

## **Michigan Department of Agriculture Right to Farm Program Water Complaint Response Procedure**

The Michigan Department of Agriculture (MDA), Right to Farm (RTF) Program and Michigan Department of Environmental Quality (MDEQ), Water Bureau (WB) are committed to working together to investigate and resolve environmental complaints concerning water quality issues involving livestock, poultry and other farm operations. This procedure, in conjunction with the Memorandum of Understanding between MDA and MDEQ Regarding State Agency Response Actions to Environmental and Nuisance Complaints about Farm Operations (MOU), is intended to improve the efficiency, effectiveness and consistency of both MDA and MDEQ in our individual and joint responsiveness to water quality complaints.

RTF and WB program staff receive environmental complaints and respond to concerns regarding agricultural practices on farms that may or may not be causing environmental impacts. RTF staff conducts inspections in order to determine conformance with Generally Accepted Agricultural and Management Practices (GAAMPs). WB staff will investigate complaints and determine compliance with the Natural Resources and Environmental Protection Act (NREPA).

### Assessing the Complaint

1. Staff should speak directly with the complainant to determine the nature and extent of the complaint.
2. The complaint should be documented on the Right to Farm Complaint Form.
3. Based on the available information, try to determine the following:
  - a. Does a discharge or a high potential for discharge of pollutants to waters of the state exist?
  - b. Does the complaint involve a farm under WB permit, MDEQ Compliance and Enforcement (C&E) action, or escalated enforcement action?
  - c. Does the complaint involve nuisance odor(s) on a farm under WB permit, C&E action, or escalated enforcement action?
  - d. Does the complaint involve potential mismanagement of agricultural practices?

### Complaints of Discharge or High Potential to Discharge

1. Document the complaint information and contact the WB District Supervisor to refer the complaint information for WB follow-up.
2. RTF Program will be copied on all complaints received by MDEQ. MAEAP staff should be contacted immediately for MAEAP verified farms or farms actively working with MAEAP. MAEAP staff will accompany MDEQ staff during their investigation, if time permits, or provide technical assistance as to the content of the Comprehensive Nutrient Management Plan (CNMP) for the farm operation under investigation.

3. If upon investigation, WB staff determines no environmental concerns were apparent, WB will forward copies of their inspection report(s) and investigation notes to MDA. These will be sent and received as "FYI" and will be kept in the RTF files for reference on possible future complaints.
4. If the complaint includes a nuisance odor concern, in addition to a discharge or high potential to discharge, the odor portion of the complaint will be handled by RTF in accordance with the RTF Environmental Complaint Response Protocol. Discuss the complaint with MDEQ staff to determine if a joint inspection would be needed. Any actions requested of the landowner should be discussed with WB to avoid possible conflicts.

#### Water Related Complaints on Farms under WB Permit, Compliance and Enforcement (C&E) Actions or Escalated Enforcement

1. Contact the WB District Supervisor to discuss the complaint.
2. Based upon the nature of the complaint and permit conditions or enforcement actions, determine whether a joint inspection is needed. Water Bureau will be the lead on investigation.

#### Complaints of Nuisance Farm Odors on Farms under WB Permit, Compliance and Enforcement (C&E) Actions, or Escalated Enforcement

1. Contact the WB District Supervisor to discuss the complaint.
2. Based upon the nature of the complaint and permit conditions or enforcement actions, determine whether a joint inspection should be conducted. RTF will conduct an investigation to determine GAAMPs conformance with regard to nuisance farm odor complaint(s).
  - a. If farm is MAEAP verified or under MAEAP Letter of Intent (LOI) the complaint will be handled by MAEAP staff, when possible.
  - b. RTF staff will follow RTF Environmental Complaint Response Protocol for investigating the complaint.
  - c. If the farm is found to be in conformance with applicable GAAMPs, RTF will document those findings to the farmer and WB staff.
  - d. If the farm is found to be in non-conformance with applicable GAAMPs, RTF will consult with WB to ensure MDA recommendations do not conflict with WB requirements. RTF will document findings to the farmer and WB staff.
  - e. WB will determine whether a violation of the permit or enforcement action exists and follow-up as appropriate.

## Complaints of Mismanagement of Agricultural Practices

1. RTF will follow the RTF Environmental Complaint Investigation Protocol for all other water-related complaints. Complaints that are typically handled by the RTF Program include, but are not limited to:
  - a. A limited number of livestock with access to a stream.
  - b. Minor topsoil or stream bank erosion, or runoff is evident.
  - c. Minor barnyard runoff is evident.
  - d. There is evidence of moderate ponding on crop fields that may have been recently land applied with manure or other agricultural by-products, or food processing residuals.
  - e. Manure is stockpiled and not being utilized (weeds growing in pile).
  - f. There is excessive manure or spoiled feed in livestock facilities such as barns and feed lots causing excessive flies.
  - g. Manure storage structures are not being properly maintained, but the situation does not pose an imminent threat of discharge.
  
2. During the on-site inspection, if RTF staff observes there is an apparent discharge or high potential for discharge, staff will take the following steps:
  - a. Request that the landowner take immediate action to stop and/or avoid an imminent discharge.
  - b. Immediately call the WB district supervisor to report the apparent discharge or high potential to discharge.
  - c. Staff will forward RTF Complaint Form to the WB district supervisor.
  
3. Upon RTF Program determination of a verified complaint in which the farm has not come into conformance with GAAMPs within the given time schedule, the following actions will be taken:
  - a. A consultation will occur with RTF staff and WB District Supervisor to determine if the case is within jurisdiction of MDEQ and covered by NREPA.
  - b. If it is determined the WB will handle the complaint, the case will be referred to MDEQ and the RTF file will be closed.
  - c. If it is determined the case will not be referred to MDEQ, RTF will send a letter to the farmer indicating they have not come into conformance with GAAMPs, and therefore, may not have Right to Farm protection. A letter will also be sent to MDEQ and the complainant. The RTF file will then be closed.

### Definitions:

A “discharge” is any waste, waste effluent, wastewater, pollutant, or any combination thereof into the waters of the state that is or may become injurious in accordance with § 3109(1).

“High potential for discharge” arises when a discharge to surface or ground waters has not occurred, yet site-specific conditions are such that, in the best professional judgement of the Right to Farm staff, an imminent threat to discharge exists requiring immediate corrective actions to mitigate the threat.