

Administrative Rule Analysis



SEED POTATOES

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

Department: Michigan Department of Agriculture and Rural Development
Agency: Pesticide and Plant Pest Management Division
Enabling Statute: Seed Potato Act, 2018 PA 94, MCL 286.681 et seq.

Analysis Complete to: 02-06-2020

BACKGROUND AND SUMMARY OF PROPOSED RULES

House Bill 5227 (2018), enacted as 2018 PA 94, created a new public act, the Seed Potato Act, to establish a regulatory program with respect to selling seed potatoes in Michigan. Specifically, the act required that persons selling or providing seed potatoes in lots sufficient to plant 1 or more acres must use only certified seed. The act also specified exceptions to that general rule, established recordkeeping requirements, and gave program regulatory authority and responsibility to the Michigan Department of Agriculture and Rural Development (MDARD). The act also required the MDARD director to promulgate rules necessary for the administration and enforcement of the proposed act, including rules that do all of the following:

- Establish requirements for compliance.
- Allow for the random selection of 10% of potato growers subject to the annual records review.
- Establish methods for determining whether there are unacceptable levels of disease.
- Establish rules promulgated under the proposed Act for seed potatoes planted in Michigan.
- Set a schedule of fees for services performed by the department.

The act took effect on June 24, 2018, although the regulatory provisions of the act do not take effect until January 1, 2021.

The proposed rules would implement the act's provisions by establishing specific processes for grower registration, seed certification, department sampling and testing, as well as a framework for establishing fees.

FISCAL IMPACT OF PROPOSED RULES

Public Act 94 of 2018 established new regulatory authority and responsibilities for MDARD with respect to registration of potato growers and certification of seed potatoes.

MDARD's Pesticide and Plant Pest Management (PPPM) Division performs similar licensing and inspection work for the fruit, vegetable, and nursery stock industries. A number of PPPM fees are currently established in the Insect Pest and Plant Disease Act (MCL 286.201 et seq.) and are shown in the MDARD budget as Agriculture licensing and inspection fees. Fee revenue is used to support MDARD agriculture regulatory and inspection programs.

The department anticipates minimal additional staff time, and minimal additional costs, related to performing seed potato certification inspections and in reviewing exemption requests. The department expects the program can be accomplished with current PPPM Division staff. Budgetary support for program work could come, at least in part, from fees authorized in the act and defined in the proposed rules.

Section 7 of the act authorizes the MDARD director to set a schedule of fees for services performed by the department. The act also establishes various administrative fines for violation of the proposed act. The act establishes a Seed Potato Fund. The fund would receive money or other assets from any source, including all fees and administrative fines collected under the act. The bill directs the department to expend money from the fund, upon appropriation, only to implement the Seed Potato Act.

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