

**NOTICE OF HEARING FOR REISSUING THE
GENERAL WATER POLLUTION CONTROL PERMIT
FOR CONCENTRATED ANIMAL FEEDING OPERATIONS**

On October 8, 2015, the Department of Environment and Natural Resources issued a public notice indicating the Division of Environmental Services – Feedlot Permit Program was recommending the Secretary reissue the general surface water pollution control permit regulating manure containment and land application from concentrated animal feeding operations. The October 8, 2015, notice indicated a contested case hearing on the division’s recommendation had been scheduled for December 16, 2015. The hearing was continued when one of the intervening parties, Dakota Rural Action, filed a motion on December 8, 2015, requesting more time to prepare for the hearing. The hearing has been rescheduled before the Secretary for **September 27-29, 2016**, starting at 10:00 a.m. CDT on September 27th at the Matthew Training Center, 523 E. Capitol Avenue, Pierre, South Dakota. The Office of Hearing Examiners will be conducting the hearing under South Dakota Codified Laws, Chapter 1-26.

Any person desiring to become a party in the contested case hearing was required to file a petition to intervene pursuant to the Administrative Rules of South Dakota (ARSD) Section 74:50:02:05 by November 20, 2015. Petitions to intervene that were filed by the deadline have been granted. The hearing is open to the public, however, there is no further opportunity to become a party to the hearing. The public comment period has closed, and in accordance with ARSD Section 74:52:05:20, at the time that any final permit is issued, the secretary will issue a response to all written comments received during the public notice period.

The Secretary has the legal authority and jurisdiction to hold this hearing pursuant to provisions of SDCL Chapters 1-26 and 34A-2, particularly 34A-2-30 through 34A-2-35 and the regulations in ARSD Chapter 74:50:02 and ARSD Article 74:52.

The Secretary may grant, conditionally grant, or deny the division’s recommendation. This hearing is an adversarial proceeding. Any party to the proceeding has the right to be present and to be represented by an attorney. These and other due process rights will be forfeited if they are not exercised at the hearing. Any decision made by the Secretary regarding reissuance of the general permit may be appealed to the circuit court and the State Supreme Court as provided by law.

The proposed permit outlines who is required to obtain coverage under the general permit; permit application requirements, the processes for issuing permit coverage, manure containment design, construction, operation, and maintenance requirements, the surface and ground water protection measures, nutrient management planning requirements, compliance responsibilities, and other general requirements. This permit streamlines and clarifies the department’s requirements and expectations for new, expanding, and existing concentrated animal feeding operations in South Dakota. This permit does not revoke or revise any local laws and ordinances.

Concentrated animal feeding operations are required to obtain permit coverage under a general or individual water pollution control permit by South Dakota Codified Law (SDCL) Chapter 34A-2-36.2. To determine if an operation is required to obtain permit coverage, a producer must first determine if they are operating an animal feeding operation as defined by the permit. If they meet this definition, they then need to determine if they are operating a concentrated animal feeding operation. The maximum number of confined animals, the length of confinement, and whether pollutants are discharged to waters of the state are some of the criteria used to determine whether an

animal feeding operation is a concentrated animal feeding operation. Local governments may also require animal feeding operations to obtain permit coverage.

More information on the proposed general permit and contested case hearing can be found at <http://denr.sd.gov/contested.aspx>. Copies of the general permit, statement of basis, and other information may also be obtained from Katie Luce, with DENR, at the address below or by calling (605) 773-3351. Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the department at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3351.

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