

MICHIGAN AGRICULTURAL PROCESSING ACT (EXCERPT)
Act 381 of 1998

289.824 Nuisance complaints; exhaustion of administrative remedies; investigation; memorandum of understanding with department of environmental quality; resolution; notice of finding; determination; costs; "unverified nuisance complaint" defined.

Sec. 4. (1) The Michigan commission of agriculture shall request the director of the Michigan department of agriculture or his or her designee to investigate all nuisance complaints under this act involving a processing operation. If a person is granted a determination by the director of the department of agriculture under this act, the person is considered to have exhausted his or her administrative remedies with regard to that matter. A court shall not proceed with an action for nuisance brought against a processing operation until it finds that the complainant exhausted all administrative remedies.

(2) The Michigan commission of agriculture and the director of the Michigan department of agriculture may enter into a memorandum of understanding with the Michigan department of environmental quality. The investigation and resolution of nuisance complaints shall be conducted pursuant to the memorandum of understanding. In the case where no generally accepted fruit, vegetable, dairy product, meat, and grain processing practices have been established, any nuisance complaint received by either the department of environmental quality or the department of agriculture shall be resolved under section 3 in the following manner:

(a) The department of environmental quality shall assess compliance of an operation or practice with the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, and shall conduct an inspection within 10 working days of receipt of the complaint.

(b) The department of agriculture shall assess the processing operation or practice under federal good manufacturing practices as adopted under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, and shall conduct an inspection within 10 working days of receipt of the complaint.

(3) Based upon the determinations made in subsection (2), the department of agriculture shall make a finding as to whether a processing operation is in compliance with this act.

(4) If the director of the Michigan department of agriculture or his or her designee finds upon investigation that the person responsible for the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or otherwise in compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall notify that person and the complainant of this finding in writing. If the director of the Michigan department of agriculture or his or her designee identifies the source or potential sources of the problem caused by the use of other than generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or other than compliance with law as described in section 3(2), the director of the Michigan department of agriculture or his or her designee shall advise the person responsible for the processing operation that necessary changes should be made to resolve or abate the problem and to conform with generally accepted fruit, vegetable, dairy product, meat, and grain processing practices or with applicable law as described in section 3(2). The director of the Michigan department of agriculture or his or her designee shall determine if those changes are implemented and shall notify the person responsible for the processing operation and the complainant of this determination in writing.

(5) A complainant who brings more than 3 unverified nuisance complaints against the same processing operation within 3 years may be ordered by the director of the Michigan department of agriculture to pay to the Michigan department of agriculture the full costs of investigation of any fourth or subsequent unverified nuisance complaint against the same processing operation. As used in this subsection, "unverified nuisance complaint" means a nuisance complaint in which the director of the department of agriculture or his or her designee determines that the processing operation is using generally accepted fruit, vegetable, dairy product, meat, and grain processing practices.

History: 1998, Act 381, Imd. Eff. Oct. 23, 1998;—Am. 2005, Act 283, Imd. Eff. Dec. 19, 2005.