

What's That Smell?

Neighbor Relations and Right-to-Farm in Maryland

Mayhah Suri

msuri1@umd.edu

Faculty Extension Specialist

Department of Agricultural Resource Economics

November 14th, 2019



UNIVERSITY OF MARYLAND
**AGRICULTURE LAW
EDUCATION INITIATIVE**
MPOWERING THE STATE



COLLEGE OF
AGRICULTURE & NATURAL RESOURCES
DEPARTMENT OF AGRICULTURAL &
RESOURCE ECONOMICS



Introduction

- Trend of non-farming residents and businesses moving to agricultural areas
- Can cause conflict – legal and otherwise
- Legal protections exist, but education and communication are important in *preventing* conflicts
- In Maryland, primary protection is right-to-farm law
- Importance of non-legal/non-adversarial methods in establishing good neighbor relations



Image by Uta E. Pixabay

Right-to-farm in Maryland

- Right-to-farm laws protect agricultural operators against nuisance suits
 - Farming causes odors, dust, and other issues that could potentially be considered a nuisance
- Maryland's right-to-farm law passed in 1981; updated in 2014 to include commercial seafood and watermen
- Affirmative defense: defendant needs to demonstrate use of a good agricultural or seafood practice



Image courtesy of Dr. Jon Moyle

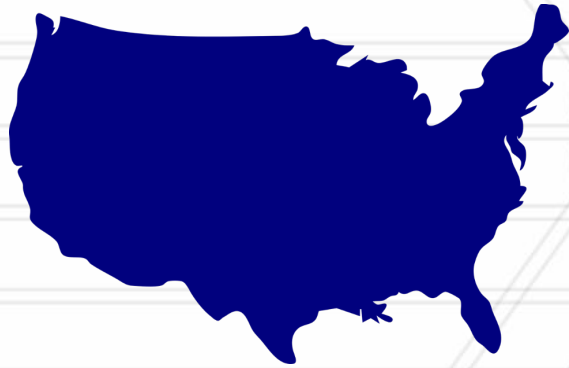
Maryland's RTF Law

RTF law will only apply if certain conditions are met:

1. Need to be an agricultural or silvicultural operation, either:
 - a. Processes crops;
 - b. On-farm production; or
 - c. Harvesting or marketing of any agricultural, horticultural, silvicultural, apicultural, or product that was grown, raised, or cultivated by the producer.
2. Been in operation for 365 days; and
3. Be in compliance with all applicable laws, regulations, and permits.

Paul Goeringer, 2019

RTF outside of Maryland



- All 50 states have some version of right-to-farm
- Some require a change in land use for the protection to kick in
- Efforts to pass amendments to state constitutions successful in MO, ND



RTF outside of Maryland

North Carolina hog farm litigation

- *McKiver, et. al v. Murphy-Brown, LLC* (a subsidiary of Smithfield Food, Inc.) federal district court judge ruled that right-to-farm did not apply
- Plaintiffs split into 26 trials; 4 held so far, all with verdicts for plaintiffs
- The suits are brought against the integrator, not the farmers
- Why didn't RTF work? Judge found plaintiffs and their predecessors had lived in the area before farm operations and NC law requires that the area around the farm must change for RTF to apply, not the other way around



Image by Diana Day from Pixabay

MD County RTF Ordinances

- 22 of 23 Counties have language similar to state law in their RTF ordinances
- Common RTF ordinance requires
 - Ag operations to utilize “generally accepted ag. management practices” (GAAMP).
 - Disclosure of RTF laws and ordinance existence when property is sold in the county
 - Puts new owners on notice that they are moving into an ag area

Paul Goeringer, 2019

Exclusion to RTF Defense

- Violations of federal, state, or local laws, regulations, and permits
- Law probably only applies to nuisances caused by the ag operations, not other businesses the farmer might run.
- County zoning and planning also determines what is going to be considered a nuisance
 - RTF does not “Prohibit a federal, State, or local government from enforcing health, environmental, zoning, or any other applicable law”
 - Importance of communication and good neighbor practices
- In cases of negligence

Paul Goeringer, 2019

Before Bringing a Suit

- Complaint has to be heard first by a county agricultural reconciliation board or MD's Agricultural Conflict Resolutions Service (ACRes) mediation program
- Affirmative defense is great, but does not mean the nuisance suit will automatically end.
- Local review or mediation helps to control legal costs.
- Local review or mediation helps find solutions in informal setting and provides win-win solutions.
- If not heard by county board or mediation program first, then the state court will lack jurisdiction to hear case.



Paul Goeringer, 2019

Agricultural Reconciliation Board System

- Each county has some form of a reconciliation board
- In practice, boards may meet a few times a year, or one time every few years

“I feel the ag reconciliation board is a good step before court because sometimes it avoids court. We have seen it in our county and saves both parties money. Sometimes there is just a misunderstanding and a solution can be obtained quickly with the ag reconciliation board.”

-Lee Richardson, Wicomico County Ag Board Member



Neighbor Relations Project

Partnership with ALEI, UMD College of Agriculture and Natural Resources
Departments of Agricultural Resource Economics and Plant Sciences and
Landscape Architecture, and University of Maryland Extension



UNIVERSITY OF MARYLAND
**AGRICULTURE LAW
EDUCATION INITIATIVE**
MPOWERING THE STATE



COLLEGE OF
AGRICULTURE & NATURAL RESOURCES
DEPARTMENT OF AGRICULTURAL &
RESOURCE ECONOMICS



COLLEGE OF
AGRICULTURE &
NATURAL RESOURCES
DEPARTMENT OF PLANT SCIENCE
AND LANDSCAPE ARCHITECTURE

UNIVERSITY OF
MARYLAND
EXTENSION

Neighbor relations workshops

- New collaboration to reach non-farming community in rural areas
- Grant from Maryland Grain Producers Utilization Board



[Home](#) [Beef & Dairy](#) [Poultry](#) [The Next Generation](#) [Mid-Atlantic Grower](#) [Special Sections](#) [Archives](#)

Workshops aim to pull local officials up to speed on laws concerning agriculture

by Sean Clougherty | Sep 20, 2019

QUEENSTOWN, Md. — As more people move into rural areas, the potential for conflict with farmers rises. Maryland's Right to Farm law offers farmers certain protections when conflicts arise but local officials who get involved may not have a clear understanding of the law and how modern farms operate. To address that, University of Maryland Extension and its Agriculture Law Education Initiative organized workshops to give local government employees information on current farming issues and the state's right to farm law.



From left, Paul Goeringer, Extension legal specialist, Dr. Jon Moyle, Extension poultry specialist, Dr. Nicole Fiorellino, Extension agronomist and Mayhah Suri, Extension environmental specialist, address hot topics that have or could lead to agriculture conflict, including industrial hemp production, unabated herbicide resistant palmer amaranth and issues stemming from agritourism venues. (Photo by Sean Clougherty)



Neighbor relations workshops

Ag 101 for county officials on what to expect from ag operations: grain, poultry, water use, RTF protections

Goal: educate the non-farming audience to make ag practices more familiar and less scary and hopefully reduce neighbor conflicts moving forward



Neighbor relations workshops

- Attendees demonstrated increased knowledge about ag practices like pre/post workshop quizzes
 - 37% increased knowledge on nutrient application
 - 25% increased knowledge of aerial application
 - 54% of attendees increased their knowledge about tillage
- Opportunity to ask basic questions like “What is being sprayed?”
- Requests to do these workshops in additional parts of the state

Thanks Paul Goeringer, Dr. Nicole Fiorellino, Dr. Jon Moyle, Shannon Dill, Jennifer Rhodes, Nate Richards, Maegan Perdue and Dr. Sarah Hirsh for their support and ideas to make these workshops happen

Resources

- RTF guide available at www.umaglaw.org
- Covered in MD Extension Risk Management Blog: www.agrisk.umd.edu



Conclusion

- Right-to-farm is the primary legal protection for farmers against nuisance suits
- Strengthening neighbor relations to prevent conflicts may be more beneficial to long-term sustainability of ag
- Good communication and information sharing between industry, non-farming communities, and local officials is key

