

From: Wisconsin Department of Natural Resources [<mailto:widnr@service.govdelivery.com>]
Sent: Thursday, November 16, 2017 12:09 PM
Subject: DNR Settlement with Dairy Business Association

Dear permittees and interested stakeholders:

On June 8, 2016, the DNR issued a public notice seeking comment on proposed draft guidance, “Feed Storage Area Runoff Controls for CAFOs.” We are writing to notify you that pursuant to a settlement agreement between the DNR and the Dairy Business Association, dated October 18, 2017, the Department has formally withdrawn this draft program guidance and will not use the draft guidance for any purpose. As part of the settlement, the Department has also formally rescinded any past statement that calf hutch lots are included within the definition of “reviewable facilities or systems” under s. NR 243.03(56), Wis. Adm. Code.

Going forward, the Department will continue to enforce only those standards and requirements that are explicitly required or explicitly permitted by statute or rule.

For wastewater treatment strips known as vegetated treatment areas (VTAs), those standards include compliance with NRCS Standard 635 dated January 2002, as specified in s. NR 243.15(2), Wis. Adm. Code. In addition, because both VTAs and calf hutch lots are part of the “production area” under s. NR 243.03(54), Wis. Adm. Code, any discharges from the production area to navigable waters must meet federal effluent limitation guidelines, as well as state ground water standards and surface water quality standards under s. NR 243.13, Wis. Adm. Code and Wis. Stat. s. 283.31(3). The Department will not presume the existence of a discharge to navigable waters, but will evaluate CAFO production area discharges on a case by case basis to determine compliance with federal effluent limitation guidelines and state water quality standards and to assess if any additional practices or structures may be needed.

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