

Response to public comments received for the 2010 draft versions of the Manure Management and Utilization GAAMP and the Site Selection and Odor Control for New and Expanding Livestock Production Facilities GAAMP

The purpose of the Michigan Right to Farm (RTF) Act is to define certain farm uses, operations, practices and products. These definitions are comprehensive and relate to on-farm activities, conditions and materials typically associated with the commercial production of plants used for food and feed and farm animals. This state law provides a mechanism for the development and adoption of generally accepted agricultural and management practices, referred to as GAAMPs. GAAMPs are farm management practices developed by a multi-agency task force committee, and adopted by the Michigan Commission of Agriculture (MCA). The law requires an annual review of all GAAMPs.

The RTF act is administered by the Michigan Department of Agriculture (MDA). This act requires both MDA and the Michigan Department of Environmental Quality (MDEQ) to follow a memorandum of understanding (MOU) for the investigation and resolution of environmental complaints concerning farms. In general, violations of Michigan's environmental laws are handled by MDEQ. For environmental or nuisance complaints involving a farm or farm operation, where a violation of the Natural Resource and Environmental Protection Act is not suspected or occurring, MDA is the lead agency. GAAMPs are the state-wide standards that farms must meet to earn the nuisance protection afforded by the RTF act. MDA determines when a farm conforms to GAAMPs, and the RTF act specifies that those farms shall not be found to be a nuisance. MDA notifies MDEQ of any potential violation of the Natural Resource and Environmental Protection Act (NREPA).

Conformance to GAAMPs is an affirmative defense from being found to be a nuisance. The law directs MDA to determine when a farm meets GAAMPs, but does not provide the authority for MDA to enforce them. Because GAAMPs are not enforceable rules or regulations, many describe practices that *should* be followed, and farms that 'voluntarily' conform earn nuisance protection. The RTF act and GAAMPs also make reference to NREPA and other 'enforceable' environmental laws and associated rules and regulations, which *must* be followed.

The purpose of a public comment period during the GAAMPs annual review process is to receive input and feedback from the general public, the scientific community and the farm community on the current wording and recommended changes to these GAAMPs. The task force committees expect to hear constructive criticism, suggested text to clarify issues, as well as support for the current text.

The role and authority of this committee is to review the current text of the GAAMPs, compare with scientific research results, and applicable new legislation and associated rules and regulations pertaining to on-farm production. Committee members also discuss the practicality of implementing GAAMPs by farmers at their production facilities, and agency experiences with current farm management practices. The authority of the respective GAAMPs Task Force Committees is to review all comments, feedback and input, consider the appropriateness of any and all recommended changes, and propose edits for each year's version of the GAAMPs. The Chairperson or designee of each committee presents suggested edits to the MCA and must be prepared to explain the

rationale and scientific basis for any proposed edits as well as why the committee still supports the current text.

Environmental complaints about specific farms are handled by MDA and MDEQ by the aforementioned complaint response procedures under the MOU. MDA can be reached by telephone (toll free 877/632-1783), facsimile 517/335-3329, or mail at MDA, Right to Farm Program, 525 West Allegan Street, P.O. Box 30017 Lansing, MI 48909. Complete complaint information is required to file a formal complaint for investigation. MDA cannot accept anonymous complaints.

Michigan has approximately 50,000 farms on over ten million acres of cropland. There is a very wide range in size, scale and type of farms in our state, which employ various levels of technology. In addition, numerous state and federal laws administered by MDA and other agencies apply to our farms. While the level of planning, documentation, record keeping, etc. can vary from farm to farm, it typically increases with the size and scale of farm operations. It is advisable for all farms to have and maintain an emergency management plan; however, requirements to do so and the level of detail needed is farm specific.

The Manure Management and Utilization GAAMP committee and the Site Selection and Odor Control for New and Expanding Livestock Production Facilities committee reviewed, collectively, over 27 pages of comments on the 2010 draft versions of the respective GAAMPs. Similar comments were received from multiple sources. In addition, several comments presented opposing viewpoints for the same topic. Therefore, a general response is provided to the received comments.

Some comments will receive further review and discussion in 2010. Therefore, while committee members would agree that there is merit in not making changes annually, we are required to review the GAAMP annually and consider all comments received that would result in changes to the GAAMP.

Within Act 93 of 1981, Section 286.472 identifies activities that occur on a farm operation. It is these activities as they relate to siting and manure management and utilization that represent the breadth of activities addressed by these two committees. Therefore, specific air pollutants, human health, pathogens, and viruses are not addressed within these two GAAMPs.

Site Selection and Odor Control for New and Expanding Livestock Production Facilities GAAMP

The Site Selection and Odor Control for New and Expanding Livestock Production Facilities GAAMP includes provisions for minimizing odor nuisance to neighbors. However, no specific management practices are required because there is no single practice that will necessarily do this for all operations and all nearby neighbors. Rather, a site-specific approach is used, taking into account location of neighbors relative to particular components of a farm. The GAAMP addresses the production facility. Land application is not a day-to-day activity for all farms. Nuisance related to land application events is addressed within the Site Selection and Odor Control for New and Expanding Livestock Production Facilities GAAMP as part of the Odor Management Plan and under the Manure Management and Utilization GAAMP. Odor Management Plans are required as part of the site verification request for new and expanding operations in Category One

sites unable to meet the property line setbacks and with all verification requests for proposed operations in Category Two sites. Site verification requests for operations with 1,000 animals or more, regardless of site category, must include an Odor Management Plan. A website link was added in Appendix A to provide additional information of management practices available to help reduce odor nuisance and air emissions. Because electronic resources change locations and availability, only a single website was provided so that it is within the ability of the committee membership to see that the website is maintained.

When an Odor Management Plan is required the Michigan OFFSET model is used to model odor nuisance associated with the farm site. Alternatives to OFFSET have been considered but are not readily available for MDA staff to populate with the needed input data in an 'off-the-shelf' format. Further discussion of available options will take place. Surface and ground water concerns associated with new and expanding livestock operations are addressed in the site verification request "check list", the farm site plan, manure storage construction standards and the manure management system plan (MMSP), all of which must be included in the site verification request submitted to MDA. The MMSP is most closely associated with the Manure Management and Utilization GAAMP but is also a requirement of the site verification request to insure the farm has adequately addressed manure utilization. Nuisance protection under RTF requires that a farm be in conformance with all applicable GAAMPs so duplication between GAAMPs is minimized to avoid confusion and restrict the responsibility of the separate committees to a reasonable work load. Therefore the Manure Management and Utilization GAAMP MMSP is referenced within the Siting GAAMP as the manure utilization standard. When buildings and storage structures are located and constructed properly there is minimal risk to surface and ground waters, so it is the construction of these facilities that are most closely monitored within the Siting GAAMP.

One document can not imagine nor address all nuisances that may be associated with a farm. Nuisances such as flies, road traffic and others are best addressed through the current GAAMPs and other resources. When rural residents contact MDA with these types of concerns, MDA staff are encouraged to follow the agency response guidelines and utilize existing GAAMPs and local resources (road commissions, township officials, MSU Extension, NRCS, local health departments, and local conservation districts) to address the concern.

Floodplain boundaries are in the process of being re-drawn. Upon completion these new boundaries will be used for siting purposes.

Manure Management and Utilization GAAMP

The GAAMP is not intended to be a regulation or equivalent to a National Pollutant Discharge Elimination System Permit. The GAAMP is based on generally accepted practices to avoid public and private nuisances and to prevent pollution.

Manure stockpiling language has been expanded to address nuisance concerns for a nearby, non-farm residence. Language was added to address stockpiling over field tiles. Further discussion of flies and how to determine when flies experienced by a neighbor are the result of stockpiled manure and when they are the result of a non-farm activity is needed. Note that all stockpiling discussion is under 'Solid Manure'; stockpiling is not considered suitable, or even feasible, for liquid manure.

Timing of incorporation of manure was revisited. While immediate incorporation is desirable from the standpoint of nuisance avoidance and nutrient conservation and may be required as part of a permit, it is not feasible in many circumstances due to labor and machinery limitations. This is the case for many small farms. In cases where horses are used to pull equipment, moving horses over freshly applied manure represents a safety issue.

Manure application on frozen or snow-covered ground is allowed in most states. In Michigan, manure application on frozen or snow-covered ground is allowed if this is part of the farm's Manure Management System Plan. To determine suitability of a field for winter manure application, the GAAMP references the NRCS Manure Application Risk Index. See GAAMP 39 for further information on required provisions.

The draft version proposes a change to GAAMP #36 that was intended to frame the issue more positively; to encourage management and monitoring of manure applications so they would not flow to tile lines. GAAMP #38 encourages the use of cover crops in the field. Manure applications to growing food crops are handled through the Food and Drug Administration.

Manure Management and Utilization GAAMP committee and the Site Selection and Odor Control for New and Expanding Livestock Production Facilities committee