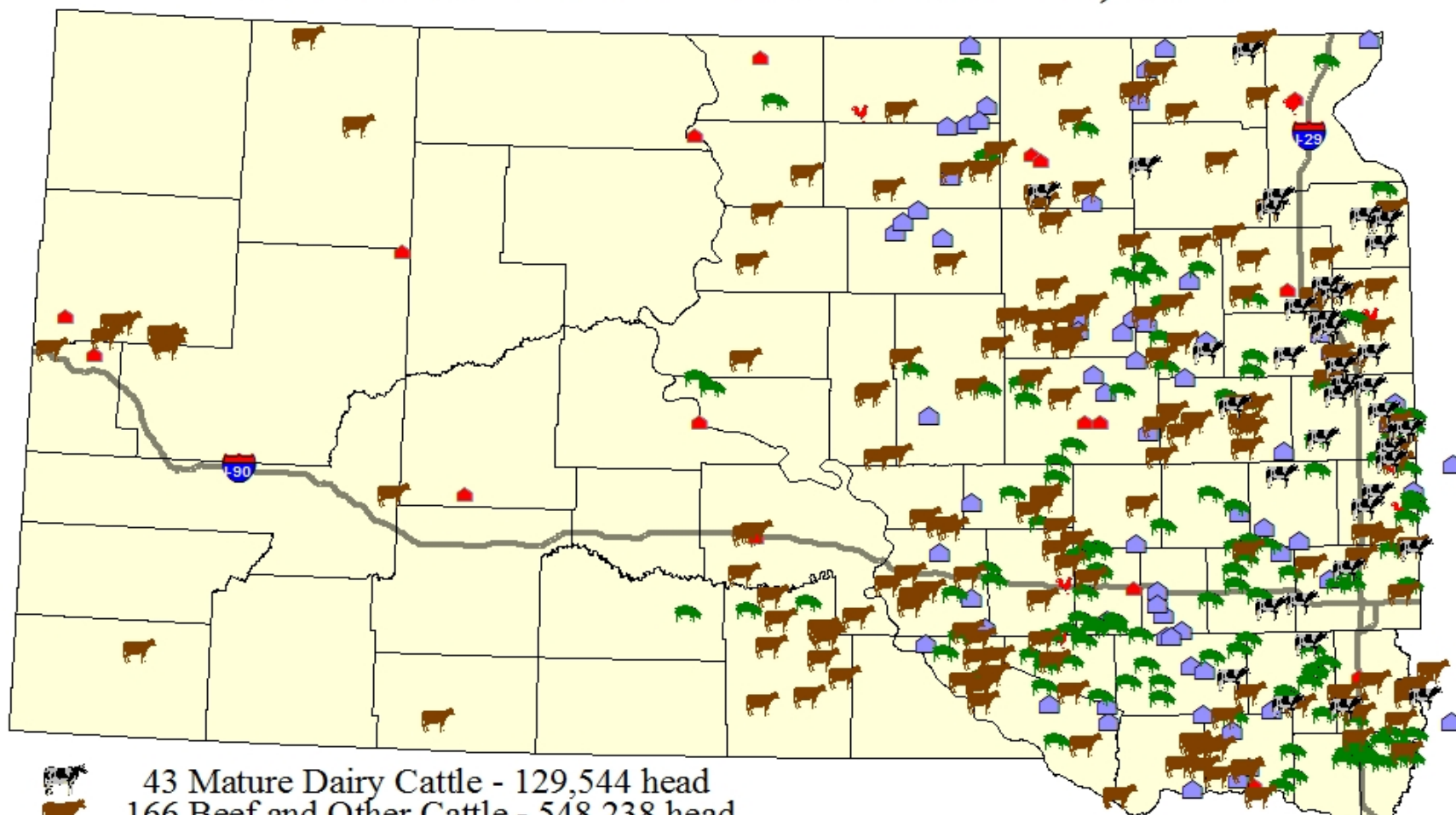


South Dakota DENR's State/NPDES CAFO Permit System - Pros and Cons

2018 CAFO Roundtable
September 26, 2018

SD DENR Permitted CAFOs - June 20, 2018



43 Mature Dairy Cattle - 129,544 head



166 Beef and Other Cattle - 548,238 head



135 Swine - 711,847 head



8 Poultry - 4,603,900 head



63 Multi Animals - 3,554,533 head



17 Livestock Auctions

8 CAFOs Located in Another State with Land Application Areas in SD

440 Total Permits

Water Pollution Control Permit Required

- Anticipating that EPA's 2008 regulations would not require CAFOs to have a permit, The South Dakota Department of Agriculture approached our department to work on legislation
- The 2007 South Dakota legislature passed a law requiring CAFOs to operate under a general or individual water pollution control permit (SDCL 34A-2-36.2)

Water Pollution Control Permit Required

- Without a permit concerns were:
 - No road map for environmental compliance
 - local hearings for conditional use permits would be more controversial



2017 General Permit

- After a 2-1/2 day contested case hearing, the 2017 general permit was reissued and became effective on April 15, 2017
- Operations with coverage under the 2003 general permit have one to four years to submit an application for coverage under the reissued permit

2017 General Permit (Continued)

- DENR's 2003 General Permit was a NPDES permit
- DENR staff were concerned that we did not have the resources to adequately implement several provisions of the 2008/2012 EPA regulation changes

2017 General Permit (Continued)

- Concern over resources that would be needed for contested case hearings, especially for existing operations. All of DENR's 27 other general permits covering over 5,000 operations allow for contested case hearings as part of the general permit issuance process. None allow for a contested case hearing on applications submitted for coverage



2017 General Permit (Continued)

- Increased annual report requirements – Additional required information already reviewed during DENR compliance inspections, increased resources needed to review submissions, address missing and incomplete information, and store information

State/NPDES Permit

- The 2017 general permit can be either a NPDES permit or a state permit.
 - Same manure containment system design standards
 - Same shallow aquifer protection requirements,
 - Same initial and annual nutrient management plan requirements
 - Same inspection and recordkeeping requirements

State/NPDES Permit

- Different application requirements
- Different issuance processes (only the NPDES permit has an opportunity for a contested case hearing)
- Public Notices: (State permit - for new or expanding operations/NPDES permit – for all applications) published in paper in the locality of the operation and on DENR's One-Stop Public Notice web page



State/NPDES Permit

- Only applications for NPDES permit coverage have the opportunity for a contested case hearing
- Different effluent limits – only the NPDES permit allows a discharge to waters of the state
- Different annual reporting requirements
- Different processes for updating nutrient management plans

State/NPDES Permit

- State permit - Operations with uncovered manure containment systems are required to submit NRCS' Soil, Plant, Air and Water (SPA W) model to verify they are designed to not discharge
- NPDES permit – SPA W only required for new source swine, poultry, and veal operations



Pros & Cons

□ Cons:

- Having both a state and NPDES permit option -
Even though we have made educational materials, there is some confusion and a learning curve for DENR staff, producers, consulting engineers, and local government officials

Pros & Cons

- Cons:
 - The state permit application requires NRCS' SPAW model be run for any operation with open lots and/or uncovered containment systems to show they were designed to not discharge.
 - Even with standardized weather data available and NRCS training, there is still a learning curve on running the model to reflect realistic conditions



Pros & Cons

- Cons:
 - EPA doesn't seem to recognize the value of state permits



Pros & Cons

□ Pros:

- Most operations are applying for state permit coverage, which has a simpler issuance process, simpler process to modify the nutrient management plan, fewer annual reporting requirements, and no opportunity for a contested case hearing
- State permit requirements are closer to those in the 2003 general permit



Pros & Cons

- Pros:
 - Operations with state permit coverage do not fall under EPA's e-reporting rule

Questions?

For more information contact DENR's Feedlot Permit Program call (605) 773-3351 or visit our website at <http://denr.sd.gov/des/fp/cafo.aspx>