

**MICHIGAN DEPARTMENT OF AGRICULTURE  
& RURAL DEVELOPMENT**

In the matter of the proposed Michigan  
Tree Fruit Research & Development Program:  
Findings, Recommendations, and Order

**OPINION AND ORDER OF THE DIRECTOR:  
MICHIGAN TREE FRUIT RESEARCH & DEVELOPMENT PROGRAM**

Order of March 12, 2014 on the proposed program known as the Michigan Tree Fruit Research & Development Program.

**I. DISCUSSION**

The Agricultural Commodities Marketing Act, 1965 PA 232, as amended; MCL 290.651 et seq, authorizes the establishment of commodity marketing programs. Pursuant to statute, the Director of the Michigan Department of Agriculture and Rural Development is responsible for establishing temporary committees to draft marketing programs, conduct public hearings, and determine by referenda of commodity producers whether such programs shall be established.

**II. HISTORY OF PROCEEDINGS**

On August 26, 2013, the Michigan Department of Agriculture & Rural Development Director Jamie Clover Adams received sufficient valid petition signatures from Michigan tree fruit producers requesting the establishment of a marketing program for tree fruit and the Director appointed a temporary committee to develop a proposed program. The petitions further requested at least one public hearing to gather comments and gauge interest in a referendum for the creation of the Michigan Tree Fruit Research & Development Program under 1965 PA 232. Two public hearings were held and comments were received, as well as written comments received via e-mail and regular mail service.

The hearing records of both public hearings and the written testimony received were reviewed. Based on this information, several changes were made to the proposed program and were outlined in an Opinion and Order signed by the Director of the Michigan Department of Agriculture and Rural Development dated January 28, 2014.

Additionally, it was ordered that the proposed program proceed to a referendum vote of producers as authorized by MCL 290.661.

### **III. REFERENDUM**

A producer referendum for Michigan tree fruit producers was scheduled to be held from February 17, 2014 through February 28, 2014. Procedures for the referendum were established. A mailing list of 1,335 producers was compiled by MDARD and on February 13, 2014, a ballot with complete instructions and a postage paid return envelope were mailed by first class mail using this list. The procedures required that to be declared valid a ballot shall:

1. Have a legible and complete name and mailing address of the producer.
2. Have its envelope postmarked no later than February 28, 2014, or if mailed or hand delivered, but not postmarked, be date stamped at the Michigan Department of Agriculture and Rural Development in Lansing no later than February 28, 2014.
3. Be signed by a producer as defined in 1965 PA 232, as amended.
4. Contain a vote on the question on the ballot.
5. Indicate the total pounds of apples, cherries, peaches, and plums produced for sale in any one of the following years: 2013, 2012, or 2011.

### **IV. PROCESSING, VERIFICATION AND TABULATION OF BALLOTS**

The Operational Services and Central Licensing Unit of the Michigan Department of Agriculture and Rural Development forwarded all unopened return envelopes with ballots to the Executive Office. The Executive Office staff opened and date stamped each ballot with the date it was received and then placed them in a locked drawer. Grower identification and individual production information is kept completely confidential.

As indicated by the February 28, 2013 postmark, 266 ballots were received. Thirteen ballots were disqualified because of late postmark, no signature, no vote indicated, no production listed, and/or production year not identified. Of the remaining 253 valid ballots, the following votes were cast regarding the establishment of the Michigan Tree Fruit Research & Development Program: 181 producers voted yes (72%) representing 544,021,021.407 pounds (81%) and 72 producers voted no (38%) representing 130,392,817 pounds (19%).

These results meet the requirements of 1965 PA 232, Section 11(1); MCL 290.661(1) which state:

“The affected producers shall be considered to have assented to the proposal if more that 50% by number of those voting representing more than 50% of the volume of the affected commodity produced by those voting assent to the proposal.”

## V. ORDERING PARAGRAPHS

Having examined the referendum results as stated above and being fully advised in these matters, I find that:

1. The Department has jurisdiction in this matter under 1921 PA 13, Sec. 5, as amended, MCL 285.5; and 1965 PA 232, as amended; MCL 290.651 et seq.;
2. The Department has received ballots in which 181 producers (72%) representing 544,021,021.407 pounds (81%) voted to establish the Michigan Tree Fruit Research & Development Program and 72 producers (38%) representing 130,392,817 pounds (19%) voted against the establishment of the Michigan Tree Fruit Research & Development Program;

**THEREFORE, IT IS HEREBY ORDERED** that the Michigan Tree Fruit Research & Development Program shall be established since more than 50% of those voting, representing more than 50% of the production volume, assented to the program.

**FURTHER, IT IS ORDERED** that the Michigan Tree Fruit Research & Development Program shall be established beginning April 1, 2014 and ending March 31, 2019. As provided for in 1965 PA 232, as amended, Section 21, the Michigan Tree Fruit Research & Development Program shall be resubmitted to a referendum of the producers during each fifth year of operation.

By:   
Jamie Clover Adams, Director  
Michigan Department of Agriculture & Rural Development

Dated: March 12, 2014 at Lansing, Michigan