

The Regulatory Framework for Michigan Agriculture

Many agricultural land-uses pose a threat to a community's drinking water sources.

These threats derive from:

1. The bulk storage of agricultural chemicals (leaks and spills during loading and unloading);
2. Above-ground fuel storage tanks;
3. Underground fuel storage tanks;
4. Improper application of nitrogen fertilizers;
5. Improper use of pesticides; and
6. Runoff from animal feedlots.

State laws regulating agriculture leave local government with very limited authority over agricultural land-uses. The primary regulating agency is the Michigan Department of Agriculture (MDA).

While local government is pre-empted from regulating agricultural activities, it still has a role to play in promoting sound environmental stewardship practices in the farming community. It can provide information reminding farmers of the potential threats to drinking water arising from their practices. Local government officials can also support the technical and educational efforts of local soil conservation districts, extension agents, and Groundwater Stewardship Teams.

This fact sheet presents information on relevant legislation and key implementing agencies tasked with overseeing Michigan's agriculture.

Right-to-Farm Act

Michigan's "Right-to-Farm" Act of 1981 protects farmers from sight or sound nuisance lawsuits. To be protected, farmers must follow

"Generally Accepted Agricultural and Management Practices" (GAAMPs). GAAMPs are developed by the Michigan Commission of Agriculture with technical assistance from the MDA, MSU Extension, the MSU Agricultural Experiment Station, USDA's Natural Resources Conservation Service, and the Farm Service Agency. To date, GAAMPs have been adopted for five areas of production agriculture.

1. **Manure management and utilization.** Recommendations are for runoff control, odor management, manure storage facility design, and manure application to land.
2. **Pesticide utilization and pest control.** Recommendations are for worker safety, application procedures, transportation, storage, disposal and record keeping.
3. **Nutrient utilization.** Recommendations are for on-farm fertilizer storage, application rates for nitrogen fertilizers, soil conservation and irrigation management.
4. **Care of farm animals.** Recommendations are for manure management and sanitation.
5. **Cranberry production.**

Michigan's Right-to-Farm legislation is implemented by the MDA. It pre-empts regulation from the Michigan Department of Environmental Quality and other statutory authorities except in cases of groundwater and surface water complaints. In these cases, the MDA and MDEQ follow procedures outlined in a 1990 Memorandum of Understanding between the two agencies.

The MDA is the first to respond to complaints of water pollution from agricultural operations. It must determine if the farm is in compliance with existing GAAMPs. If not, it has a set period of time to bring the farm into compliance. If it cannot, then the matter is referred to the MDEQ for enforcement. If the agricultural operation is referred to the MDEQ, particularly in the case of an emergency, then enforcement action will be based on the Water Resources Commission Act rather than the Right-to-Farm Act.

Right-to-Farm legislation is reactionary rather than proactive; no provisions are made for regular monitoring of farms, and inspections are made only if a complaint is received. Hence, there is a need for local government to act as a watchdog and to report all suspected cases of agricultural water pollution to the MDA or MDEQ.

Groundwater Stewardship Program

The Michigan Groundwater Stewardship Program (as mandated by Part 87 of NREPA) is designed to assist farmers in reducing the risk posed by pesticides and nitrogen fertilizers. Funds from pesticide and nitrogen fertilizer registration fees on specialty and agricultural products are used to provide education, technical assistance, and cost-share programs to participating farmers. The program is headquartered in the MDA's Environmental Stewardship Division.

There are five major components of the program.



1. **Groundwater Stewardship Teams** are composed of farmers, representatives of county departments such as the local health department, extension, and others. These teams allocate grant money received from the Groundwater Stewardship Program according to local needs and interests.
2. **The Groundwater Monitoring Program** assesses groundwater quality for domestic well owners and evaluates the relative risk of groundwater contamination associated with different pesticides and fertilizers.
3. **Spill Response Team** provides a 24 hour hotline [(800) 405-0101] for reporting agricultural pollution emergencies, and for accessing technical assistance to control, contain, and cleanup a spill.
4. **Farm-A-Syst** is a voluntary and confidential program to help farmers identify risks to groundwater associated with their farming practices. Groundwater technicians based in county offices such as soil conservation districts, visit farms and provide technical assistance. Completion of the Farm-A-Syst program is required for farmers interested in hosting demonstrations or cost-share activities through the Groundwater Stewardship Program.
5. **Michigan Clean Sweep Program** collects outdated pesticides and other agricultural chemicals from Michigan farms and disposes of them in licensed hazardous waste facilities. Outdated pesticides are accepted during collection days held throughout the state.

Pesticide Regulation

Part 83 of Michigan's Natural Resources and Environmental Protection Act (NREPA) gives

considerable authority to the Director of the MDA to regulate pesticide use in the state. All pesticides (both restricted use and general use) used in Michigan must be registered. The Director is also tasked with:

1. Regulating the distribution, labeling and application of pesticides;
2. Licensing of restricted-use pesticide dealers;
3. Requiring the registration, certification, or licensing of certain pesticide applicators; and
4. Creating a pesticide advisory council.

The Director has the authority to restrict or cancel pesticide registration if the pesticide is determined to be a threat to groundwater.

The MDA has also developed administrative rules regulating the storage and handling of bulk pesticides. Bulk storage facilities are defined as those which store or hold pesticides in individual containers of at least 55 gallons or 100 pounds. The rules require facility registration and provide construction standards and procedures to be followed when closing a bulk pesticide storage facility.

Home Fuel Tanks

Home fuel tanks, both underground and aboveground, are not subject to regulation by the MDEQ. The *Underground Storage Tank Act* (Act 423) applies only to fuel tanks exceeding 1,100 gallons. It does not apply to all farm and most home fuel tanks. These tanks are regulated by Michigan's *Flammable and Combustible Liquid Rules* which are administered by the Michigan State Police Fire Marshal's Division. These rules specify design and installation criteria for all aboveground home heating fuel tanks. The rules also require proper closure of all aboveground and underground fuel tanks if no longer in use.

The *Michigan Safe Drinking Water Act* and local sanitation codes specify minimum distances between tanks and wells, septic systems, property lines, rivers, lakes, wetlands, roads and buildings.

If groundwater is polluted by fuel from home storage tanks, then state laws regulating water pollution and cleanup of contaminated sites apply. Owners are liable for any contamination that they cause regardless of tank size.

Other Information Sources

1. "State of Michigan Groundwater Protection Programs," October 1996. Drinking Water and Radiological Protection Division, Michigan Department of Environmental Quality. You can download a copy from the following website <http://www.deq.state.mi.us/ogp>.
2. "Community Planning and Zoning for Groundwater Protection in Michigan: A Guidebook for Local Officials," May 1991. Michigan Society of Planning Officials (MSOP). To order, call (248) 651-3339.
3. "Small Underground Fuel Storage Tanks: Tips for Farmers and Homeowners" (Extension Bulletin WQ37) available at the MSU Extension Bulletin Office at 108 Agriculture Hall, MSU, tel: (517) 355-0240. Cost is \$ 0.40 per copy. Single copy free to Michigan residents.
4. "Preventing Water Contamination from Home Heating Fuel Tanks" (Extension Bulletin WQ36) available at the MSU Extension Bulletin Office at 108 Agriculture Hall, MSU, tel: (517) 355-0240. Cost is \$ 0.40 per copy. Single copy free to Michigan residents.

Local Government and Drinking Water Protection Fact Sheet Series

Requests for copies of this fact sheet or any others in this series should be directed to the main offices of the MAC, MML, MTA, MSPO or MALPH.

All fact sheets are free.

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Available on the **Michigan's Drinking Water web site: <http://www.gem.msu.edu>**

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