

# **Michigan Right to Farm Act Livestock Facility Site Selection**

## **Michigan Chapter Soil & Water Conservation Society**

**Wayne Whitman**

Michigan Department of Agriculture  
& Rural Development

March 3, 2017



# What is Right to Farm?



- Development & annual review of GAAMPs
- Environmental complaint response
- Memorandum of Understanding
- Pre-emption of certain local ordinances
- Site Selection & Odor Control for New/Expanding Livestock Facilities
- Pro-active GAAMP determinations



# What is Right to Farm?

Farm operations engaged in commercial production of farm products have an affirmative defense in nuisance actions if MDARD determines the farm is in conformance with GAAMPs.

- Voluntary Program
- Linked to other state laws





# What are RTF GAAMPs?

**Generally Accepted Agricultural and Management Practices (GAAMPs):** farm management practices as defined by the Michigan Commission of Agriculture and Rural Development. Current GAAMPs are:

- Manure Management
- Pesticide Use/Pest Control
- Nutrient Utilization
- Care of Farm Animals
- Cranberry Production
- Site Selection
- Irrigation Water Use
- Farm Markets



To view all the GAAMPs,  
visit [michigan.gov/righttofarm](http://michigan.gov/righttofarm)

# What are RTF GAAMPs?



- GAAMPs establish standards, that if followed, reduce the likelihood of a farm becoming a nuisance to its neighbors.
- Environmental resource protection
  - Soil
  - Surface Water
  - Groundwater
  - Air



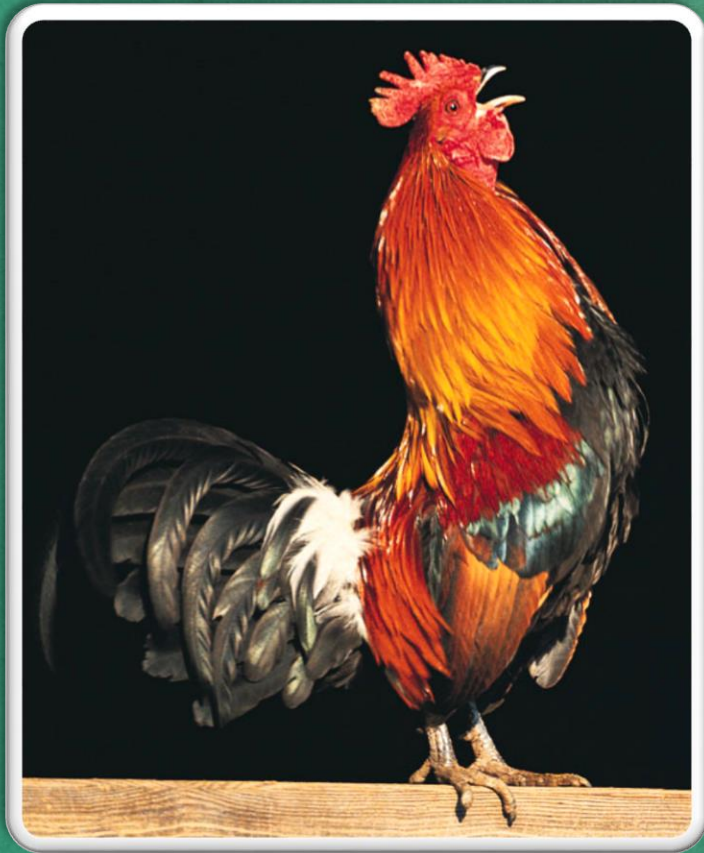
# Nuisance Protection

- *“A farm or farm operation that is in conformance with subsection (1) [GAAMPs] shall not be found to be a public or private nuisance as a result of any of the following:*
  - a) A change in ownership or size.
  - b) A temporary cessation or interruption of farming.
  - c) Enrollment in governmental programs.
  - d) Adoption of new technology.
  - e) A change in the type of farm product produced.”
- NB: P.A. 94 of 1995 added subsection 3; effective 9/30/95





# Preemption Provision



- Local government shall not enact, maintain or enforce an ordinance, regulation, etc. that extends or conflicts with provisions of RTF or GAAMPs
- Local regulations that conflict with the Right to Farm Act or GAAMPs are preempted.



# Preemption Provision

If adverse effects on the environment or public health will exist within the local unit of government, then the local government may submit a proposed ordinance with standards different from GAAMPs to MDARD.

Proposed ordinances shall not conflict with existing state or federal laws.



# Addressing Common Misconceptions

1. Right to Farm is an *affirmative defense* that offers farms an opportunity to earn nuisance protection by conforming to GAAMPs.
2. GAAMPs are not rules or regulations, and are not enforceable.
3. The Right to Farm Act and GAAMPs do not prevent lawsuits.



# Environmental Complaint Response

## Memorandum of Understanding (MOU)

- Formed an Agriculture Environment Committee
- Developed procedures for responding to RTFA complaints that implicate environmental concerns or regulations
  - Air Resources
  - Water Resources
  - Waste Materials





# Environmental Complaint Response



- Complaint driven
- Voluntary (compliance assistance)
- Farmer / Complainant
- Other agencies / Organizations
- Conflict resolution



# Environmental Complaint Response

- MDARD RTF Program Receives Complaint
  - RTF Program needs:
    - Name, Address, and phone number of Complainant\*
    - Name, Address, and Phone Number of Farmer/Farm Operation
    - Nature of Complaint
    - County and Township where farm is located

\*Complainant can be private citizen, neighbor, local elected official, Health Department, MDEQ, other agency, etc.



# Environmental Complaint Response

Complaint is assigned by RTF Program Manager

Conduct inspection within seven business days

Inspector meets with farmer and contacts complainant

If Complaint is Not Verified  
(Conforming to GAAMPs)

- Letter stating Not Verified, Conforming to GAAMPs (cc: Twp. and Co.)

If Complaint is Verified  
(Not Conforming to GAAMPs)

- Inform farmer items to correct (fixes, MMSP, etc.)
- Letter of Intent or Plan from farmer to address verified problem(s)
- Copy Township and County on Letter
- Conduct Follow-up inspection(s) (cc: Twp. and Co.)







# Pesticide Utilization and Pest Control

American agriculture has been able to meet consumer demands for a reliable and abundant food supply through the use of improved technology. For over 50 years, this technology has included the use of pesticides and other pest management techniques. These guidelines address:

- Worker safety
- Application procedures
- Transportation
- Storage disposal of unused pesticides and containers
- Record keeping





# Nutrient Utilization

Nutrient management practices include regular soil testing, manure nutrient analysis, and realistic crop yield goals. Areas covered by these practices include:



- On farm fertilizer storage/containment
- Land application of fertilizer and residuals
- Soil conservation and erosion control
- Irrigation management
- Container grown (greenhouse) plants



# Care of Farm Animals

Farmers have committed to practice humane conduct toward domestic animals and to prevent avoidable suffering at all stages of their lives. The GAAMP for the Care of Farm Animals provides guidelines for 19 species of animals raised on Michigan farms, including bees. Animal care includes:

- Nutrition
- Manure management and sanitation
- Animal handling and restraint
- Transportation, facilities & equipment
- Health care and medical procedures
- Recommendations for the environment





# Cranberry Production

Michigan has a favorable climate, proper soils, and the fruit processing capability to support a significant cranberry industry. Because of this unique situation, both technical and regulatory practices were adopted for cranberry production in this set of GAAMPs. Producers need to follow:

- pesticide utilization/pest control
- nutrient utilization
- other technical management practices

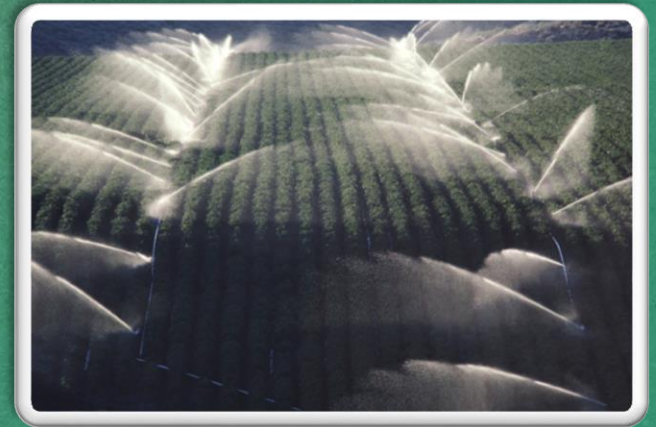




# Irrigation Water Use

GAAMPs for Irrigation Water Use are based on the core principle of stewardship. Stewardship in irrigation management includes conservation of water quantity, protection of water quality, and productivity of soil, plant quality, and crop yield.

These GAAMPs, first approved in November 2003, do not establish legal criteria to resolve water use conflicts nor do they confer priority rights to water use.





# Farm Market

Michigan has a diverse variety of farm fresh products. Many of these products can and are being directly marketed to the public locally.



Farm Market GAAMPs, first adopted in 2010, help define and provide guidance as to what constitutes an on-farm market and farm market activities.



# Manure Management and Utilization

Careful storage, handling, and land application of manure is needed to utilize nutrients, control odors, and protect water resources. These practices include recommendations for:

- Runoff Control
- Odor Management
- Manure Storage Facility Design
- Manure Application to Land
- Record Keeping
- Manure Management System Plans

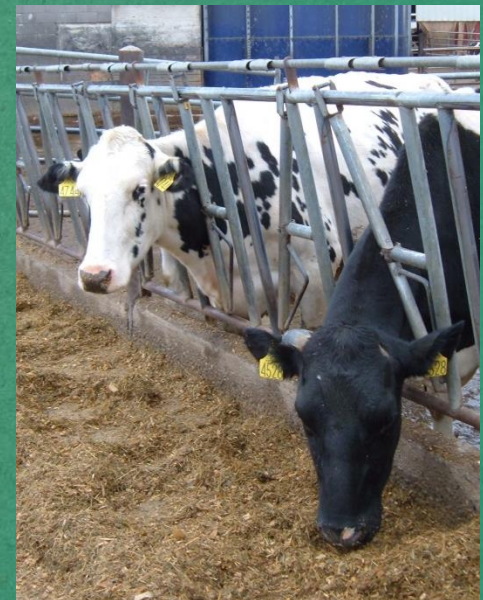




# Site Selection and Odor Control for New and Expanding Livestock Facilities

To establish a new livestock farm operation or expand an existing facility is a complex process.

Water quality protection, odor control, existing land use and ownership constraints, and future land use or development patterns, are all considered in this process.





# Site Selection and Odor Control for New and Expanding Livestock Facilities

Site Suitability for a livestock facility includes feasibility and cost efficiency for the operator, maintaining esthetic character, minimizing conflicts with adjacent land users, and complying with all applicable state and federal laws.

Through careful planning, livestock farmers can increase productivity while developing or continuing good relationships with their neighbors and surrounding community.





# Site Selection and Odor Control for New and Expanding Livestock Facilities



## 2014 Changes to Site Selection GAAMPs

- Defined Livestock Production Facility
  - 50 Animal Units or more
- Defined Primarily Residential
  - Non-farm homes within 250' of facility
  - More than 13 non-farm homes within 1/8 mile of the site
- Category 4 Sites
  - Property where local land-use zoning does not allow agricultural uses by right
  - Locations that are primarily residential



# Site Selection and Odor Control for New and Expanding Livestock Facilities

All potential sites for new and expanding livestock facilities can be identified by four general categories. These are:

## Category 1

- Sites normally acceptable for livestock facilities and generally defined as areas that are highly agricultural with few non-farm residences.

## Category 2

- Sites where special technologies and/or management practices could be needed to make new and expanding livestock facilities acceptable. These areas are predominantly agricultural but also have an increased number of non-farm residences.

## Category 3

- Sites that are generally not acceptable for new and expanding livestock production facilities due to environmental concerns or other neighboring land uses but these sites may be acceptable for livestock facilities.

## Category 4

- Sites not acceptable for New and Expanding Livestock Facilities and Livestock Production Facilities.





# Site Selection and Odor Control for New and Expanding Livestock Facilities


- Cover sheet
- Overview
- Site Plan
- MMSP or CNMP
- Odor Management Plan
- Construction
- Miscellaneous



# Site Selection Process

- 
- Farmer sends site verification request to MDARD
  - MDARD sends letter to farmer acknowledging receipt of request (cc: township and county clerks)

- 
- Construction site inspection and review of plans by MDARD


- 
- Farm submits drawings and specs (PE stamp)
  - MDARD letter to farm: verification request *does/does not* conform to Site Selection GAAMPs (cc: township and county clerk)


- 
- CONSTRUCTION




# Site Selection Process

- 
- CONSTRUCTION (cont.)

- 
- Interim inspections during construction (case specific)

- 
- Final verification inspection & plan review prior to population

- 
- Farm submits final as-built drawings and specs (PE stamp)
  - MDARD letter to farm verifying conformance with GAAMPs (cc: township and county clerk)







# RTFA information

For more information on Right to Farm, visit

[www.michigan.gov/righttofarm](http://www.michigan.gov/righttofarm)

1-877-632-1783

Wayne Whitman

(517) 284-5618

whitmanw@michigan.gov