

# Report on Michigan Product Labeling

September 16, 2009

## **DIRECTIVE:**

Develop potential options for enforcing honest, accurate labeling of Michigan products when using the Select Michigan, Buy Michigan, or Pure Michigan labeling; to include cost, staff time, and challenges.

## **ISSUE:**

There are numerous commercials, public service announcements, and ads encouraging Michigan consumers to buy Michigan products to directly support farmers, agri-businesses, and our state's economy. Michigan commodities, both edible and non-edible, are typically identified by product labels, advertising, web sites, fliers, or placards stating "Select Michigan," "Buy Michigan," or "Pure Michigan," or similar wording. Additionally, the Department of Agriculture has established a registered trademark identification for its two "Select Michigan" logos.

In support of the state's economy, Michigan consumers are choosing products based upon the labels and placards that denote or imply a Michigan origin. Retailers and growers report increased sales when Michigan products are promoted, making this a potential fraud area for unscrupulous businesses or a problem for inadvertent misbranding of non-Michigan commodities and processed products.

## **NEED:**

To enforce honest, accurate labeling of Michigan food products<sup>1</sup> for the "Select Michigan," "Buy Michigan," or "Pure Michigan" designations at Michigan's 13,000 retail food stores, 1,000 super stores, 1,000 farmers markets, 600 food processors, 900 small grocery stores and 1,000 food warehouses the department needs:

1. Legal definitions established for the terms: "Select Michigan," "Buy Michigan," and "Pure Michigan." The department has determined that "Select Michigan" products must meet specific criteria for the logo to be used. "Buy Michigan," "Pure Michigan," and other similar terms can have many different interpretations. No legal definitions exist for "Select Michigan," "Buy Michigan," and "Pure Michigan."
2. Knowledge of which firms or growers that have been authorized to use the "Select Michigan" trademark. These two logos have been in use for over a decade; however, the application process to collect user data has only been in existence 6-7 years.
3. Legal authority for:
  - A. Access to locations where the Michigan logos/terms may be utilized.
  - B. Marking requirement for shipping papers, invoices, and bills of lading that designate Michigan as state of origin for commodities intended for retail sale and for commodities going to a processor.
  - C. On site requirement for record retention to verify the accuracy of the logos/terms.
  - D. Authorization to conduct inspections.
  - E. Authorization to review records.
  - F. Ability to embargo misbranded or fraudulent commodities.
  - G. Ability to assess penalties for non-compliance.

The Food Law provides for A, D, E and F (see attachment)  
The Weights and measures law provides for A and D (see attachment)

4. Additional staff and resources for Select Michigan food commodity label inspections, complaint investigations, and enforcement to be done in conjunction with food or weights and measures inspections.

2 FTEs equivalent <sup>2</sup>	\$ 127,542
CSSM	7,000
Travel	31,000
<u>Equipment</u>	<u>15,000</u>
Total	\$ 180,542

Staff and resource needs will increase if this is a stand alone program, or the program is assigned to a division that does not have local inspection staff.

**OTHER CONSIDERATIONS:**

- True level of non-compliance that would precipitate a need for enforcement is unknown. Less than a dozen calls are received annually alleging misbranding. Complaints have historically been resolved by the department's Select Michigan program manager's contact with the non-compliant firm or grower.
- Where would this program fall in terms of department priorities.
- Firms or growers who were informally authorized in the early stages of the program for use of the "Select Michigan" logo are not known.
- Audits will be time and labor intensive if multiple locations need to be investigated to determine original supplier for products that have changed hands several times.
- Funding for department activities continues to shrink and the staffing resources available to conduct department programs are limited by restrictions on hiring.

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<sup>1</sup> NEEDS calculated for food commodities only.

<sup>2</sup> The per audit hours were calculated based on Food and Dairy Division USDA country of origin labeling audits and weights and measures net content labeling compliance audits.