

DEPARTMENT OF AGRICULTURE & RURAL DEVELOPMENT

PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

REGULATION NO. 629: SEED POTATO CERTIFICATION REQUIREMENTS

Filed with the secretary of state on

These rules take effect on January 1, 2021.

(By authority conferred on the department of agriculture by sections 4 and 7 of the seed potato act, 2018 PA 94, MCL 286.684 and 286.687)

R 285.629.1, R 285.629.2, R 285.629.3, R 285.629.4, R 285.629.5, R 285.629.6, R 285.629.7, and R 285.629.8 are added to the Michigan Administrative Code as follows:

R 285.629.1 Definitions.

Rule 1. (1) As used in these rules:

- (a) “Act” means the seed potato act, 2018 PA 94, MCL 286.681 to 286.689.
- (b) “Bacterial ring rot” means *Clavibacter michiganensis* subspecies *sepedonicus*.
- (c) “Late blight” means *Phytophthora infestans*.
- (d) “Potato grower” or “grower” means a person owning, leasing, managing, or in charge of any land upon which potatoes are planted and grown.
- (e) “Registered grower” means a person who has notified the director of their intent to grow potatoes in this state in combined seed lots of 1 acre or more.
- (f) “Material Transfer Agreement” means an agreement between a grower and a research or educational institution, which provides for the transfer of seed potatoes of an experimental cultivar; restricts the use and transfer of the seed potatoes or their progeny; and includes the name of the developing institution, the name of the recipient, the name of the cultivar, and the purpose or purposes of the cultivar’s use.

(2) A term defined in the act has the same meaning when used in these rules.

R 285.629.2 General provisions.

Rule 2. (1) A grower shall register with the department through a form or process established by the director.

- (2) For the purposes of sections 3, 4, and 5 of the act, any person who plants 40 hundredweight of seed potatoes on at least 1 acre of land is subject to the act and all regulations promulgated thereunder.
- (3) Exceptions provided to a grower pursuant to these rules carry over to the grower’s distributor.

R 285.629.3 Research exceptions to the act.

Rule 3. A research exception may be granted when one of the two following documents are provided:

- (1) A Material Transfer Agreement.

- (2) A signed letter from the developer stating the name and proposed planting location of the seed.

R 285.629.4 Applying for a general exception to the act; Requirements.

Rule 4. (1) An application for an exception to the act must include all of the following:

- (a) Name and address of applicant;
- (b) Affiliation or company information;
- (c) Cultivar;
- (d) Location, acreage, and hundredweight for planting;
- (e) Reason for exception request;
- (f) Names of 3 or more certified seed growers contacted to source seed;
- (g) Desired seed source;
- (h) Proof of seed potato certification process, including which stage in the process the seed lot failed; and
 - (i) Based upon the stage of failure, at least one of the following supporting documents:
 - (i) A field inspection report for either the first or the second field inspection,
 - (ii) Test results described by R 285.629.6(1),
 - (iii) A health certificate for the post-harvest (winter) test, or
 - (iv) A shipping point inspection certificate.
- (2) To be eligible for an exception to certification requirements under the act, the following must be true:
 - (a) The seed potatoes must have been certified seed the prior year and have failed certification in the current year, unless it is grown under a research exception.
 - (b) The applicant has contacted no fewer than 3 growers to source certified seed.

R 285.629.5 Criteria for evaluating certification exception request.

Rule 5. The advisory committee shall consider the following when evaluating whether to recommend an exception to the seed certification requirement under the act:

- (1) The crop's proximity to other seed potato production,
- (2) The levels and types of disease present,
- (3) The impact of its decision on neighboring potato farms, and
- (4) The impact of its decision on the applicant.

R 285.629.6 Sampling and testing requirements; disease standards for seed potatoes excepted from certification.

Rule 6. (1) If visual inspection results for the lot are not available for bacterial ring rot, late blight, or both or post-harvest tests are not available for the lot, growers must submit a 400-tuber sample for each seed lot that would plant 1 acre or a 200-tuber sample for each seed lot that would plant less than 1 acre, to a laboratory approved by the director.

- (2) Seed potatoes granted an exception by the director must be free from bacterial ring rot and late blight based upon visual or laboratory testing.
- (3) Growers must maintain the testing history and lab results specified in these rules as well as any documentation required by the act for a period of 2 years for each lot of seed potatoes planted.
- (4) Growers are responsible for all costs associated with sampling and testing.

R 285.629.7 Random selection of growers and record review.

Rule 7. (1) The department shall select 10% of the annually registered growers at random using computer based random number generating software.

- (2) The department shall conduct records inspections on the selected registered growers pursuant to the act and these rules.

R 285.629.8 Fees schedule for department services.

Rule 8. (1) The director shall charge an inspection fee based on the cost to the department of making the inspection and shall adjust the schedule of fees for the costs of inspection and investigation of alleged violations as required by the act and these rules.

- (2) The director shall review and adjust the schedule of fees at the end of each fiscal year.
- (3) The Commission of Agriculture and Rural Development shall approve all adjustments to the fees before they are adopted.
- (4) In any given fiscal year, the director may only increase inspection fees by not more than an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit-Ann Arbor-Flint consumer price index (CPI) over the one-year period.
- (a) A fee adjustment under this rule shall not exceed 5%, even if the state treasurer determines the cumulative annual change in the CPI is greater than 5%.
- (b) If the cumulative annual change of the CPI over a one-year period is less than zero, a cumulative annual percentage change of zero shall be used for the adjustment.
- (c) The adjustment shall be rounded to the nearest dollar to set each year's fee under this rule. However, the absolute value of the adjustment shall be carried over and used to calculate the next annual adjustment.