



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



RODNEY A. STOKES
DIRECTOR

February 17, 2012

Michigan Animal Farmers Association
26120 Van Dyke Avenue
Center Line, Michigan 48015

Dear Members:

Thank you for your letter dated February 8, 2012, regarding the Open House held by the Department of Natural Resources (DNR) on February 1, 2012, to provide information on Invasive Species Order Amendment No. 1 of 2011 (Invasive Species Order). First, and with all due respect, I must disagree with your characterization of the Open House. The meeting took place from 10:00 a.m. – 12:00 p.m. and all DNR staff on site stayed for the entire length of the meeting. DNR staff was able to talk with almost all of the attendees during that time. Some attendees came prepared with photos of their swine and were able to get their questions answered about the Invasive Species Order. Other attendees that may not have brought photos, still talked with DNR staff and Dr. Jack Mayer in order to have their concerns addressed.

Second, I must respectfully disagree with the statement in your letter that the Invasive Species Order is being implemented based on how swine are raised by their owners. The DNR is not and will not be singling out any persons based on how the swine they possess are raised. All persons in possession of animals prohibited under Part 413, Transgenic and Nonnative Organisms, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.41301 *et seq.* are in violation of Part 413 and subject to potential civil and/or criminal penalties. However, as explained in the Declaratory Ruling, the DNR will use existing information that it possesses to determine which facilities are most likely to contain multiple *Sus scrofa Linnaeus* and therefore should be inspected, on a priority basis, for prohibited swine.

Third, I must respectfully disagree with the legal conclusions stated in your letter. As you are aware, the Invasive Species Order prohibits the possession of:

Wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, Old world swine, razorback, Eurasian wild boar, Russian wild boar (*Sus scrofa Linnaeus*).

The Invasive Species Order excludes "*Sus domestica* involved in domestic hog production" from its application. Your argument that all of the swine in the possession of members of the Michigan Animal Farmers Association are domestic based on the application of definitions found in the Animal Industry Act, 1998 PA 466, as amended, MCL 27.701 *et seq.* is misplaced. As you know, the Ingham County Circuit Court has previously held that the use of definitions outside of Part 413 to construe the meaning of Part 413 is inappropriate. Statutes that do not relate to the same subject matter or share a common purpose should not be construed together. Because the Animal Industry Act does not share a common purpose with Part 413, it is inappropriate to read them together.

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Additionally, I must respectfully disagree with your apparent position that the DNR examines how swine are raised to determine whether they are *Sus domestica* or prohibited under the Invasive Species Order. As explained in the Declaratory Ruling issued December 13, 2011, at the request of the Michigan Animal Farmers Association, those animals prohibited by the Invasive Species Order exhibit one or more phenotypic characteristics distinguishing them from *Sus domestica*. The Invasive Species Order and Declaratory Ruling are based on sound scientific evidence and supported by scientific experts in the field.

Lastly, because the Invasive Species Order was properly issued, the DNR does not intend to amend it as you propose. Beginning April 1, 2012, the DNR intends to determine compliance with the Invasive Species Order and those persons found to be in violation of Part 413 may be subject to civil and/or criminal penalties. If any of your members continue to have questions as to whether the swine they possess are subject to the Invasive Species Order, DNR staff welcomes the opportunity to visit their facilities and make that determination in advance of April 1, 2012. If any of your members have swine exhibiting the phenotypic characteristics outlined in the Declaratory Ruling, they will need to dispossess them by April 1, 2012.

Sincerely,



Rodney A. Stokes

Director

517-373-2329

cc: Governor Rick Snyder
Senator Tom Casperson
Senator Darwin Booher
Senator John Moolenaar
Representative Kevin Daley
Representative Ed McBroom
Representative Steven Lindberg
Representative Matt Huuki
Representative Sharon Tyler
Dr. Janice Swanson, Acting Chair, Department of Animal Science, Michigan State University
Dr. Ron Bates, Swine Genetics Management, Michigan State University
Mr. Tom Guthrie, Swine Educator, Michigan State University Extension
Michigan Commission of Agriculture and Rural Development
Michigan Natural Resources Commission
Dr. Kelley D. Smith, Acting Natural Resources Deputy, DNR
Legislative Liaison, DNR
Ms. Shannon Hanna, DNR
Mr. Daniel Eichinger, DNR