several changes to commercial fertilizer storage construction standards which will impose substantial new time burdens and capital costs on the regulated industry in the years ahead. As a result, MABA supports the Department's proposed timelines for implementation of these changes contained in Sections 2, 3, 4, 7, 9 and 13, providing an implementation timeline of five years from the effective date of the rule.

MABA further supports the proposed rule language requiring changes upon new construction at facilities, which will allow changes to be implemented as part of the normal course of business.

These timelines and flexibilities are critically important due to the nature of the fertilizer business, which even under normal circumstances requires business planning on months- and years-long timeframes. Construction adds substantial complexity to businesses' planning. The timeline required for planning and execution of a major capital expense by firms is incorporated into operations over a number of years.

The time frames included in this proposed rule will ensure businesses are able to predictably meet the needs of Michigan farmers, while complying with state regulations.

Shorter implementation time frames, and/or the elimination of "new construction" parameters across these rules, would severely disrupt industry operations and result in increased costs across the value chain. MABA appreciates staff of the Department for crafting an implementation timeline that takes into account industry input and reflects the realities of the agricultural industry.

R 285.641.3 Recommendation to Streamline Plan Reporting Requirements

MABA encourages the removal of the requirement to list Site Soil Characteristics on site plans, a potential opportunity for streamlining and time-saving for industry and the Department. Industry has not been able to identify instances when this information was used in response to an incident. Other elements of the required plan provide sufficient information to respond quickly and effectively to incidents. We feel this can be eliminated as a streamlining effort.

R 285.641.3: Support for Preapproval of Construction Plans

MABA supports the proposed rule language requiring preapproval of construction plans. This will help ensure firms are fully aligned with the Department in advance of construction, saving time and money over the long term.

We urge the Department to maintain a timely review and approval process, and limit the review to major facility changes, to ensure approvals do not unnecessarily burden either Department staff or firms. Today, the Department frequently offers timely feedback on construction plans and industry would like to see this continue.



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R 285.641.4: Support for Changes to Primary Containment of Bulk Liquid Fertilizer

MABA supports changes allowing for a manifold or primary pipe ends to be positioned over an operational containment area if certain conditions are met. This change will offer firms and inspectors more certainty and give far more clarity into compliance determinations versus the current rule.

R 285.641.4 / R 285.641.7: Request to Provide Alternate Tank Separation for Indoor Tank Storage

MABA appreciates the Department's intent in defining a clear and objective standard for adequate spacing between tanks to ensure safe inspections and maintenance access. We support the goal of establishing predictable, by-the-numbers spacing requirements versus today's subjective requirements.

In light of the Department's implementation timelines (see above), the proposed two-foot spacing requirement will be workable for most firms. However the requirement will create substantial challenges for certain indoor facilities where tank rows are arranged in limited-footprint buildings.

MABA requests the Department consider a modification allowing additional flexibility for indoor tanks organized in rows. Specifically, in scenarios where a facility provides the full two feet of separation between: (1) tanks and the outer walls of the containment area, and (2) between rows of tanks, we recommend the rule allow a shorter spacing of six inches between tanks located within the same row. This approach would continue to ensure inspectors/staff can move around and visually access and repair all tanks, while enabling facilities to use indoor space efficiently.

R 285.641.6: Securing Railcar Valves

MABA understands the Department intends to allow USDOT-approved seals as a method to fulfill railcar security requirements. This is important for users of railcars and we support it.

R 285.641.9: Request to Revise Timeline and Process for Testing and Reporting of Effluent Ports

MABA supports the Department's overall effort to ensure timely, accurate and routine testing of effluent ports, a practice firms are required to carry out under current regulation. However we request revisions to the proposed increased frequency of sampling at the ports. The monthly sampling included in the proposal is threefold increase from the current quarterly testing requirement. The Department should recognize the substantial increase in time and cost associated with required monthly sampling, and strike a balance with the rulemaking.

MABA recommends the Department:

- ✓ Implement bimonthly testing (six times annually), reflecting industry's continued willingness to partner with the Department. We anticipate firms will fully comply with the bimonthly requirement. An increase to monthly testing would triple the burden on industry versus current rule and offer diminishing risk management returns.
- ✓ In instances where an initial test with an approved nutrient test strip is negative, the Department should clarify there is no reporting requirement to the Department, but maintain a requirement that the test be recorded.



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MABA cautions that as the more frequent port testing requirement is implemented, it will result in new time commitments by both industry and the Department. Our members have shared their concern that detection of trace vapors and condensation could result in a high number of reports processed by firms and sent to MDARD regarding tanks that do not have a leak and are fit for service, increasing the burden on both sides. We share the Department's goal of identifying and handling tank leaks as soon as possible. The Department should implement common-sense enforcement frameworks that delineate between detecting tank leaks and routine presence of condensation/vapors.

R 285.641.9a: Recommendation to Ensure Process Flexibility for Out-of-Service Tanks In Winter Months

MABA does not oppose the requirements around taking tanks out of service, but cautions that during winter months, the empty and transfer of products from tanks may not be advisable due to weather conditions. MDARD should provide a pathway for a tank in this circumstance to be subject to one-time written approval or other flexibility for the emptying and out-of-service timeline, contingent on the firm communicating regularly with Department officials. MABA's understanding is that the Department's intent remains to coordinate with firms facing this situation.

R 285.641.11/R 285.641.12 Support for Requirements Related to Abandoned Containers, Site Closure and Discontinuation of Operation.

MABA supports these proposed changes, which will benefit the industry and Department, and ensure proper stewardship of abandoned and closed facilities.

R 285.641.16 Recommendation for Standard Forms

The proposed rules will impose substantial recordkeeping and reporting requirements on industry. MABA recommends MDARD create and disseminate standard forms for firms to track this recordkeeping, thereby enabling firms to be confident they are in compliance. Industry is willing to help identify forms used in other states and/or help the Department develop appropriate standard forms.

Industry should be provided where possible, charts/maps/photos and other aids to help firms align what is in compliance vs. out of compliance.

Continued Industry-State Government Partnership on Implementation

MABA appreciates the Department's efforts to move away from site-by-site compliance agreements, and we believe the changes in this rule set will help. We encourage the Department, both during and beyond implementation of these changes, to maintain an open line of communication with regulated firms to learn about operational advancements, innovation and alternate methods to meet the intent of the rule. The Department should remain open to methods that meet the rule intent and achieve the goal of environmental protection. When paired with the new-construction language and multi-year implementation timelines in the revised Part 641 rules, this approach should allow industry and the Department to successfully partner on unforeseen compliance questions during implementation. Recent discussions with Department staff reinforce our view that there is a willingness to engage proactively with companies that are communicating early, often and in good faith.



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Recommendation for Public-Private Communication Working Group

We anticipate there will be a need for strong communication, training and education for regulated industry, in light of major changes included within the proposal.

MABA encourages the Department to plan, develop and implement communication and training specific to this rule, and to include industry representatives throughout the process. The development of such materials will benefit greatly from the participation of regulated industry. Communication materials could include:

- Written Materials/Visual Aids Per Above
- In-Person Training Events
- Training Videos
- Participation in Industry Events
- Potential Joint Facility Tours/Training Opportunities for Incoming Inspectors and New Employees

MABA recommends the creation of a working group comprised of Department and industry subject matter experts to focus on a proactive, detailed communication strategy to reach regulated industry with information about these rules.

Again, MABA appreciates the Department's efforts on this rule set and willingness to work with the agribusiness community throughout this process. While the commercial fertilizer industry maintains concerns and questions detailed in our above comment, Department staff have regularly communicated with our industry and sought to partner on solutions. MABA member companies will continue to lead with regard to safe and responsible fertilizer storage and handling.

Thank you for considering our comments.

Sincerely,

Chuck Lippstreu

President
Michigan Agri-Business Association