

MDARD's "Right to Farm Act FAQ": A Small Farmer Responds

MDARD's Question #1: What is the Right to Farm Act?

MDARD's Answer: The Right to Farm Act is a state law created in 1981. In the past century, people with limited understanding of farming were moving into rural areas. Typical farming conditions (dust, odors, etc.) and activities on nearby farms were unacceptable to new residents and sometimes nuisance suits were filed against the farmer. The Right to Farm Act was created in response to an increase in complaints and lawsuits. The Act calls for the creation of a set of Generally Accepted Agricultural and Management Practices (GAAMPs) and provides an affirmative defense in nuisance lawsuits brought against the farmer by neighbors when the farmer is conforming to GAAMPs or when the farm existed prior to changes in land use in the areas surrounding the farm.

The Michigan Small Farmer Responds: MDARD omits important information.

- In addition to protecting rural farms from neighbors' complaints, the Right to Farm Act provides farmers with an affirmative defense when nuisance actions are brought by anyone, *including townships and municipalities*. If a complaint is filed, MDARD officials visit the farm and work with the farmer to bring the farm into compliance with the GAAMPs—thus the farm often avoids the courtroom altogether, and has a very solid defense against a nuisance complaint.
- The April 2014 GAAMP changes, which give local governments authority over livestock raising on thousands of small urban, suburban and rural farms, are in direct conflict with both the Right to Farm Act and relevant judicial decisions.

The Right to Farm Act also trumps any local ordinance, regulation, or resolution that tries to extend or revise any of its provisions. Right to Farm Act, Section 3(6) states: "...it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act." In other words, this section of the Right to Farm Act was written to safeguard against the very changes that MDARD unilaterally put into effect April 28, 2014.

The Michigan Court of Appeals has long interpreted the Right to Farm Act to apply to ALL commercial farms, wherever the farms are located, including zoned residential land. Further, said Court's definition of "commercial" includes very small sales. A few eggs or the intent to sell qualify as "commercial" (a new Christmas tree farm or orchard makes no sales for many years).

- The decision about which farms are eligible for RTFA protection is not the Agriculture Commission's to make. The legislature already made that determination by passing the Right to Farm Act: all commercial farms that comply with the GAAMPs (which are defined as "generally accepted agricultural management practices").
- It is up to the legislature to create law, not a governor-appointed Commission. If an appointed commission is allowed to take Right to Farm Protection away from some farms without an articulated or demonstrable basis in "generally accepted agricultural management practices," then the Commission can vote to take it away from any farm.

MDARD's Question #2: What is a GAAMP?

MDARD's Answer: A GAAMP is a Generally Accepted Agricultural and Management Practice that a farmer may voluntarily adopt and, if the practice is followed, the farmer may use the Right to Farm Act as an affirmative defense in a nuisance lawsuit. The Act gives the Michigan Commission of Agriculture and Rural Development the authority to approve GAAMPs.

The Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP is the only GAAMP required in statute. The requirement was added in 1999 with the first Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP approved by the Commission of Agriculture in 2000. At that time, the law was established to protect commercial farms in rural settings from nuisance lawsuits by non-farm residents who might object to farm practices or push for zoning ordinance changes to restrict farms or squeeze farms out.

The Michigan Small Farmer Responds: MDARD omits information, is misleading.

- GAAMPs are not regulatory law. They are not law at all. They are “policy,” at most. The Right to Farm Act itself calls the GAAMPs “policy”; Judge Solka explains in *Forsyth Township v. Buchler*: “The GAAMPs do not carry the rule and force of law...The January 2012 GAAMP...is, at best, a policy.”
- GAAMPs are sets of guidelines for farming practices, subject to annual revision by the Michigan Department of Agriculture and Rural Development, and approval by the Michigan Agriculture Commission.
- The Right to Farm Act gives a farmer who follows the GAAMPs a defense against ANY nuisance action, whether it is a private or a public action, whether brought by a neighbor or by local government. The farm does need to be “commercial,” but case law has held “commercial” to include very small amounts or the intent to sell. And, as the Michigan Court of Appeals has repeatedly ruled, the farm does *not* need to be zoned agricultural.

MDARD's Question #3: What changes did the Michigan Commission of Agriculture and Rural Development make to the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP?

MDARD's Answer: The Commission approved the addition of a Category 4 for site selection within the GAAMPs. Category 4 sites, defined by the GAAMPs, are locations that are primarily residential and don't allow agricultural uses by right. Under the Site Selection GAAMP MDARD still will determine whether a site is primarily residential, which by definition are sites with more than 13 non-farm homes within an eighth of a mile of the livestock facility or a non-farm home within 250 feet of the livestock facility.

The Michigan Small Farmer Responds: MDARD omits important information, misleads.

- The GAAMP contains several important changes, not just one.
- The regulation and inspection of large factory livestock farms is greatly reduced: farms with as many as 49,999 chickens or 4,999 sheep are now allowed to “self-assess” to determine if the farm meets the GAAMP standards.
- Farms on Category 3 land, which are generally larger rural parcels, often zoned agricultural, lost Right to Farm protection for new or expanding facilities too. Category 3 land is typical of “transitional agricultural areas,” rural but being encroached on by denser development. It is the kind of land that the Right to Farm Act was initially designed to protect. Any proposed site with more than 13 “non-farm” residences (residences not belonging to the farm in question) within a ¼ mile radius for a new operation, and more than 20 in ¼ mile for an expanding operation is a Category 3 or 4 site. The GAAMPs states, “New livestock production facilities are not acceptable for” Category 3 sites (GAAMPs, p. 10). The definition of “new livestock production facility” is: “all facilities where farm animals will be kept” (GAAMPs, p. 4). In sum: All facilities where farm animals will be kept are not suitable for Category 3 sites.
- The Commission added a new trigger for site review compliance, which threatens even existing farms that are not expanding. Although the GAAMPs is supposed to be for proposed and expanding livestock facilities (as its title, “..for New and Expanding Livestock Facilities” indicates), this new section allows an “environmental complaint” by a neighbor or local government to trigger a review of an existing farm, so that an existing farm operation that is now designated as a Category 4 site might lose its Right to Farm GAAMPs protection, even if it qualified for that protection under previous GAAMP versions (p. 15).
- The new GAAMPs added “livestock facility” to its list of terms and then added regulation of those facilities. A “livestock facility” is defined as *all* facilities for livestock, regardless of the number of animals: a house with a single chicken is a “livestock facility” and is regulated. Under previous versions of the Site Selection GAAMPs, commercial farms with fewer than 50 animal units were exempt from having to comply with setbacks of hundreds of feet from property lines that were appropriately required for larger numbers of animals.

MDARD's Question #4: Why did the Michigan Commission of Agriculture and Rural Development make changes to the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP?

MDARD's Answer: In recent years, there has been increased interest in having small numbers of livestock in non-rural residential areas. While a number of communities have ordinances allowing for the keeping of livestock in non-rural residential areas, many did not, resulting in increased conflict between municipalities and livestock owners in these primarily residential areas. The changes clarify those situations when decisions regarding the keeping of farm animals in primarily residential areas should be made by local communities. Sites that are primarily residential – more than 13 non-farm homes within an eighth of a mile of the livestock facility or a non-farm home within 250 feet of the livestock facility – and where zoning does NOT allow agriculture by right are Category 4 sites. For purposes of the Right to Farm Act these areas are not suitable for siting farm animals. However, local communities can decide to allow farm animals under these circumstances. In fact, at least 40 municipalities have ordinances that allow residents to keep backyard poultry and many townships allow for agricultural activity in residential areas.

The Michigan Small Farmer Responds: MDARD is misleading and mistaken.

- Confusion, not clarity, is the result of the Agriculture Commission's approval of a GAAMPs that conflicts with both legislation and case law. The Right to Farm Act clearly states that its provisions trump local laws (Section 4(6)). The Court of Appeals has repeatedly ruled the same. Michigan State University Extension's "Land Use Planning and the Right to Farm Act" states: "Zoning ordinances that restrict agricultural activity, even in areas designated solely for residential use, are unenforceable." And yet the Ag Commission has approved a GAAMPs that ignores both legislation and judicial decisions, placing local government in charge of farms on Category 4 sites.
- Farmers depend on stable, rational regulatory policies; the GAAMPs is ambiguous, difficult to use, and internally contradictory. Determining whether Right to Farm protection exists for a particular piece of land is a challenge and likely to end in uncertainty. This document is used by thousands of landowners, buyers of land, and local units of government. And it's government jargon and obfuscation at its worst. It will inevitably lead to completely unnecessary conflicts between neighbors, townships and farmers.
- Any policy that discourages farming—urban, suburban or rural—in Michigan should be looked at with skepticism. Michigan lost nearly 4,000 farms and 83,000 acres of farmland in the last five years. Further, many of the people who have written and spoken against the GAAMPs changes depend on their small farms to sustain themselves economically.
- MDARD wants to focus on the large commercial farms. The GAAMPs were changed because MDARD is uninterested in providing Right to Farm protection for urban, suburban and "transitional agricultural" land ("transitional" land is generally small to mid-range parcels of 10 to 200 acres, between residential areas and rural areas, much of which falls under Category 3 and under the GAAMPs has had RTF protection removed). Jim Straub, Antwerp Township attorney, writes that Bill Renn, member of the Site Selection Committee, said that "MDARD is wanting to focus more on the commercial farming operations in the state rather than the executive type farm in the transitional ag" areas."¹

¹ Email, Jim Straub, Antwerp Township Attorney, to Rhonda Wilcox, MDARD, 01/23/2014.

- MDARD did not change the GAAMPs because it has been overwhelmed by nuisance complaints, as some have suggested. MDARD states it has received only 960 nuisance complaints in the last ten years. That includes complaints for large factory farms, and even so it's only 1.8 complaints per week, in a state with over 52,000 farms.

And if, as GAAMPS Committee Member Bill Renn told Antwerp Township Attorney Jim Straub, “transitional ag” areas generate 75% of RTFA complaints,” that’s not surprising, since farms of that size constitute 70% of Michigan farms (USDA Agricultural Census, 2012). The Right to Farm Act was originally enacted to protect exactly these kinds of properties: to help with nuisance complaints where city encroaches on the country, and to prevent loss of farmland. Some farms will always be on the border between residential and agricultural areas. It’s MDARD’s job to deal with and resolve those complaints—a job that is statutorily required (RTFA Section 4 (1). This is MDARD’s work, not a distraction from it.

MDARD's Question #5: Do the changes made by the Commission last week impact people raising food for themselves?

MDARD's Answer: No. The Right to Farm Act has always applied and continues to apply to farms which are defined by the Act as the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products (MCL 286.472(a)). However, local communities can decide to allow farm animals under these circumstances. In fact, at least 40 municipalities have ordinances that allow residents to keep backyard poultry and many townships allow for agricultural activity in residential areas.

The Michigan Small Farmer Responds: MDARD is misleading and omits information.

- ***Yes, the changes impact people raising food for themselves, if they are doing it as part of a commercial farming operation.*** Many people produce food both for themselves *and* commercially—this is typical of small to mid-size farms. Loss of Right to Farm protection will affect *all* livestock raising on a commercial farm, both commercial and personal.
- MDARD's answer also omits the fact that “commercial” farming involves no minimum level of sales before RTFA protection applies (per the Michigan Court of Appeals in *Shelby v Papesh*). The intent to sell also qualifies (as common sense implies, since a Christmas tree farm will make no sales for several years after first planting). The farming operation only needs to be partially commercial for the RTFA to apply (*Papadelis v City of Troy*).
- According to MDARD, only 40 local governments out of over 1700 allow livestock. Local government official generally lack the degrees or job experience in animal science, environmental science, and public health associated with crafting a good farm animal ordinance.
- MDARD knew when the GAAMPs passed that thousands of farms would be affected: Director Jamie Clover Adams stated to Michigan Public Radio on the very day of the GAAMPs change that over one hundred local governments would be able to move forward with ordinances prohibiting bees and poultry.

MDARD's Question #6: Do the 2014 changes to the Livestock Siting GAAMP impact agricultural land?

MDARD's Answer: The Commission approved the addition of a Category 4 for site selection within the GAAMPs. Category 4 sites, defined by the GAAMPs, are locations that are primarily residential and don't allow agricultural uses by right. Under the Site Selection GAAMP MDARD still will determine whether a site is primarily residential, which by definition are sites with more than 13 non-farm homes within an eighth of a mile of the livestock facility or a non-farm home within 250 feet of the livestock facility.

The Michigan Small Farmer Responds: MDARD does not answer the question.

- ***Yes, agricultural land is impacted, including in rural areas.*** Thousands of farms in urban, suburban and rural areas, including zoned agricultural land, have lost Right to Farm protection for raising even a single chicken.
- Although titled “..for New and Expanding Livestock Facilities,” the GAAMP contains a new section which allows an “environmental complaint” by a neighbor to trigger a review of an existing farm, so that an existing farm operation that is now part of the newly designated Category 4 might lose its Right to Farm GAAMPs protection even if it qualified for that protection under previous GAAMP versions.
- Category 4 sites, including those on zoned agricultural, or rural but zoned residential land, have lost all Right to Farm protection. Category 4 sites are within 1/8 mile of 13 “non-farm” residences (residences other than the farmer’s) OR within 250 feet of a house not belonging to the farmer. They may be zoned for agriculture. Under the previous version of the Site Selection GAAMPs, these farms retained Right to Farm protection for small numbers of animals and were exempt from having to comply with the setbacks of hundreds of feet from property lines required for large numbers of animals. Now, Category 4 sites “are not acceptable under the Siting GAAMPs for livestock facilities...regardless of the number of animal units.” Most 2 acre parcels, many 3-4 acre, and even larger parcels, fall entirely into Category 4. Portions of much larger, zoned agricultural parcels are now Category 4 as well.
- Category 3 sites “may be zoned for agriculture”—yet Right to Farm protection is removed. They have a surrounding housing density equating to less than 1 house per 2.4 acres, a density often found in agricultural areas where development is encroaching. The previous GAAMPs allowed up to 50 animal units on Category 3 land. Now, Category 3 is described as only “maybe” suitable for livestock (p. 10) and also as “not acceptable” for any “facilities where animals will be kept” (pp. 10, 4).²
- Many mid-range (50 to 200 acre farms) are now wholly or partially in Category 3 or 4, and without RTF GAAMP protection for animals—and are probably unaware of it, due to MDARD officials’ repeated statements that the GAAMP changes affect only urban and residential agriculture, and the Michigan Farm Bureau’s statements that the recent GAAMPs changes don’t “equate to anyone losing” Right to Farm protection (MFB Website, 5/10/2014). Yet the GAAMPs Committee Chair warned the Ag Commission that Cat. 3 farms would lose RTFA protection under the similarly structured Jan. 2014 Draft of the GAAMPs.³

² See the response to Question #3 for a fuller explanation of how the GAAMP strips Cat. 3 of RTFA protection.

³ Letter, Wendy Powers, Chair, Review Committee on GAAMPs for Site Selection and Odor Control for New and Expanding Livestock Production Facilities, to Michigan Commission, 07/03/2013.

MDARD's Question #7: Do the 2014 changes to the Livestock Siting GAAMP impact 4-H animals?

MDARD's Answer: Kids with 4-H livestock projects housed on land where agricultural activities are allowed will continue to be exempt from the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP unless they keep more than 50 animal units. This has not changed.

The Michigan Small Farmer Responds: MDARD fails to answer the question.

- **Yes, many children lost Right to Farm Protection for raising 4-H animals due to the Ag Commission's vote.** Despite MDARD's circular reasoning (*children who live on land where livestock is allowed will be allowed to raise livestock*), children who live on Category 3 and 4 land have lost Right to Farm protection to raise even a rabbit or hen. This is because Category 3 sites, which have more than 13 residences within ¼ mile of the site for livestock site AND Category 4 sites, which have more than 13 houses within 1/8 mile OR within 250 feet of another house, have no Right to Farm protection for any farm animals.⁴

An example of the GAAMPS' problematic and inequitable quality: while local governments are "allowed" by the GAAMPS to create ordinances to allow livestock raising on Category 4 sites, the GAAMPS makes no such provision for the less dense Category 3 sites.

⁴ See the response to Question #3 for a fuller explanation of Category 3 land.

MDARD's Question #8: Are bees included in the Siting GAAMP?

MDARD's Answer: "No. Bees are not included in the Site Selection & Odor Control for New/Expanding Livestock Facilities GAAMP. However, bees are included in the Care of Farm Animals GAAMP."

The Michigan Small Farmer Responds: MDARD is wrong, omits important information

Yes, bees are included. MDARD apparently does not understand its own GAAMP. Either that, or it's changed its position on beekeeping due to the public outcry over this aspect of the GAAMPs change..

- MDARD Director Jamie Clover Adam told Michigan Public Radio, on the day the GAAMPs change passed, that 100 Michigan communities could move ahead with ordinances against bees and poultry. (<http://michiganradio.org/post/state-agriculture-commission-approves-backyard-livestock-rule>)
- Here's why bees are included...The GAAMP defines "livestock facility" (its basic unit of regulation) as "Any facility where farm animals as defined in the Right to Farm Act are kept,," AND the Right to Farm Act specifically mentions "bees" in its list of farm animals and plants. Bees and beehives come under the same restrictions as other farm animals in the Site Selection GAAMP as it is written.
- Any regulation that restricts beekeeping is terrible public policy, given that bee populations—vital to farmers for crop pollination—are plummeting due to colony collapse disorder. And while MDARD promotes a GAAMP that allows local townships to “move ahead with ordinances against bees,” the U.S. Department of Agriculture is moving ahead with a \$3 million program to help Midwest farmers and ranchers plant bee-friendly cover crops like alfalfa and clover.

MDARD's Question #9: Can local units of government allow farm animals in areas that are not suitable for livestock under the Site Selection GAAMP?

MDARD's Answer: Yes. A local unit of government can decide to allow farm animals in those areas that are not suitable for livestock under the Site Selection GAAMP. MDARD supports the expansion of agriculture, whether for personal consumption or for local sale/distribution, as it provides an opportunity for people to be closer to local food sources. The department supports the expansion of urban agriculture and livestock production across the state but has consistently said the expansion of agriculture into urban and suburban settings must be done in a way that makes sense for all community residents, as well as the overall care of farm animals and livestock.

The Michigan Small Farmer Responds: MDARD is confusing and omits important considerations.

Yes and no. MDARD states that of over 1700 local units of government, 40 have ordinances regulating livestock. It takes months, often years, for new ordinances to be crafted at the local level. Meanwhile, farms including large rural parcels and family livelihoods hang in the balance.

The GAAMPs does "allow" local government do make ordinances permitting (or denying) livestock keeping by commercial farms on Category 4 sites, but local governments which do so are in clear violation of the Right to Farm Act itself, which explicitly states that local ordinances and regulations are not allowed to trump it: "it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices developed under this act..." (RTFA Section 4(6))

Regulatory limbo for Category 3 sites. The GAAMPs denies new and expanding Category 3 sites Right to Farm protection, and then fails to state that local government can permit or regulate livestock there. Category 3 sites, which have more than 13 residences within ¼ mile for a new operation (a housing density of about 1 house/10 acres) or 20 residences within ¼ mile for an expanding operation), are not acceptable sites for any livestock under the GAAMPs, *and* the GAAMPs makes no provision allowing local government to "authorize" farm animals there.⁵

Michigan has over 1700 local units of government. It is unfair to ask local government officials to research and gain the considerable knowledge, experience and training necessary to make good laws about livestock raising. After all, if MDARD has had so much difficulty creating a reasonable set of rules, why would all local units of government do better? Further, allowing local government to make these decisions is likely to lead to regulation of farming based on zoning. Yet many townships have 50 and 60 acre parcels zoned residential; others where ½ acre parcels are zoned agricultural.

⁵ "Any proposed site with more than the maximum number of non-farm residences specified in Table 4 for a new operation, and Table 5 for an expanding operation is a Category 3 or Category 4 site. New livestock production facilities are not acceptable for that site" (GAAMPs p. 10). Definition of "new livestock production facility": "all facilities where farm animals will be kept" (p. 4).

MDARD's Question #10: Does the Michigan Department of Agriculture & Rural Development enforce the Right to Farm Act?

MDARD's Answer: No. The GAAMPs are a voluntary set of standards which help provide guidelines for using the Right to Farm Act as an affirmative defense in court. Conformance with the GAAMPs is a voluntary action. MDARD has no enforcement authority under the Act. Nuisance protection under the Right to Farm Act is, continues to be, and always has been something that's determined by a judge - not the Commission of Agriculture and Rural Development or MDARD. This has not changed.

The Michigan Small Farmer Responds: MDARD is mistaken.

Yes, the Michigan Department of Agriculture and Rural Development is the entity that determines whether or not a farm is in compliance with the GAAMPs.

If a farm or farm operation is not in compliance with the GAAMPs, there is no Right to Farm defense. It is disingenuous for MDARD to argue that it does not "enforce" the Right to Farm Act when it is MDARD that determines whether the RTFA defense is even available to use against a nuisance complaint. The changes to the GAAMPs by the Agriculture Commission attempt to remove even the possibility of a Right to Farm GAAMPs defense against a nuisance complaint has been removed from thousands of urban, suburban and rural farmers.

Further, MDARD routinely informs individuals and townships that small farmers in residential areas are not protected by Right to Farm. (An example is documented in Judge Solka's ruling in *Buchler v Forsyth Township*, Michigan Circuit Court, 2012). This encourages local governments to bring nuisance actions and lawsuits against small farmers.

MDARD's Question #11: Was there public input into the changes to the 2014 Site Selection GAAMP?

MDARD's Answer: Yes. The Site Selection committee, chaired by a livestock expert from MSU, worked more than two years on the issue of siting livestock in urban and suburban areas. After the committee made formal recommendations to the Commission of Agriculture and Rural Development, a 16 day public comment period opened and a public input meeting was held to accept public comment. In addition, the Commission took nearly three hours of testimony over the course of three meetings before making a decision. The Commission takes public comment at every meeting.

The Michigan Small Farmer Responds: MDARD omits information, misleads.

- **Here's the short version of the process:** A government-appointed commission voted on a major public policy and regulatory change recommended and formulated by a privately selected committee representing bureaucratic and large business interests. Last-minute substantial changes were made at the 4/28 meeting after all opportunity for public input was formally ended, and then the Commission voted. . No oversight. No checks and balances. Almost no transparency. No policy impact report. No benchmarks.
- **Here's the long version:** The Site Selection GAAMPs changes are formulated by a committee that is selected by one Michigan State professor, the only livestock "expert" on the committee. The committee meets behind closed doors, with no publicly available minutes; it has no representatives of consumers or small farms. It takes public comment at one meeting per year before revealing its suggested changes. The Committee's fifteen members are mostly government employees. In addition, there are representatives of the Michigan Farm Bureau,⁶ two representatives of factory livestock farms, and representatives of the innocent-sounding Michigan Township Association.⁷ The GAAMPs Committee makes a recommendation to the governor-appointed MDARD Commissioners.

The GAAMPs went through two public draft versions in 2014; the public comment period MDARD mentions was for Draft #1. Public response was unprecedented and overwhelmingly negative: 684 against the changes and 21 in favor. No period of public response was allowed for Draft #2; in fact, the vote on it was originally scheduled for precisely one week after it was made public in March, 2014. Due to two Commissioners' requests, the vote was put off until April—but still, MDARD conducted no policy impact report, which is customary and advisable for even a much less sweeping policy change. No

⁶ The Michigan Farm Bureau is a founding member of the "U.S. Farmers and Ranchers," which promotes industrial agriculture in the United States. The alliance formed in 2011 as a coalition of many of the U.S.' largest agricultural groups (e.g., National Corn Growers Association and National Pork Producers Council). Its 2011 budget of \$11,000,000 budget came from the USDA, Monsanto, DuPont (*Wikipedia*).

⁷ A 501(c)(4) organization is not required to disclose its donors publicly. The lack of disclosure has led to extensive use of the 501(c)(4) provisions for organizations that are actively involved in lobbying, and has become controversial.. Criticized as "dark money," spending from these organizations on political TV ads has exceeded spending from Super PACs. (*Wikipedia*).

benchmarks to assess the success or failure of the changes, their impact on agricultural land use or value, or any other method of assessing the changes' effects has been established.

At its April 28th meeting, *after* the public comment period was over, MDARD officials recommended further substantial changes to the GAAMPs, and the Commissioners amended it, then voted 4:1 to approve. No public input was allowed on these last minute changes.

MDARD's Question #12: Does Right to Farm give me the right to farm my land?

MDARD's Answer: No. The Right to Farm Act provides an affirmative defense to nuisance lawsuits. Although the law is called "Right to Farm," it technically does not give the landowner an entitlement or a "right" to conduct commercial farming on any or all property.

The Michigan Small Farmer Responds: MDARD is misleading.

The Right to Farm Act trumps all local laws or rules that attempt to ban farming operations that conform to the GAAMPS and are "commercial." (RTFA Section 4 (6): "It is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices."

Note: The writer of this document is a farmer, not a lawyer, and this is not legal advice in any way. Please see an attorney for legal counsel.