



MICHIGAN CHAPTER

SIERRA CLUB COMMENTS ON THE 2007 SITE SELECTION GAAMPS, IRRIGATION GAAMPS, AND MANURE MANAGEMENT AND UTILIZATION GAAMPS April 23, 2007

A determination of compliance with GAAMPs means that the state of Michigan confers a substantial benefit to an agricultural operation, far too often at substantial detriment to other people, businesses and communities. The history of weak GAAMPs has historically meant that many Michiganders have been harmed, losing property values, suffering negative health consequences and otherwise suffering reduced quality of life from which they have no opportunity to recover. Even the delay built into the system for review and determination of compliance can lead to significant harm to the neighbors of these operations. The Michigan Department of Agriculture effectively chooses winners and losers in rural Michigan by setting the GAAMPS then deciding whether those guidelines are being followed.

Since the first Site Selection and Manure Management GAAMPs were drafted, the standards have grown increasingly weak, despite growing evidence of actual harm both to health and property values caused by CAFOs. In 2007 the proposed changes put forward by the GAAMPs committee further weaken already inadequate voluntary guidelines that give unreasonable benefits to a small group of businesses at the expense of their neighbors. These comments address both the weakening of already inadequate guidelines and the improvements that are essential to establish fair and reasonable guidelines for the future.

LACK OF BRIGHT LINE DEFINITIONS CREATES AMBIGUITY AND HARMS NEIGHBORS

In order to be fair and predictable in the application of GAAMPs, the MDA must have clear, bright line guidelines that provide for no ambiguity about provisions that can imbue substantial financial benefits on one person or corporation while taking away substantial economic benefits from others. The Site Selection GAAMPs provide significant wiggle room by using terms such as “can” and “should” in place of clear, unambiguous terms like “shall” and “must.” The Manure Management and Utilization GAAMP uses the word “should” more than 100 times, most of those in contexts that leaves significant lack of clarity about what exactly is required to be done. For example, the GAAMP says that leachate and runoff “should” be controlled, when in

fact these “must” be controlled to prevent contamination of surface and groundwater. A determination that a facility is not verified is virtually impossible in the face of such language.

In each case the intentional and increasing ambiguity in the GAAMP makes it harder for MDA staff to be clear on the specifics of the GAAMPs and harder for Michigan citizens to rely upon a point at which compliance is achieved or not achieved. This means decisions that can permanently affect the health and prosperity of neighbors of CAFOs in particular are prone toward an increasingly subjective process in the hands solely of MDA field staff.

SITING GAAMPS FAIL TO PROTECT NEIGHBORS FROM HARM

The Site Selection GAAMP is designed in a way that fails to protect a significant number of neighbors from possible air pollution problems. The fundamental premise in the GAAMP that a certain number of residential units can be located within a half mile or quarter mile distance of a CAFO means that the state has decided that a significant number of rural residents will simply have to live with the pollution problems caused by the CAFO with no recourse and no recompense. There can be no scientific basis for deciding that the five homeowners within ½ mile of an AFO with 750-999 animal units will somehow suffer less harm than if there were 10 homes within that distance, yet one group will be prohibited by law from bringing nuisance actions, while the others will be protected by state law.

SITING NEEDS TO ADDRESS PRODUCTION AREA AND FIELDS

Siting of CAFOs must address not only the buildings and production area but the location of fields onto which wastes are to be spread. Location of facilities in 100 year flood plains should be prohibited entirely because the potential danger of contamination of surface waters with large amounts of toxic and pathogenic waste is so significant that the state must not allow it.

In addition, setback from all wells must be applied not only to buildings but to the application of wastes, and, depending on soil types, may be required to be much larger than provided currently. The history of the Walkerton, Ontario, tragedy, the recent study of the Hartford Dairy CAFO, increasing evidence of the residence time of pathogens in the soil, and evidence of contaminated drinking water wells near CAFOs raises the increasing concern that field application of wastes are posing serious threats to public health even in situations where the waste is apparently applied at agronomic rates. Yet the GAAMPS do not address this at all.

Site Plans must include all fields that may be used for applications and all wells or groundwater recharge areas beyond the borders of the property managed by the CAFO. The requirement that CAFOs with more than 5,000 animal units must obtain a groundwater permit and that any discharge to groundwater requires the operator to obtain a permit must be included in the GAAMP as well.

NOTIFICATION PROTOCOLS ARE NON-EXISTENT

The Right to Farm Act several times specifically states that notification must be provided to local communities regarding complaints and verifications, as well as that the local unit must be given a

copy of a manure management plan if an operation is required to produce one. The proposed changes to the Site Selection GAAMP continued entirely inadequate levels of notification, as Sierra Club commented on last year with no apparent response from MDA on this matter. In addition, the GAAMP still fails to address the requirements for notifications.

OFFSET PROGRAM DOES NOT APPEAR TO BE AVAILABLE TO ASSESS

The Site Selection GAAMP suggests that the OFFSET Program for odor calculation is on the MDA website, but we could not locate it. The review of the GAAMP should include the full model and any scientific literature, including peer review, of the model every year.

CAFO WASTES/MANURE MUST BE PROHIBITED FROM APPLICATION USING AN AERIAL SPRAYING IRRIGATION SYSTEM OF ANY SORT

In the Irrigation GAAMP it states the word “Water” is used to not only describe water but also fertigation, animal sewage, chemigation and sub-irrigation. The Manure Management GAAMP says that irrigation techniques, including center pivot and volume guns, as “acceptable” methods for waste disposal, an argument that can only be made based on the claim that “incorporation” of wastes includes soaking into the soil. MDA should BAN the land application of wastes from CAFOS or other manure application with the use of irrigation systems that do not mechanically incorporate the waste into the soil immediately.

There is no mention of Irrigation over FIELD TILE, even though the application of wastes or farm chemicals through irrigators onto tiled fields can cause discharges into waterways in as little as 45 minutes, according to research in the Midwest.

The use of irrigations systems for land application of CAFO wastes and manures can cause pathogens and viruses in the waste to become air borne emissions which can cause health effects to nearby residents, farmers, ecosystems, wildlife, etc. There are no specifics for setbacks, application rates for crops, nutrient content, chemical content, pathogen content of irrigation substance. There are no Compliance Performance Standards.

VARIOUS IRRIGATION GAAMP COMMENTS

The Irrigation GAAMP does not make it clear when water usage is reported to the state if is it reported as water, fertigation, animal sewage, chemigation or sub-irrigation. These distinctly different types of irrigation need to be reported differently. Also, in other states those using irrigation have to be licensed, but there is no information in this GAAMP regarding licensing.

Sub-surface irrigation is only addressed briefly in this GAAMP, but there is no reference to whether sub-irrigation of animal sewage, chemigation, fertigation are BMP's. Where is the science documenting that these are accepted practices?

There is nothing in the Irrigation GAAMP's requiring irrigators to address phosphorus loading to soil or through sub-irrigation, even though the overapplication of nutrients is a major and growing concern in the Great Lakes basin.

VARIOUS COMMENTS ON MANURE MANAGEMENT GAAMP's

The standards for storage basins are not identified in the GAAMPs. Storage basins all allow for seepage but the GAAMPs fail to identify acceptable levels of seepage and what remedial actions must be taken when seepage makes its way through the liners of storage basins.

FOTG 635 Wastewater Treatment Strips for handling lot runoff silage leachate wastewater is NOT adequate for use due to the emissions, use of invasive species (phragmites), infiltration and storage basins do NOT meet NRCS 313 Waste storage standards and they do NOT meet NPDES permit requirements.

There is no scientific documentation showing that an Infiltration area or storage basin will not have Adverse Health effects on the wildlife, ecosystem, and groundwater, so the acceptance of these technologies under the GAAMPs cannot be demonstrated to be protective. Most low areas where infiltration and storage basins would be placed have field tiles that drain to waters of the state.

GAAMPs address odor. They do NOT address Pathogens, Emissions, Viruses, or Public Health. Manure is animal excrement used as a fertilizer. Animal wastes contain Pathogens, viruses, antibiotics, growth hormones, chemicals, milkhouse waste, silage leachate, birthing fluids, etc. Where is the sound science that animal waste is an acceptable practice or BMP standard?

On Page 17, 25 “where crop residues are retained for erosion control” must be removed, otherwise these GAAMPs will not require that incorporation must be done on any field. All crops have residue.

Some technologies that are allowed for use do not comply with GAAMPs. For example:

“Incorporate” means to combine in one uniform substance. (dictionary)

“Mix” means to put together in a single uniform mass. (dictionary)

“Aerway has the only patented shatterlines that LIFT and FRACTURE tough soils to increase air and water movement” (<http://www.frontiermnet.net/-bafert/aerway.html>)

An Aerway- “An implement that places narrow bands of manure on the soil SURFACE directly over a line of intermittent vertical slots created with aeration tines to assist infiltration.”

<http://agron.scijournal.org/cgi/content/full/97/5/1304>

An Aerway Tool does NOT Incorporate or Physically Mix animal waste into the soil.

Soaking means to become completely wet with liquid. (dictionary)

Incorporation does NOT mean soaking.

VARIOUS COMMENTS ABOUT SITE SELECTION GAAMP

There is NO Site Selection criteria for off site animal waste storage pits, and apparently despite the fact that these off-site locations should be considered part of the production area for the operation that has not been MDA's practice. Attached to these comments is a letter from MDA dated March 20, 2007, that states that a satellite lagoon built by the Vreba Hoff Dairy LLC

within the past year was not considered an expansion of that operation even though it was built two miles from the production area, this operation was under a court judgment by the MDEQ and MDEQ considered this lagoon to be in violation of that court judgment.

Designs must be Engineered Designs not just a drawing on a piece of paper. The words to “Start Construction” must remain. Many facilities are expanding or new and NOT getting approval before the buildings are built. The entire purpose of Site Selection is undone if the MDA allows for the retroactive approval of sites. The Right to Farm Act’s requirements for public input opportunities are meaningless if the MDA fails to require prior review of proposed sites for CAFOs.

Violations of State, Federal law should not allow for expansions or starting or relocating for new facilities.

WHERE GAAMPS FAIL

There are a number of reasons why GAAMPs applied to concentrated animal feeding operations continue to fail to protect the interests of the people of Michigan. Among those are:

- A GAAMP verification does NOT mean an operation is in compliance with state, federal, regional and local statutes, regulations or orders.
- GAAMPs should NOT give back Right To Farm nuisance immunity if a facility has been referred to the DEQ for enforcement.
- GAAMPs do not address pathogens, viruses, public health or emissions.
- GAAMPs are voluntary recommendations that are unenforceable but have the potential to cause economic, environmental and health damage to neighbors.
- GAAMPs have no proof of compliance or performance standards.
- GAAMPs do not require comparisons of CNMP’s or MMSP’s for soil samples, nutrient utilization, etc. when properties are shared for waste application.
- MDA staff are not trained or equipped to make a determination on an Air Quality Complaint for Hydrogen Sulfide, Methane, Ammonia, Carbon Dioxide, Carbon Monoxide or for Public Health.
- GAAMPs have failed 53,000 farmers in the State of Michigan.

REQUEST FOR A RESPONSIVENESS SUMMARY TO THE COMMENTS SUBMITTED

We respectfully request that MDA provide a responsiveness summary for all of the comments submitted in the public comment period, identifying the questions or comments raised and responding specifically to each issue.

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