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DEPARTMENT OF AGRICULTURE
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DIRECTOR

December 16, 2014

Brady Township
13123 S. 24th Street
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Vicksburg, MI 49097

Dear Brady Township Officials:

Thank you for your letter regarding concerns surrounding the 2014 Generally Accepted Agricultural and Management Practices for Site Selection and Odor Control (Site Selection GAAMP). The Michigan Department of Agriculture and Rural Development (MDARD) and the Commission of Agriculture and Rural Development (Commission) welcome input from municipalities and individuals affected by the Right to Farm Act and the GAAMPs.

It appears the letter identifies three issues Brady Township is concerned with as it relates to the 2014 Site Selection GAAMP: 1) that the use of categories in the Site Selection GAAMP do not align with zoning districts used by many townships and municipalities, 2) that the definition of livestock facility does not specify that it addresses only commercial livestock production, and 3) that Category 4 sites are not well defined. Although each of these issues will be addressed, a brief discussion of the Right to Farm Act may provide some additional context.

Since zoning is not a condition for Right to Farm coverage, the Right to Farm Act applies across the entire state, regardless of local zoning. The 1999 amendments to the Act, which added the preemption language in Section 4(6), were meant to limit local regulation of farming practices. The Legislature simultaneously tasked the Commission with developing GAAMPs for the siting of livestock facilities and manure management. MCL 286.474. In 1999, the legislature was attempting to address conflicts arising from population movements to rural areas (in other words, people moving to the farms and complaining about the noise, dusts, and odors associated with farming practices). Prior to the 2014 revisions, the Site Selection GAAMP was designed only to address siting of livestock facilities in rural areas.

Over the last ten years, a local food movement has grown and an increasing number of people want to be close to and know where their food comes from. This has led to an increasing number of people bringing farming practices, including livestock production, into more densely populated areas and has led to an increased number of conflicts between urban farmers and their neighbors and townships. Because many of these farms have less than 50 animal units, the farms claimed they did not have to comply with the requirements of the approved Site Selection GAAMP through 2013 to obtain nuisance protection under the Right to Farm Act. As a result, the Commission adopted the 2014 revisions to address the siting of livestock in more densely populated areas.

It is important to note that the Site Selection GAAMP applies only to livestock production. There are no requirements in the GAAMP for the siting of other agricultural activities – in other words, crop production is not limited in category 4 sites and is entitled to nuisance protection under the Right to Farm Act regardless of where it occurs, if done in conformance with applicable GAAMPs.

The first issue the Township raises is its concern that the categories in the Site Selection GAAMP do not align with zoning districts. The Site Selection GAAMP is not intended to mimic local zoning. Siting is about reducing conflicts between neighbors by placing livestock production facilities in locations where they are least likely to adversely affect neighboring properties and in a manner where the likelihood of nuisance conditions is reduced. Zoning districts, on the other hand, are a community planning tool and their meanings differ between communities.

The Commission determined that large animal production facilities with 50 animal units or more should only be sited in areas that are zoned to allow agriculture uses by right. Therefore, to conform to GAAMPs, livestock production facilities that fall within categories 1 and 2 must be sited in locations where zoning allows for agricultural uses by right. But for smaller livestock production facilities with less than 50 animal units, the risks of nuisance conditions are reduced. As a result, the Commission has determined that those facilities conform to the GAAMP provided that one of two conditions exists: (1) the facility is located in an area zoned to allow agricultural uses by right; or (2) the facility is not at a location that is primarily residential. The Commission has defined primarily residential as those locations that have more than 13 houses within 1/8 of a mile or a non-farm residence within 250 feet of where the animals are kept.

In 2013, the Commission specifically rejected the approach the Township proposes in its letter. Because zoning districts are often about community planning and the hope of future development, zoning districts don't always reflect whether a land use engaged in today would result in nuisance conditions. As a result, the Commission determined that a density based approach to raising livestock made more sense. Again, the GAAMPs are about nuisance protection and reducing nuisance conditions for neighboring properties.

The Township's second concern is that the definition of livestock facility does not specify that it applies only to commercial production. Because the Right to Farm Act only applies to commercial agricultural activities, the definitions in the GAAMP assume that the farming activities are commercial. If the farm is not engaged in commercial farming activities, it cannot avail itself of any of the protections in the Right to Farm Act. As a result, the Commission found it unnecessary to specify "commercial" in the definition of "livestock production facility" or "livestock facility."

The letter also expresses concern that the Commission's use of primarily residential will have unintended consequences, including townships changing their zoning districts to, in effect, zone out all agriculture, including crop production. First, there are no siting requirements for crop production and as long as commercial cropping activities are conducted in conformance with the applicable GAAMPs, section 4(6) of the Right to Farm Act prevents local units of government from zoning them out.

It is the concern that local governments would zone out agricultural activities that contributed to the Commission's decision not to rely solely on zoning districts in the Site Selection GAAMP.

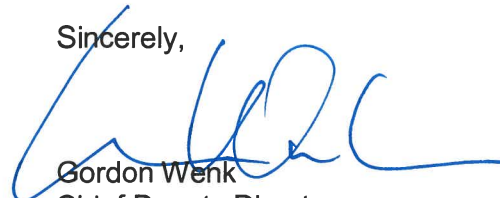
The Commission recognized that reliance on zoning designations alone for the production of a small number of animals would permit local governments to “zone out” animal production in areas where there would be little risk of nuisance conditions from a properly managed livestock operation.

MDARD and the Commission understand that local governments like Brady Township are concerned about these issues. However, the Legislature has chosen to limit the role local governments play in regulating commercial agriculture activities. The Commission strives to strike the appropriate balance between the concerns of farmers and those of their neighbors and local units of governments.

Because the GAAMPs are reviewed annually, the Commission can continually receive feedback and evaluate the effectiveness of the various GAAMPs. Brady Township’s letter has been forwarded to the Site Selection GAAMP Review Committee for their consideration. Additionally, Brady Township is encouraged to attend the Commission’s meetings – especially those where changes to the GAAMPs are presented and considered – and offer testimony regarding how the GAAMPs are affecting the Township. Although the Commission has received considerable feedback from farmers affected by the 2014 Site Selection GAAMP, very few representatives of local governments have shared their perspectives on these issues.

MDARD and the Commission greatly appreciate Brady Township’s interest in this issue and its continued input as the GAAMPs are evaluated in the future.

Sincerely,



Gordon Wenk
Chief Deputy Director

cc: Commission of Agriculture and Rural Development
Director Clover Adams
Dr. Wendy Powers, Site Selection GAAMP Review Committee Chair
Judy Allen, Michigan Townships Association
Jim Johnson, Environmental Stewardship Division