

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Agriculture and Rural Development

Bureau name:

Pesticide and Plant Pest Management Division

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Rule Set Information:

ARD assigned rule set number:

2022-10 AC

Title of proposed rule set:

Regulation No. 623 Field Seed Certification

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

The proposed changes to rule 205 bring Michigan closer to other states' less restrictive standards. It also brings Michigan directly in line with South Dakota, a large producer of small grains. The current rule is more stringent than the standards of nearby states, including Ohio, Indiana, and Illinois, as well as the Federal Seed Act.

Under the Federal Seed Act and 7 C.F.R. § 201.76 (2020), for inbred lines of foundation corn, increase fields shall be isolated by a distance of not less than 660 feet from other corn of like color or texture. For single cross hybrid lines of foundation corn, fields shall be isolated by a distance of not less than 660 feet from other corn of like color or texture. The proposed rules will align Michigan with the Federal Seed Act, the Association of Official Seed Certifying Agencies (AOSCA), the current standards of various nearby states, and international standards, including those set by the Organization for Economic Cooperation and Development (OECD).

A. Are these rules required by state law or federal mandate?

There is no mandate for the proposed rules. The content in the proposed rules is permitted by MCL 286.72 but not mandated. Though not required, the proposed rules will implement standards that align Michigan with federal standards, the AOSCA, and other states' standards.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The proposed changes to rule 205 helps decrease existing conflicts among standards. The current rule is more restrictive than the Federal Seed Act. The proposed rule brings Michigan closer to the Federal Seed Act's less restrictive standards. The proposed changes do not conflict or exceed national AOSCA standards.

As currently written, rules 214 and 215 exceed the federal standard set in 7 C.F.R. § 201.76 (2020) because rule 214 requires that inbred increase fields be isolated by not less than 825 feet from other corn of like color or texture, and rule 215 requires single crossing fields be isolated by not less than 825 feet from other corn of like color or texture. The federal standard listed in 7 C.F.R. § 201.76 is 660 feet. The proposed rules will set a less restrictive standard and align Michigan with the national standards, the AOSCA, and various other states.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Proposed rule 205 brings Michigan directly in line with South Dakota, a large producer of small grains. South Dakota's Crop Improvement Association's manual recognizes "inseparable other crop seed," which include "crop plants, the seed of which cannot be thoroughly removed by the usual methods of cleaning" and crop plants existing in areas with climatic conditions that do not take care of winter grain in spring grains and vice versa. The South Dakota manual does not apply other small grain crop maximum seed standards "to seeds of winter grains in spring grains and vice versa, except in such cases where climatic conditions do not take care of the situation." The current rule 205 does not exempt inseparable other crop seeds from the seed standards for small grain seeds. The proposed language would adopt a standard for winter crops in spring crops and vice versa. Like South Dakota, the proposed rule will provide an exception in cases where climatic conditions do not take care of the situation.

The current rules 214 and 215 are more restrictive than the standards of nearby states, Ohio, Iowa, and Illinois. The Ohio Crop Improvement Association provides that foundation single cross corn production shall be isolated by not less than 660 feet from other kinds of corn and an increase field of an inbred line shall be isolated by not less than 660 feet from other kinds of corn. The Illinois Crop Improvement Association provides that inbred lines shall be increased in a plot isolated at least 660 feet from all other corn, and all portions of foundation production fields shall be no less than 660 feet from all other corn. The Iowa Crop Improvement Association provides that a foundation single cross must be isolated at least 660 feet from other corn, and an inbred must be isolated not less than 660 feet from other corn. The proposed language for rules 214 and 215 would align Michigan standards with the standards of the Ohio Crop Improvement Association, Illinois Crop Improvement Association, and Iowa Crop Improvement Association, which is a close cooperator of the Michigan Crop Improvement Association.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The proposed rule 205 would align Michigan's standards with South Dakota's. The proposed rules 214 and 215 would align Michigan's seed standard with several other states, including Ohio, Illinois, and Iowa.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

The proposed rules do not duplicate, overlap, or conflict with existing laws, rules, or other legal requirements. The proposed changes help decrease already existing conflict. Michigan's current standards are out of line with the Federal Seed Act, AOSCA, and standards set forth in other states. Amending the rules with the proposed language would align Michigan with other standards.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The AOSCA, Federal Seed Act, and surrounding states have set the current standards these rules aim to adopt. These regulations are well established. There can be no duplication of local laws since only the department of agriculture and rural development has the authority to promulgate rules for seed certification.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

The federal standard for isolation of foundation and inbred corn lines is 660 feet. The proposed rule would set Michigan's standards at 660 feet and would bring Michigan into alignment with the federal standard.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

The proposed rules will not be more stringent than the applicable federal standards.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

Rule 205 sets field and seed standards for small grains and buckwheat. The purpose of Rule 205 is to protect and regulate the purity of seeds in the state. The current rule sets a threshold for the number of other crop seeds in small grain seed and buckwheat batches. The proposed rule would add two subcategories underneath other crops; a seed standard for winter crops in spring crops and spring crops in winter crops. As currently written, the standard outlined in Rule 205 is too strict. Over the past four to six years, MCIA found that seed producers struggled to meet purity standards for oat because of the presence of wheat. There is ample evidence to support the belief that wheat seed is not a meaningful containment of oat seed because one is grown in winter and the other in summer. The weather effectively culls the unwanted seed once it is planted. The proposed rule will set the seed standard at 5 per 2 pounds for the foundation and 10 per pound for the classes of seed certified, which is more lenient than the standard for other crops, which is set at 1 per 2 pounds for the foundation and 2 per pound for the classes of seed certified.

Rule 214 provides details on the certification of inbred lines of foundation corn. The rule includes a provision that sets the minimum distance that an inbred increase field shall be isolated from other corn. Rule 215 provides details on the certification of single-cross hybrids of foundation corn. The rule includes a provision that sets the minimum distance that a single cross crossing field shall be isolated from other corn. The reason for prescribing minimum distances for isolation is to protect the purity and quality of corn seed.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

Seed standards are set to protect the genetic purity of seeds. Individuals and companies should be able to purchase seeds and trust that the seed reaches a certain level of purity. Seed purity is key to high grain quality, resulting in safer food products. MCIA sees several seed samples fail purity tests because of off-season crop seed. These samples fall just beyond the threshold set in the current rule but are still within a safe and acceptable limit. The proposed rule would reduce the threshold slightly for winter crops in spring crops and spring crops in winter crops and would allow more seed samples to pass the purity test.

In Michigan, most corn seed is produced by large companies that have their own standards. The custom for these companies is to use 660 feet as a minimum isolation metric for corn. The distance of 660 feet has worked for these companies. The proposed rule would not necessarily change behavior. Instead, the proposed rule would update Michigan's regulation to reflect current industry practices.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, a seed sample that contains more than 1 seed per 2 pounds of another crop is not pure enough to satisfy the regulation. The seed will be re-cleaned and re-submitted for another purity test until it reaches the prescribed standard. The standard will be changed to 5 seeds per 2 pounds with the proposed rule. The relaxed standard would allow more seeds to pass the purity test.

The proposed rule 214 decreases the minimum distance that an inbred increase field shall be isolated from other corn of like color or texture from 825 feet to 660 feet. The proposed rule 215 decreases the minimum distance that a single cross crossing field shall be isolated from other corn of like color or texture from 825 feet to 660 feet.

C. What is the desired outcome?

Relaxing the seed standard from 1 seed per 2 pounds of another crop to 5 seeds per 2 pounds would allow more seeds to pass the purity test. When more seeds reach the purity standard, more seeds are available for sale. Additionally, the more lenient standard will reduce the time and money needed to re-clean and re-submit seed samples for testing. Adopting the proposed rule will bring Michigan directly in line with other large producers of small grains, like South Dakota.

Adopting the proposed rules will decrease the isolation distance in inbred lines and cross hybrids of foundation corn from 825 feet to 660 feet. The relaxed standard will align Michigan regulations with the Federal Seed Act, the Association of Official Seed Certifying Agencies (AOSCA), the current standards of various nearby states, and international standards, including those set by the Organization for Economic Cooperation and Development (OECD).

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

If rule 205 is not changed, the harm would be multiple failing tests for seed purity. Over the past four to six years, MCIA found that seed producers struggled to meet purity standards for oat because of the presence of wheat. Producers must re-clean and re-submit seed samples for testing to comply with the current rule. When producers struggle to meet seed purity standards, there is a decline in seeds available. If the proposed rule is adopted, producers will be more likely to meet purity standards. According to MCI, most producers who currently fail to meet purity standards would be able to meet the new standards. It is unlikely that increasing the purity standard will increase consumers' risk. There is ample evidence to support the belief that wheat seed is not a meaningful contaminant of oat seed because one is grown in winter and the other in summer. The weather effectively culls the unwanted seed once it is planted.

In Michigan, most corn seed is produced by large companies that have their own standards. The custom for these companies is to use 660 feet as a minimum isolation metric for corn. The distance of 660 feet has worked for these companies, and 660 feet has become a custom in the industry. If Michigan maintains its current standards of 825 feet, it would be difficult for companies to comply. Seed producers are already reaching maximum capacity with a 660 feet standard, so 825 feet could significantly impact the amount seed producers could supply to the market.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Over the past four to six years, MCIA found that seed producers struggled to meet purity standards for oats because of the presence of wheat. Producers must re-clean and re-submit seed samples for testing to comply with the current rule. The rule must be changed to reduce the number of failed purity tests and increase the number of seeds available.

In Michigan, large corn seed producers are already using a 660 feet standard following the Federal Seed Act and AOSCA. Maintaining the current rule would force seed producers to expand isolation distance when such producers are already close to the maximum capacity with a 660 feet standard. Additionally, maintaining the current rule would put Michigan out of step with the Federal Seed Act, AOSCA, and the standards of several surrounding states. Constantine, Michigan is known as the Seed Corn Capital of the World. The greater Constantine area produces over 10% of the seed corn in the United States. Another 10% of the nation's seed corn is produced in the surrounding counties. Aligning Michigan's standards with the Federal Seed Act, the AOSCA, and several surrounding states will allow corn seed producers in the state to comply with industry standards and continue to supply a large portion of corn seed successfully. The proposed rules are critical to keeping Michigan's corn seed industry viable.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

Relaxing the seed standard in Rule 205 will not reduce the rule's protection of Michigan citizens' health, safety, and welfare. Seed standards are set to protect the genetic purity of seeds. Individuals and companies should be able to purchase seeds and trust that the seed reaches a certain level of purity. Seed purity is key to high grain quality, resulting in safer food products. MCIA sees several seed samples fail purity tests because of off-season crop seed. There is ample evidence to support the belief that wheat seed is not a meaningful contaminant of oat seed because one is grown in winter and the other in summer. The weather effectively culls the unwanted seed once it is planted. The proposed rule relaxes the seed standard and provides a restriction that the standard cannot be applied in cases where climatic conditions do not take care of the presence of off-season crops in the seed. Therefore, while the seed may contain off-season crops, the restriction outlined in the proposed rule prevents the presence of off-season crops from reaching and impacting the health, safety, and welfare of Michigan citizens.

Decreasing the isolation distance from 825 feet to 660 feet will not negatively impact Michigan citizens' health, safety, and welfare. Seed producers in Michigan already use 660 feet as the standard for isolation fields in corn seed production. Six hundred sixty feet is already outlined in the Federal Seed Act, AOSCA Manual, and the several surrounding states' crop improvement association manuals. Six hundred sixty feet is effective and will unlikely present health, safety, or welfare risks for Michigan citizens.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

Rule 214(4) is obsolete and unnecessary. The current rule implies that Michigan State University, other states, and the United States Department of Agriculture develop germplasm varieties. The MCIA is unaware of any public institutions that still have breeding programs. Due to the costs and technology involved, breeding programs are exclusively private. Therefore, the language of Rule 214(4) is obsolete and will be removed by the proposed rule changes.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The proposed rules, if adopted, will not present increased costs for MDARD. The proposed rule 205 only changes the standard that seed samples need to meet to be deemed pure. The testing procedure will remain as it currently is. A change in the threshold value will not create added or new costs for MDARD. The proposed rules 214 and 215 are reducing the isolation standard for foundation corn to a distance that Michigan companies are already using. The change will create no added or new costs for MDARD.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation has been made or is needed.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

Proposed rule 205 removes burdens for producers. Currently, producers, especially those who produce oat seeds, struggle to pass purity tests because of the presence of wheat over the current standard. Producers must re-clean and re-submit samples until the samples meet the purity standard. Relaxing the standard for winter crops in spring crops and spring crops in winter crops will allow more seeds to meet the purity standard. There is no fiscal or administrative burden associated with the proposed rule. MDARD will not face increased costs or workload because of the proposed rule.

Proposed rules 214 and 215 remove burdens for corn producers. In Michigan, most corn seed is produced by large companies that have their own standards. The custom for these companies is to use 660 feet as a minimum isolation metric for corn. The distance of 660 feet has worked for these companies. The current rule is a burden on producers because they have to choose between complying with the 825 feet standard and maximizing production with a 660 feet distance. There is no fiscal or administrative burden associated with the proposed rule. MDARD will not face increased costs or workload because of the proposed rule. The proposed rule would simply update Michigan's regulation to reflect current industry practices.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed rules will not impose burdens. Instead, the rules will remove burdens on seed producers. Relaxing the standard in Rule 205 for winter crops in spring crops and spring crops in winter crops will allow more seeds to meet the purity standard. Increasing the isolation distance in Rules 214 and 215 will update Michigan's regulation to reflect current industry practices.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

The proposed rules would not increase or decrease revenues in other state or local government units. The only parties impacted by the proposed rules are seed producers, MDARD, and MCIA.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules do not impose a program, service, duty, or responsibility on any state or local government unit or school district. The only parties interacting with the proposed rules are seed producers, MDARD, and MCIA.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The only parties that will interact with the proposed rules are seed producers, MDARD, and MCIA; therefore, there are no actions governmental units must take to comply with the proposed rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There are no additional expenditures for state and local governmental units. These rules do not require additional funding or appropriations.

Rural Impact

16. In general, what impact will the rules have on rural areas?

Seed certification is an inherently rural issue. However, the proposed rules will not have an impact on rural areas. The only possibly significant rural issue may be, under Rule 205, is the possibility of spring crops being decimated in the fall and fall crops being destroyed in the spring by climatic conditions. There may be some carry-over of off-season crops into seed samples, especially oats. Such decimation is a function of the environment. However, MCIA expects such cross-over and impact to be minimal due to historical weather conditions.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The rules will likely not affect any public or private interests in rural areas beyond the interests of large seed producers previously addressed.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules will not have an impact on the environment. Relaxing the seed standard in Rule 205 will not impact the environment. The purpose of amending Rule 205 is to relax the seed purity standard for off-season crops present in the seed, so more seeds samples will reach the purity standard. There is ample evidence to support the belief that wheat seed is not a meaningful contaminant of oat seed because one is grown in winter and the other in summer. The weather effectively culls the unwanted seed once it is planted. The proposed rule prohibits using the new standard if climatic conditions do not take care of the unwanted seed. Because the weather will take care of any off-season crops, the proposed rule will not impact the environment.

The proposed language for Rules 214 and 215 decreases the isolation distance for foundation corn from 825 feet to 660 feet to align Michigan standards with the Federal Seed Act, the AOSCA, and several surrounding states. The decreased distance will have no impact on the environment.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

An exemption for small businesses was not considered because seed manufacturers and producers are primarily large to mid-sized companies in Michigan. Additionally, the setback requirements are based on the biology of the plants themselves and have no relationship to the size of the seed company.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The department did not provide an exemption for small businesses because most seed manufacturers in Michigan are large to mid-sized companies. The proposed rules will not have a negative economic impact on businesses. The amendment to the rules will result in a positive economic impact. Under the proposed Rule 205 language, more seeds will meet purity standards. When a seed sample meets purity standards, the time and money needed to re-clean and re-submit the sample for testing are reduced. Additionally, as the number of samples that meets the purity standards rises, so will the number of seeds available for sale. In these ways, the proposed language of Rule 205 benefits businesses.

Under the proposed Rule 214 and 215 languages, companies can produce more seeds because fields can be closer together. Additionally, most companies use 660 feet for isolation in Michigan, so decreasing the regulation to match the industry-standard will benefit businesses. Finally, it is beneficial to have consistent standards to facilitate marketing in multi-state and international domains.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Seed manufacturers and producers are large and mid-sized companies, so the proposed rules will not affect small businesses.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The department did not establish different compliance or reporting requirements or timetables for small businesses because Michigan seed manufacturers and producers are large to mid-sized companies.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The department did not find it necessary to consolidate or simplify small businesses' compliance and reporting requirements.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed rules help align Michigan rules with federal standards and the regulations of several surrounding states. These rules result from speaking with MCIA, which agrees these rules would be better for Michigan seed producers.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules do not create any disproportionate impact because they attempt to ease all businesses' burdens and align Michigan rules with federal standards, regardless of size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

The proposed rules are not going to add a reporting requirement to businesses. Instead, the proposed rule may decrease the amount of paperwork businesses must do. Because Michigan's current rules are not in alignment with the federal rules or the rules of surrounding states, businesses may have to file extra paperwork. The proposed rules would align Michigan rules and Michigan seed certification with the federal law and surrounding states. There should be no increase in cost for any business. The process for testing seed samples and isolating foundation corn is the same. The only portion of the rules that have changed is the standards.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There should be no increase in the cost of compliance for any business. Businesses do not have to purchase new equipment, supplies, labor, or pay the department a fee. If proposed rule 205 is adopted, the cost of compliance will decrease because seed manufacturers would spend less on re-cleaning and re-submitting seed samples until the samples pass the purity test. Proposed rules 214 and 215 allow manufacturers to decrease isolation distance, but the rules do not require businesses to purchase new equipment, supplies, labor, or pay the department a fee.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There is no new legal, consulting, or accounting service that any size business will incur.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Businesses of any size will not incur increased costs.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Neither the agency nor small businesses will encounter additional costs, so there is no relevant exemption or lesser standard. This proposal will ease seed purity standards so manufacturers can spend fewer resources on re-cleaning and re-submitting seed samples for testing. This proposal will reduce field isolation standards so businesses can comply with industry standards.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Since there will be no additional costs to small businesses, there is no exemption or lesser standard and, therefore, no public interest in creating a lesser standard.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The agency has spoken with the Michigan Crop Improvement Association, which represents businesses of all sizes, and they are very supportive of these changes.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Michigan Crop Improvement Association represents most businesses of varying sizes regulated through the Act and rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There will not be any extra statewide compliance costs; the Department expects this will reduce compliance costs.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The proposed rules benefit seed manufacturers by easing field isolation distances and seed purity standards. Under the proposed Rule 205 language, more seeds will meet purity standards. When a seed sample meets purity standards, the time and money needed to re-clean and re-submit the sample for testing are reduced. Additionally, as the number of samples that meet the purity standards rises, so will the number of seeds available for sale. In these ways, the proposed language of Rule 205 benefits businesses.

Under the proposed Rule 214 and 215 languages, companies can produce more seeds because fields can be closer together. Additionally, most companies use 660 feet for isolation in Michigan, so decreasing the regulation to match the industry-standard will benefit businesses. Finally, it is beneficial to have consistent standards to facilitate marketing in multi-state and international domains.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No additional costs will be imposed on businesses; they will incur fewer costs by avoiding re-cleaning and re-submitting seed samples that do not meet the purity standard. The eased standard should increase the number of seeds available for sale and benefit manufacturers.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

No additional statewide compliance costs will be imposed on individuals.

A. How many and what category of individuals will be affected by the rules?

In Michigan, roughly three corn seed producers will be impacted by the proposed amendments to rules 214 and 215. Constantine, Michigan is known as the Seed Corn Capital of the World. The greater Constantine area produces over 10% of the seed corn in the United States. Another 10% of the nation's seed corn is produced in the surrounding counties. Aligning Michigan's standards with the Federal Seed Act, the AOSCA, and several surrounding states is vital from the standpoint of logistics and keeping the Michigan seed corn industry, as a whole, viable and successful. The difference between 825 and 660 feet impacts the whole dynamic of producers because 825 feet is not the industry norm.

In Michigan, there are roughly 15-20 oat seed producers. In recent years, MCIA found that seed oat producers struggled to meet purity standards because of the presence of wheat. There is ample evidence to support the belief that wheat seed is not a meaningful contaminate of oat seed because one is grown in winter and the other in summer. Proposed amendments to rule 205 reflect the evidence. Under the proposed language, oat seed producers will be able to meet the seed purity standards without excessive cleaning. Producers will be able to bring more seeds to market.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The impact is more seeds to market, reduced costs for cleaning, and aligning Michigan standards with other states and federal regulations.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

Proposed amendments to rule 205 will positively impact and benefit seed producers, particularly oat seed producers. Benefits to oat seed producers would be a function of re-cleaning and handling seed lots that would not meet the certification standard. Currently, producers are cleaning and re-cleaning seed samples to get the lots to market because there is a need for seed. Under the proposed language, more seeds would initially pass purity tests, and there would be a decreased need for re-cleaning.

There would not be much cost under the proposed language in rules 214 and 215 because producers have already been using the 660 feet isolation distance. Reducing the standard to 660 feet would align Michigan's standards with the federal standard and allow manufacturers to use 660 feet in compliance with industry standards.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

This proposal's primary and direct benefit is to bring Michigan's standards in line with federal standards and the regulations of several surrounding states. Michigan plays a significant role in seed manufacturing, so the state's regulations should be the same or similar to other states who certify seed. Assessing and amending Michigan's standards is critical to remaining a viable market for seed production. Additionally, aligning standards helps reduce confusion amongst manufacturers. Indirectly, the proposed amendments to rule 205 will make it cheaper and easier for seed samples to pass purity standards when they have some off-season crop contamination. The proposed amendments to rules 214 and 215 will allow manufacturers to comply with industry standards.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not impact business growth. Proposed amendments to rule 205 relax seed certification standards; it does not increase them. So, more and not less seed lots will be certified; as a result, the seed industry will grow. Proposed amendments to rules 214 and 215 align Michigan with the current industry norm. Currently, Michigan's 825 feet standard could be seen as limiting business growth, so lowering this hurdle will lessen the impact on business growth.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The proposed rules will not disproportionately affect individuals or businesses. The rules apply to all seed producers across the entire state, regardless of business size.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

Department staff spoke to members of the MCIA and looked to other state standards and federal standards to update Michigan's regulations. Each of these sources provided ample information used to tailor the proposed rules to the needs of Michigan's constituents.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The estimates were made after reviewing information produced from the many years MCIA has been running, reviewing, and revising Michigan's standards to other states' benchmarks and verifying the potential impacts with industry members.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

As of right now, there are no other reasonable alternatives to the proposed rules that will achieve the goals listed. The regulations have not been updated since 1994 and require an update to stay current with the national standards.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments are needed.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

If the private market-based system were allowed to establish a regulatory program, the result would not differ significantly from the existing regulatory scheme. Under Rule 285.623.101, MCIA, a private organization, is designated the official seed certifying agency to assist and advise the director in certifying the purity, quality, vitality, and freedom from disease of seeds following the rules of Regulation number 623. If the private market-based system were allowed to establish a regulatory program, the result would not align Michigan's standards with federal standards or the regulations of surrounding states. If true, the result would be a disparity between in and out-of-state firms.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The rules have been in place for decades and have not changed since 1994. After internal discussion and discussions with MCIA, the department recognized that we are past due to update the standards for the reasons outlined above. Amending the rules is necessary to align Michigan's regulations with federal standards and the regulations of several surrounding states.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

<https://www.michigan.gov/mdard/plant-pest/plant-health-certification-and-export/seed> & <https://www.michcrop.com/seed-producers/field-inspections/seed-certification/>. These websites have links to instructions for certifying seeds.