



RIGHT TO FARM PROGRAM

FISCAL YEAR REPORT 2011

Environmental Stewardship Division

Right to Farm

FY 2011 Report

The Right to Farm (RTF) law is administered by the Michigan Department of Agriculture and Rural Development (MDARD) in the Environmental Stewardship Division. The RTF Program is comprised of two parts, environmental complaint response, and site selection and odor control for new and expanding livestock production facilities.

The complaint response program began in 1986 and was initiated to address farm related environmental complaints received by MDARD. Through this program, producers and complainants alike, receive education regarding Generally Accepted Agricultural and Management Practices (GAAMPs) as they relate to on-farm production agriculture and protection of the environment. The GAAMPs that have been developed are as follows:

- 1) 1988 Manure Management and Utilization
- 2) 1991 Pesticide Utilization and Pest Control
- 3) 1993 Nutrient Utilization
- 4) 1995 Care of Farm Animals
- 5) 1996 Cranberry Production
- 6) 2000 Site Selection & Odor Control for New/Expanding Livestock Facilities
- 7) 2003 Irrigation Water Use
- 8) 2010 Farm Markets

While complaint response activities determine verified environmental problems, they are also a very effective mechanism for farmers to implement the necessary corrective management practices to fix those problems, bring their farm operations into conformance with GAAMPs, and as such, earn nuisance protection under the RTF law. Coordination with other agencies and RTF follow up inspections track the progress of farmers and document completion of projects.

The site selection portion of the program helps producers carefully plan, site, build, and manage their new or expanding livestock facilities in a manner that protects natural resources, controls odors, and enhances neighbor relations.

Working with farmers to develop and implement farm specific Manure Management System Plans (MMSP), verification of a farm's conformance with GAAMPs for Site Selection and Odor Control, and distribution of thousands of sets of GAAMPs to farmers all across the state, are each important ways the RTF Program works with agricultural producers and contributes to Michigan's overall pollution prevention strategy.

The Right to Farm approach to investigate and resolve environmental complaints about activities and conditions on Michigan farms utilizes awareness, education, and technical assistance in partnership with other agencies. The Right to Farm Program advocates the sound environmental stewardship practices included in the GAAMPs. This is the most cost effective method for farmers to achieve compliance with environmental laws and earn nuisance protection under the RTF Act.

All eight sets of GAAMPs and other information about the Right to Farm Program are available at MDARD's web site at: <http://www.michigan.gov/gaamps>.

Right to Farm Program Environmental Complaint Response

In Fiscal Year (FY) 2011 the Michigan Department of Agriculture and Rural Development (MDARD) Right to Farm (RTF) Environmental Complaint Response Program conducted 256 investigations, primarily in response to 112 new complaints and 19 requests for pro-active inspections. Complaints are received from the public, the Michigan Department of Environmental Quality (MDEQ) and other agencies. The 19 pro-active inspection requests were from farmers seeking RTF GAAMPs determinations at their farm operations. In addition, RTF follow up inspections were conducted at farms where changes were needed in order for that farm operation to conform to the GAAMPs.

Table 1. Total investigations per fiscal year

Fiscal Year	Total Investigations	Follow Up Inspections
FY 2011	131	125
FY 2010	151	99
FY 2009	152	109
FY 2008	143	105
FY 2007	164	145
FY 2006	174	140
FY 2005	174	134
FY 2004	131	102
FY 2003	127	162
FY 2002	145	231
FY 2001	157	135

During FY 2011, Right to Farm complaints came from 44 counties all across Michigan. Huron County tops the list with 10 complaints followed by Gratiot with seven and Kalamazoo with six complaints. Clinton, Genesee, Montcalm and Sanilac Counties have five complaints each.

This report includes a table of accomplishments with corrective farm management practices grouped by the major resources of surface water, air quality, and groundwater, and the measurable results of each farmer's work to implement those practices. In addition, management plans are an effective way for producers to maintain those practices, sustain their farm operations, and prevent pollution. Throughout this report, the tables and figures provide numbers and percentages based on the total number of new complaints. In FY 2011, investigations conducted in response to proactive requests by the producers have been included in the reported information. Beginning in FY 2004, RTF received five proactive requests. Each year since that time, there have been requests from farmers for MDARD to conduct proactive investigations and make GAAMPs determinations with the highest number (19) requested so far in both FY 2010 and FY 2011. Some of the charts, graphs, and tables show this information; however, if it is not specified, then the 19 proactive inspections conducted in FY 2011 were not included.

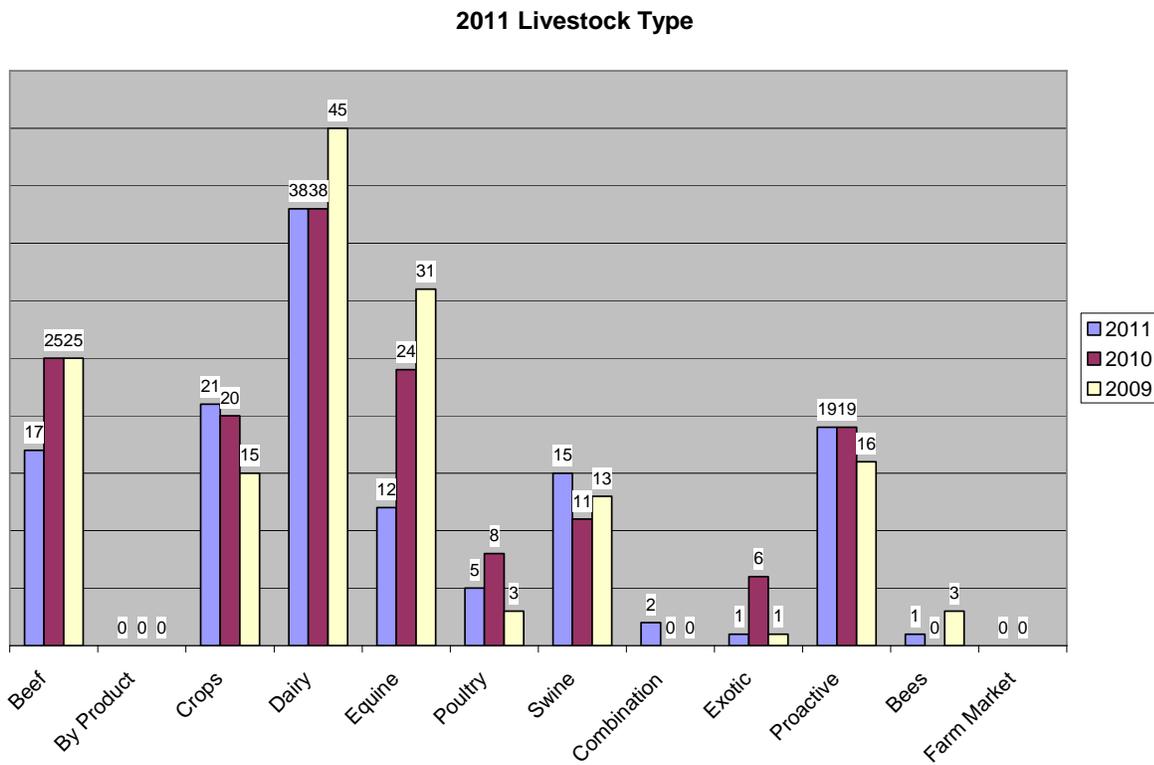
Enterprise Type

As shown in Table 2, in FY 2011, complaints regarding dairy and beef farms continue to show some of the highest numbers; however, complaints regarding crop farms have risen significantly over the past four year. This increase may be attributable to the increase in use of manure as a fertilizer on more crop farms. As in most previous years, about one third of the complaints involved dairy farm operations, which is the highest percentage compared to all other farm enterprise types. The number of complaints involving beef operations declined four percentage points from 19 percent to 15 percent, while complaints involving equine facilities fell considerably from 18 percent to 11 percent of the total complaints. Another noticeable jump in complaint numbers is with swine from 8 percent to 13 percent over the past year.

Table 2. RTF complaints by enterprise type for fiscal years 2007 through 2011

Comparison of Complaints between Enterprise Types (Percent)					
	2011	2010	2009	2008	2007
Beef	15	19	18	17	20
By-Products ¹	0	0	0	2	3
Crops ²	19	15	12	8	10
Dairy	34	29	33	27	29
Equine	11	18	23	21	16
Poultry	4	6	2	4	4
Swine	13	8	9	17	8
Combination ³	2	0	0	0	3
Exotic ⁴	2	5	3	4	7

Figure 1. Number of complaints by enterprise type per fiscal year



¹ By-products from fruit and vegetable food processing

² Crops refer to complaints concerning fertilizer, soil erosion, and crop production practices

³ Two or more species included in complaint-since 2008, enterprise type has been classified based on the primary enterprise at the farm

⁴ Includes alpacas, bees, deer, llamas, and sheep

Resource Concerns

Table 3 shows the complaint types by resource concerns as a percentage of the total. Surface water and air quality have always been the top two complaint types. Over the past 20 years, MDARD has collected and analyzed data regarding types of environmental complaints and associated resource concerns. Up until FY 2005, surface water was always the number one environmental resource concern. Since then, the average annual total number of complaints has increased 25 percent over the previous ten-year annual average. Another recent trend is that from FY 2005 through FY 2008 air quality complaints rose significantly and exceeded surface water complaints. Between FY 2010 and FY 2011 surface water complaints remained the same percentage of complaints while air quality complaints decreased from 54 percent to 47 percent of the total complaints.

Table 3. Environmental complaint concerns for fiscal years 2007 through 2011

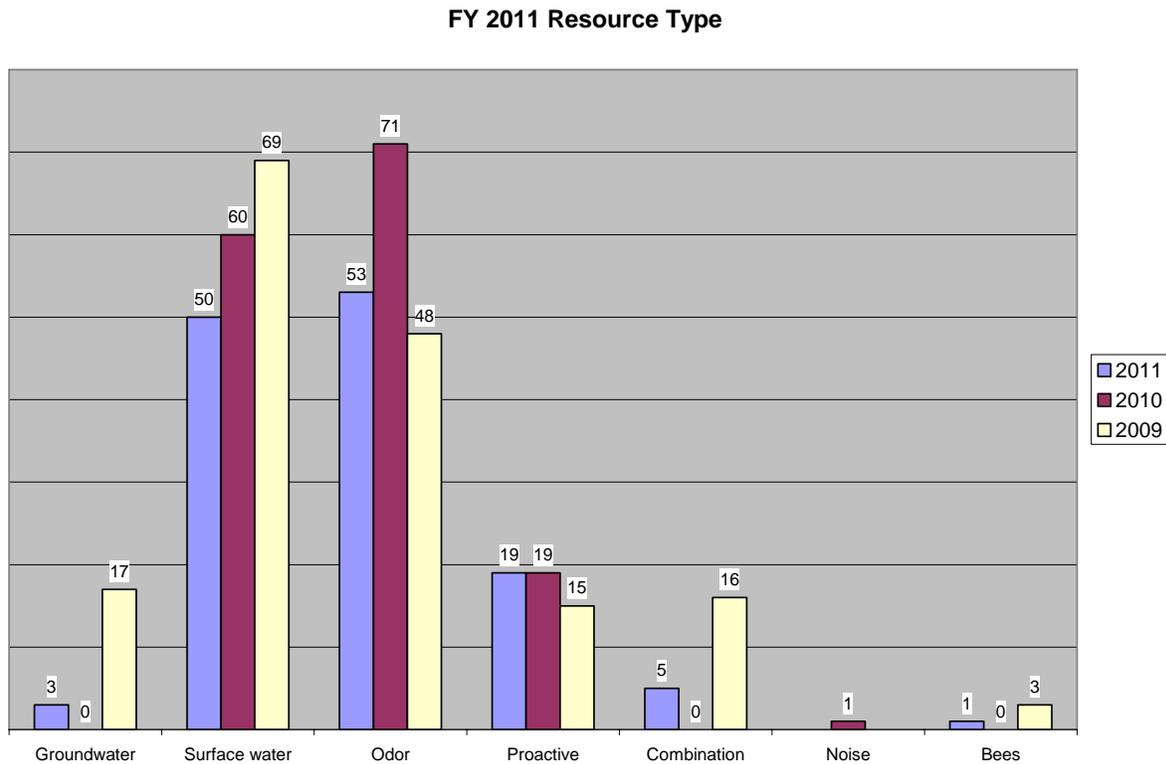
Comparison of Complaints Types (Percent)					
	2011	2010	2009	2008	2007
Air Quality	47	54	35	42	47
Groundwater	3	0	13	7	12
Surface Water	45	45	50	29	28
Combination ⁵	4	0	0	23	10
Bees	1	0	2	0	3
Noise	0	1	0	0	0

Surface water complaints often include concerns about stream bank erosion and manure runoff from livestock with uncontrolled access to streams, barnyard manure runoff to roadside ditches, and potential manure runoff from crop fields to drainage ditches or field tiles. Air quality complaints usually involve excessive manure odors and sometimes include concerns about flies and dust. As was described earlier, in FY 2011 complaints regarding crop farms have noticeably increased and may be due to the increased use of manure as fertilizer, which can cause an increase in odor complaints. Historically, groundwater has been a single resource concern in only a small percentage of the complaints. Combination complaints typically involve both surface water and air

⁵ Two or more resource concerns cited in complaint

quality concerns. Most of the complaints classified as combination were about manure odors and the potential for manure runoff to surface waters.

Figure 2. Number of complaints by resource type per fiscal year

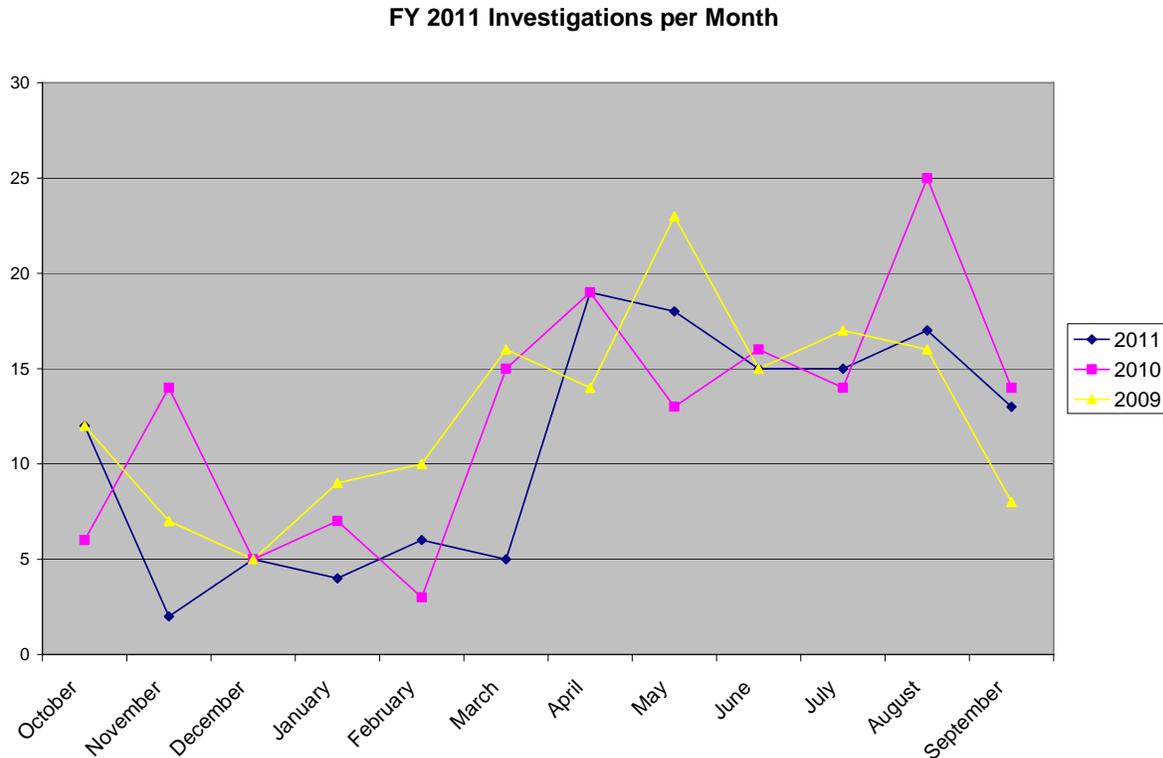


The overall increase in the number of complaints received in the Right to Farm Program in the past five years may be related to an increase in the general public's interest in agriculture and environmental awareness. A memorandum of understanding (MOU) between the Michigan Department of Environmental Quality (MDEQ) and MDARD directs most non-point source pollution and nuisance complaints about farm operations to the RTF environmental complaint response program. This program is also recognized by other state and local agencies as a very effective way to respond to and resolve many of the environmental complaints concerning farm operations across Michigan.

Distribution of Investigations

The seasonal distribution of investigations, both complaints and pro-active requests, for the last three fiscal years is illustrated in Figure 3 below.

Figure 3. Number of investigations by month per fiscal year



Some of these variations can be attributed to seasonal or annual weather conditions. Another factor is the increased manure storage capacity of a growing number of large livestock facilities, coupled with their Comprehensive Nutrient Management Plans (CNMPs) which minimize manure applications to frozen or snow covered soils. The net result is more manure applied to cropland during spring and fall months, and the subsequent complaints about the potential for manure runoff and odors associated with manure applications to crop land.

Verified vs. Not Verified Complaints

Figure 4 illustrates changes in the number of verified complaints over the past three fiscal years. Right to Farm inspections are comprehensive reviews of all GAAMPs that apply to the farm and, as such, utilize a whole farm approach. This approach contributes to Michigan's pollution prevention strategy and will help farmers avoid complaints in the future.

In some cases, where after an on-site inspection the complaint was not verified but the farm operation was not following a written Manure Management System Plan (MMSP), the producer was asked to develop and implement a plan. RTF staff then determined if the producer was following all the GAAMPs that apply to their farm operation. Proactive inspections, as well as those complaints that were not verified but the farm facility needed an MMSP, are also shown here. In each of the past three years, a majority of the complaints have been verified.

Figure 4. Number of Verified vs. Not Verified complaints

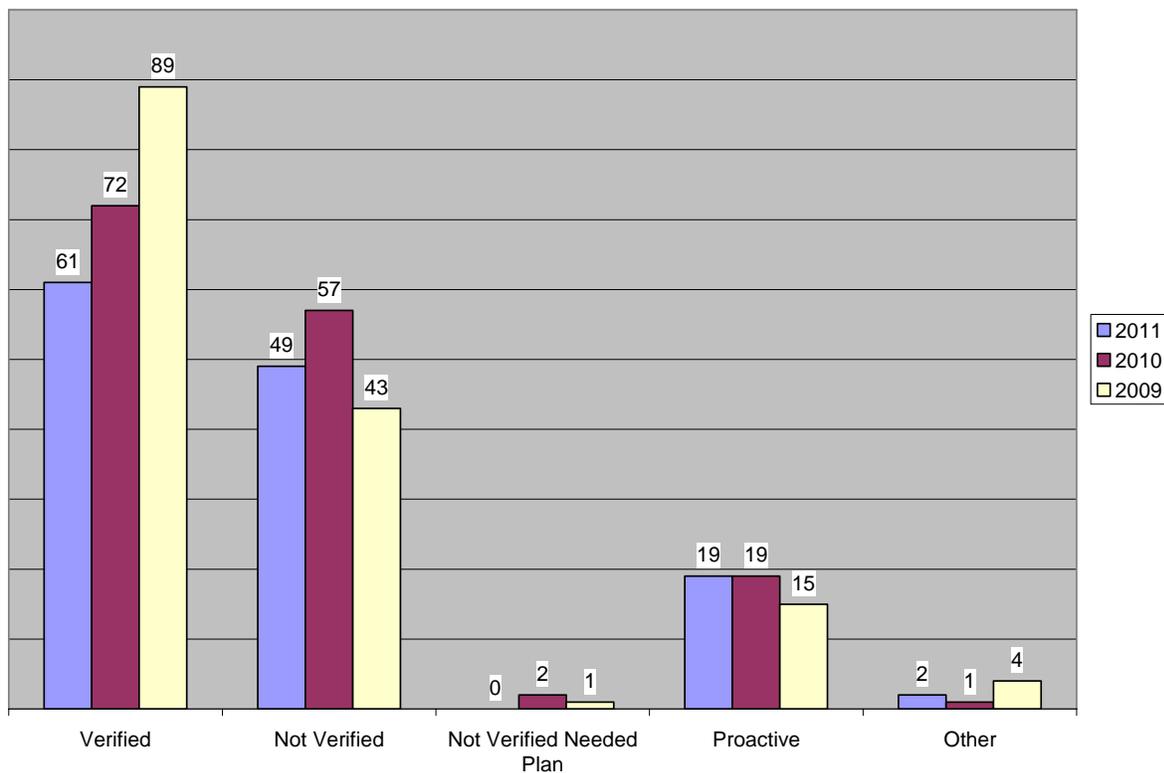


Table 4. Comparison of Verified versus Not Verified complaints per year

Fiscal Year	Verified versus Not Verified (Percent)
FY 2011	54 : 44 (remaining 2% for Other)
FY 2010	55 : 43 (remaining 2% for Not Verified Needed Plan)
FY 2009	65 : 32 (remaining 1% for Not Verified Needed Plan and 2% for other)
FY 2008	57 : 37 (remaining 6% for Other)
FY 2007	59 : 37 (remaining 1% for Not Verified Needed Plan and 3% for other)
FY 2006	51 : 45 (remaining 2% for Not Verified Needed Plan and 2% for other)
FY 2005	43 : 50 (remaining 4% for Not Verified Needed Plan and 3% for other)
FY 2004	60 : 34 (remaining 6% for Not Verified Needed Plan)
FY 2003	73 : 27
FY 2002	77 : 23
FY 2001	61 : 39

RTF Program files classified as “Not Verified” are cases where the MDARD complaint investigation found that the conditions and activities observed on the farm, and the documentation provided, demonstrate conformance to all GAAMPs that apply. MDARD determined those complaints were not verified; and as such, the files were closed.

When complaints are verified, or further documentation is needed to determine conformance to the applicable GAAMPs, then an MDARD RTF follow-up inspection is scheduled and conducted to review the effectiveness of the changes that have been implemented, and the provisions of the farm's written management plan. Depending on the farm enterprise and level of detail needed to conform to GAAMPs, farms may utilize an MMSP, CNMP, Nutrient Management Plan (NMP), corrective management plan, manure spreading plan, etc. If the changes implemented have

abated the source of the complaint and/or the required documentation is provided, then these cases are classified as “Abated”, and the file is closed.

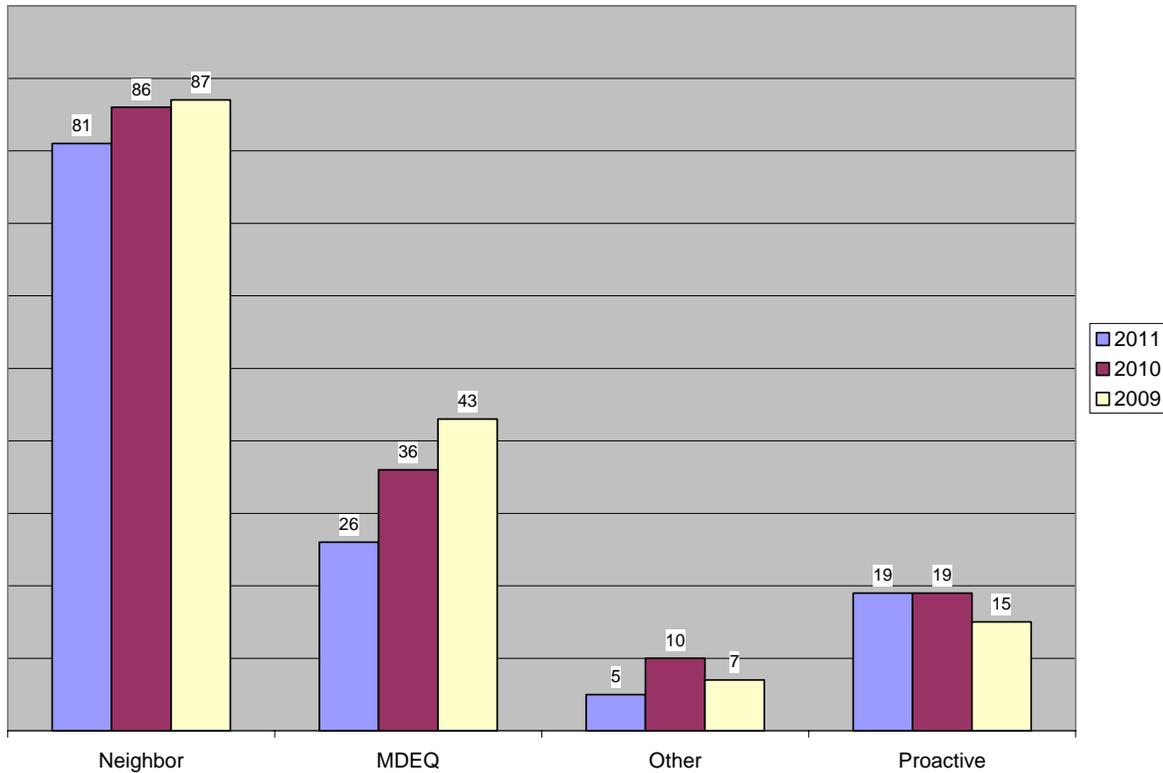
A complaint classified as “Not Verified Needed Plan” is a combination of the above. The details of a specific complaint were not verified at the time of MDARD’s on-farm inspection; however, the farm had not yet developed and implemented a written Manure Management System Plan (MMSP). Therefore, MDARD requested that the farmer develop an MMSP, manure spreading plan, etc. for their farm operation.

A “Proactive” request is one where a farmer has contacted MDARD to request a Right to Farm determination regarding their farm operation. These producers want to make sure they are following all of the GAAMPs that apply to their farm operations. In these situations, while MDARD has not received a formal complaint for investigation, we do require a written management plan be submitted for review and approval prior to scheduling an on-site farm inspection. When the Plan and farm records utilize GAAMPs, and the MDARD inspection confirms that the Plan and all applicable GAAMPs are being followed, then MDARD provides the requested determination in a letter to the farm.

The classification “Other” includes referred, transferred or withdrawn cases. For verified complaints, if after a reasonable period of time, the necessary changes to bring the farm operation into conformance with GAAMPs have not been implemented, then MDARD will consult with the Michigan Department of Environmental Quality (MDEQ) for an evaluation of compliance with Michigan’s environmental code and will usually refer the case for enforcement action. If an MDARD inspection reveals a situation where MDEQ is the appropriate regulatory authority, such as a direct discharge of pollutants to surface water, then the case is immediately transferred to the MDEQ Water Resources Division. Farms whose complaint files have been referred or transferred are subject to applicable enforcement actions by the MDEQ. Withdrawn cases are those where the complainant chose to retract their initial complaint.

Where Complaints Originate

Figure 5. Number of complainants by fiscal year



Urban encroachment, suburban sprawl, and more residential housing in rural, traditional farming areas, along with increased environmental awareness, all contribute to the trends depicted in Figure 5 above and Table 5 below. The number of complaints made by MDEQ decreased from 36% in FY 10 to 26% in FY 11, while the number of complaints made by ‘neighbors’ has remained quite constant over the past three years. Complaints from neighbors have always been the largest percentage of the total each year.

Table 5. Complainants in percentage by fiscal year

Fiscal Year	Total Complaints (Percent)		
	Neighbor	MDEQ	Other
FY 2011	72	23	5
FY 2010	65	27	8
FY 2009	64	31	5
FY 2008	71	22	7
FY 2007	68	20	12
FY 2006	60	31	9
FY 2005	60	25	15
FY 2004	59	35	6
FY 2003	61	28	11
FY 2002	68	29	3
FY 2001	81	15	4

Accomplishments

The accomplishments outlined in the following table are the result of the cooperation and work from the farmers whose farm operations were identified in RTF complaints during FY 2011. These farmers utilized the RTF GAAMPs to implement sound management practices on their farms to utilize manure and other nutrients and control odors.

With assistance from Michigan State University Extension, local conservation districts, the USDA Natural Resources Conservation Service, and private sector plan writers, many farmers developed and implemented Manure Management System Plans (MMSPs). The MMSPs on these farms are excellent tools to manage manure and other nutrients, control odors, and prevent pollution.

Table 6. Agricultural management practices implemented in response to RTF complaints for fiscal year 2011.

Corrective Practices	Results
Surface water quality protection	
Livestock excluded from surface water	1020 Animal Units
Stream bank fencing installed	8 Projects
Feet of stream bank fencing installed	20,000 Feet
Controlled watering access sites installed	3
Vegetative buffer/filter areas installed	9000 Feet
New water source provided	1
Runoff control/groundwater protection and odor management	
Runoff control structures installed	15
Number of farms that utilized stockpiled manure/by-products	14
Number of fields on which manure was incorporated	6
Number of farms that provided soil tests	7
Manure analysis	3
Pollution prevention	
Manure Management System Plans (MMSP) or Nutrient Management Plans (NMPs) developed and implemented	9
Animal Units covered by Plans	2183
Application acres covered by Plans	3758
Proactive	
Proactive inspections	19
Other	
Installed new manure storage	5
Installed new milk house and parlor wastewater structures	2

These accomplishments are very tangible and provide a good physical description of some of the changes made on farms; however, they do not fully account for all of the accomplishments earned by the Right to Farm Program. At the time of the “on-site”

inspection, the person who lodged a complaint (the complainant) is either visited in person by the inspector or contacted via telephone. The inspection process is explained as well as the GAAMPs and acceptable farming practices. This is crucial to improving the general public's understanding of normal conditions and activities on farms, especially as more and more people are far removed from the farming process. Resolving and reducing conflicts with neighbors, as well as educating the public regarding farming, is a large part of the RTF process.

Future RTF Program Annual Reports will utilize modeling tools to better describe the less tangible, but socially very important accomplishments achieved by this program.

**Right to Farm - Site Selection and Odor Control for
New and Expanding Livestock Facilities**

FY 2011

The Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control for New and Expanding Livestock Production Facilities (Site Selection GAAMPs) were first adopted in June of 2000. The development of Site Selection GAAMPs and the preemption of local ordinances that extend or conflict with GAAMPs were two major changes to the Michigan Right to Farm Act when it was amended in 1999. Since June 2000, the Site Selection GAAMPs have been utilized by over 330 producers in selecting the best site to construct a new facility or expand their existing facility.

The Site Selection GAAMPs verification process begins with a livestock producer submitting a verification request to MDARD to construct a new or expand an existing livestock facility. The verification request consists of a detailed site plan, a Manure Management System Plan (MMSP), construction drawings and specifications, a subsurface soils investigation, and an Odor Management Plan that includes the results of the Michigan OFFSET Model for the proposed facility.

When the verification request is received, MDARD sends a letter to the producer acknowledging receipt of their request; and a copy of this letter is sent to the township of the proposed site. After the verification request is thoroughly reviewed, MDARD schedules and conducts an inspection of the site to discuss the proposed project with the farmer. Upon completion of this process, if all of the information requirements in the Site Selection GAAMPs application checklist are provided, then MDARD sends a letter to the livestock producer approving their verification request; and a copy of this letter is sent to the township. This determination is known as the "Site Suitability Approval."

MDARD may conduct interim inspections to ensure that approved construction standards are being met. When the project is completed, and for some new operations before the facility is populated with livestock, MDARD will conduct a final inspection to verify the facility was constructed according to the approved verification request. The findings from a final inspection determine when a facility has completed the site verification process, and is then considered in conformance with the Site Selection GAAMPs.

MDARD received a total of 24 verification requests in FY 2011. Table 7 outlines the verification requests received based on livestock type and new or expanding facilities.

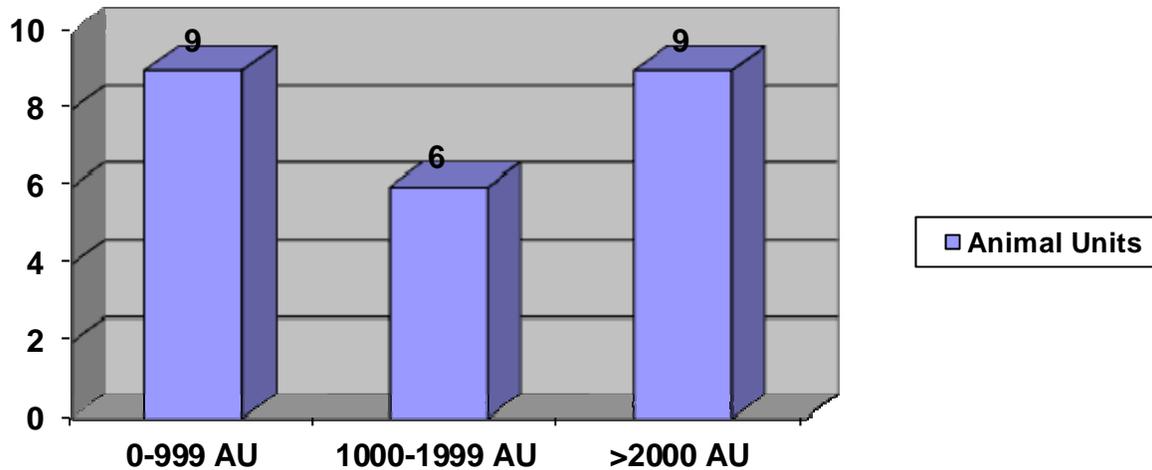
Table 7. Verification requests by livestock species

Dairy		Swine		Poultry		Equine		Beef		Manure Storage	
Total = 11		Total = 7		Total = 3		Total = 1		Total = 1		Total = 1	
Exp.	New	Exp.	New	Exp.	New	Exp.	New	Exp.	New	Exp.	New
10	1	4	3	2	1	1	0	0	1	0	1

From the total 24 site selection verification requests, 17 were for expanding facilities and seven were for new facilities. Of the verifications for dairy farms, ten were expansions and one was for a new facility. For swine operations there were four expanding and three new facilities. Verification requests for poultry facilities included two expanding and one new. Verification requests also included one expanding equine facility, one new beef facility, and one new manure storage facility.

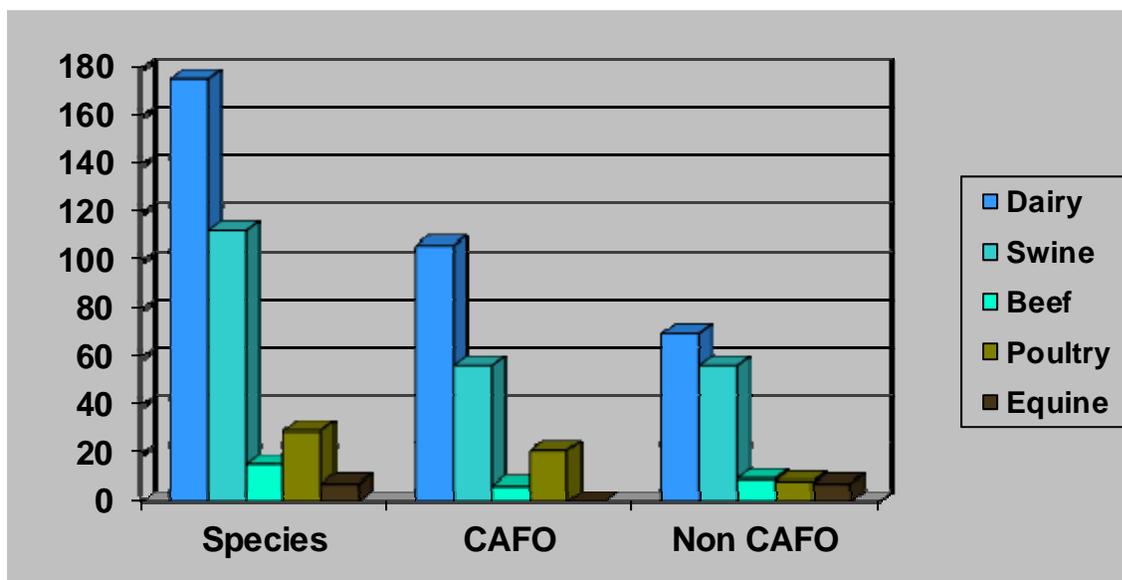
The relative size of the 24 farms that completed the site verification process are shown in Figure 8. Nine requests were for facilities designed to house 0-999 Animal Units (AU), Six were for 1000-1999 AU facilities, and nine were for facilities to house over 2000 AUs.

Figure 8. Verification requests by animal units



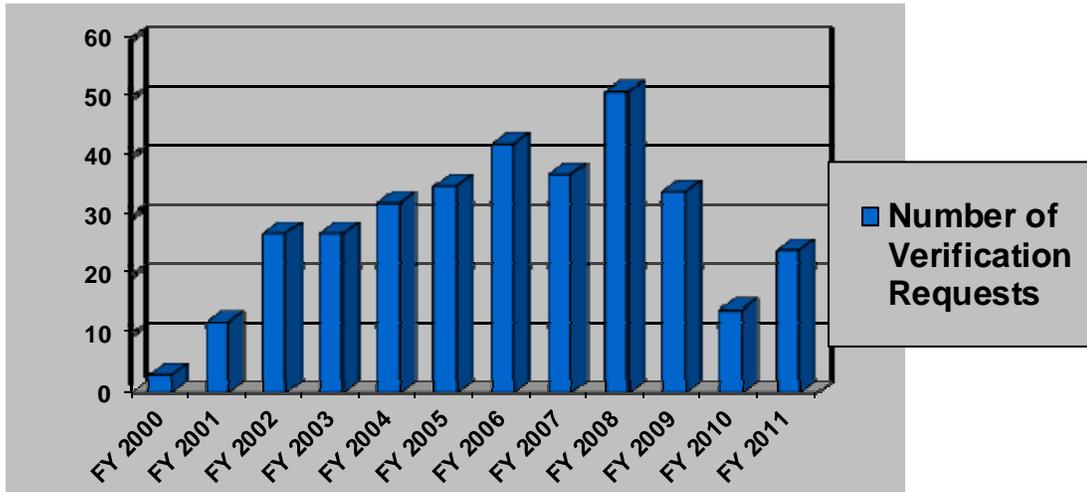
Since 2000, over 330 farms in 41 Michigan counties have utilized the Site Selection verification process for their new or expanded facilities. The distribution by species and CAFO or non-CAFO is displayed in Figure 9.

Figure 9. Verification Requests by Species, CAFO, and Non-CAFO since 2000.



The total numbers of site selection verifications since June of 2000 are shown in Figure 11.

Figure 11. Number of Site Selection verification requests per year



With hundreds of farms expanding and building new barns, and greater environmental awareness by farmers and their non-farm neighbors, site selection for new and expanding livestock facilities has become a very important tool to address the environmental performance of farms and social concerns about animal agriculture in Michigan.

For further information regarding the Michigan Department of Agriculture and Rural Development's Right to Farm Program, please contact:

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