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**From:** Michaud, Bernard J - DNR [Bernard.Michaud@wisconsin.gov]  
**Sent:** 5/25/2017 9:26:50 PM  
**To:** Simek, Andrew J - DNR [Andrew.Simek@wisconsin.gov]  
**Subject:** FW: Feed Storage - VTA Guidance Document

Andrew,

This is the e-mail that EPA sent with comments on the posted guidance. This was followed up with a formal letter, which I will e-mail you next.

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**From:** Socha, Julianne [mailto:socha.julianne@epa.gov]  
**Sent:** Wednesday, November 23, 2016 9:42 AM  
**To:** Lowndes, MaryAnne - DNR  
**Cc:** Michaud, Bernard J - DNR; Burdett, Cheryl  
**Subject:** RE: Feed Storage - VTA Guidance Document

MaryAnne – WD would like to submit these comments via a letter to Pam, however, it does not look like the letter will complete the routing through our sign off chain by November 28 so I wanted to send comments via email. Although the language in any letter to Pam may be different, I do not expect the context of the comments to differ from the comments below.

Below are R5 comments on the post-public notice draft *Feed Storage Area Runoff Controls for CAFOs* guidance shared with R5 on or about July 12, 2016. These comments reflect review of the draft guidance by both NPDES and Water Enforcement CAFO Coordinators.

1. EPA's primary concern is that the guidance does not address existing CAFOs operating with a WPDES permit that operate VTAs. The guidance does not recommend action by the permittee to address a discharge of pollutants from the VTA until reissuance of the permit and it is likely that the reissued permit will provide a schedule for conducting an evaluation and making any necessary design changes. The state should notify all permitted CAFOs that a discharge of pollutants from a VTA to a navigable water is a violation of its permit. The state should also advise the permittee to take immediate action to implement interim measures to cease all discharge of pollutants from VTAs while the state and facility work toward making any necessary modifications to the existing WPDES permit.
2. Another concern of EPA's is Options 3 and 4 which provide for the use of an infiltration basin. Although these options include criteria to ensure that an infiltration basin will contain runoff and direct precipitation from a 25-yr/24-hr storm event to meet the federal effluent limitations guidelines, it is unclear how the WPDES permit will ensure protection of groundwater standards as required by Wis. Stats. 283.31(3) and NR 243.13(1). The guidance includes first flush collection requirements, however, it is unclear if these first flush collection requirements are science-based nor how these first flush collection requirements will consider facility-specific factors. EPA recommends that a science-based, site-specific demonstration to support a first flush collection requirement be included in a permit application. EPA also recommends that groundwater monitoring be included in the permit for any CAFO using options 3 or 4. In absence of groundwater monitoring, WDNR will have no way to determine discharges to groundwater from the infiltration basin are complying with state groundwater standards.

3. The Objective and Object sections of the guidance should clarify that the options in the guidance do not guarantee that the “no discharge” performance standard will be attained.
4. Section C, Background and Definitions, first bullet, delete “or” and replace with “and process”, i.e., the first bullet should read “...constructed and maintained to contain all manure **and process** wastewater ...”
5. The Implementation section for new permittees with an existing VTA should be changed to require design plans meeting the “no discharge” performance standard be submitted with the permit application. If interim practices are necessary while construction is being completed at a new permitted facility with an existing VTA then the permit should include these interim practices. EPA recommends that WDNR notify all permitted CAFOs and CAFOs with pending permit applications of this guidance once finalized and highlight in this notification that all CAFOs, permitted and those with pending applications, need to take action to ensure that all feed runoff control systems meet the “no discharge” performance standard and that any unauthorized discharge will be a violation of the permit.
6. In the Recommendations that Apply to All Options section, the third sentence should clarify that WDNR may require different design criteria to protect both surface and ground water quality. In the Discharges Impacting Outstanding and Exceptional Resource Waters subsection of this section, it states that WDNR may require additional design practices where discharges impact ORW/ERW and 303d listed waters. This statement is confusing since a permit should not allow a discharge from a feed runoff control system; if there is no authorized discharge in the permit why would additional design practices be required.
7. Option 2.d. and Option 3.c. reference “multiple discharge locations” or “multiple discharge points”, EPA thinks the use of the term “discharge” is misleading. EPA recommends that the guidance not use the term discharge in these instances and recommends changing the language to say that multiple inlet locations may be necessary.
8. Option 3 and 4 include a requirement to cut and remove vegetation. It is unclear if the permit or if the NMP will include requirements from maintaining and removing vegetation. Please clarify.

I am available next week on Monday or Tuesday if you would like to discuss these comments further. I will also let you know the status of the letter to Pam as soon as possible.

*Julianne*

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**From:** Lowndes, MaryAnne - DNR [<mailto:MaryAnne.Lowndes@wisconsin.gov>]  
**Sent:** Wednesday, November 16, 2016 4:39 PM  
**To:** Socha, Julianne <[socha.julianne@epa.gov](mailto:socha.julianne@epa.gov)>  
**Cc:** Michaud, Bernard J - DNR <[Bernard.Michaud@wisconsin.gov](mailto:Bernard.Michaud@wisconsin.gov)>  
**Subject:** Feed Storage - VTA Guidance Document  
**Importance:** High

Julianne,

We will be finalizing our guidance on VTAs for Feed Storage for CAFOs at the end of November. We would still like to see any comments EPA has on the guidance. If you can get it to us by November 28<sup>th</sup>, we may still be able to incorporate it into the final document. Thank you for the time you have spent reviewing it and we hope to see your comments very soon.

Mary Anne

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