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DEC 29 2025

LIVESTOCK SERVICES

[REDACTED]
December 13, 2025

Department of Agriculture and Natural Resources
Division of Agriculture and Environmental Services
Livestock Services Program
523 East Capitol, Joe Foss Building
Pierre, So. Dak. 57501

Dear Sir:

Thank you for opportunity to comment on the *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* and proposed changes to it.

I am a semi retired farmer and livestock producer and live in southern Moody County. My wife and I own about five hundred acres. In addition to the manure produced from our sheep and cattle we buy manure from a 2400 head hog confinement building. I have been involved in the SD CAFO permit since its inception and quite extensively with the development of the Phosphorus Index.

Since its inception thirty plus years ago the Permit has done a reasonably good job of laying out sound management practices to protect the environment and especially the state's water resources while allowing livestock producers to build and expand feeding and dairy operations. This has been done primarily by applying sound science as the basis for most regulations.

My main interest is in the *Nutrient Management Requirements (1.4.4.)* section of the permit. Some of the "on the ground" research that is the basis of Table 2 (the Phosphorus Index) was done on our land in Moody County by researchers from SDSU. Work was also done on this site pertaining to the application of solid manure to frozen and/or snow covered soils.

With regards to Table 2, it is commendable to DANR and SD NRCS that the Phosphorus Index closely mirrors the recommendations in the South Dakota version of *Conservation Practice Standard 590*. Close coordination of recommended practices at the state and federal level makes it much easier for

producers to comply, especially when cost share dollars are involved. I strongly encourage such coordination to continue.

When working to develop the Phosphorus Index it was fortunate to find that phosphorus soil losses were remarkably similar for the thirteen major soil associations across the state in South Dakota. This made the development of a Phosphorus Index applicable to the whole state much easier and simpler. When the Phosphorus Index was being developed and validated a major concern was the potential buildup of phosphorus in soils receiving manure on a regular basis. My experience has shown that in a corn soybean rotation this concern has failed to materialize. Looking into the possible reasons two items surfaced. The first is that improved feed rations now result in less phosphorus being excreted. The second is that seventy bushel soybeans utilize a lot of phosphorus.

Limiting the application of liquid manure to frozen and/or snow covered soil only for the management of emergency situations makes good sense. Allowing the application of solid manure to frozen and/or snow covered soils to occur if certain conditions are met as described in 1.4.4.2.k. also makes good sense. A significant amount of solid manure accumulated during the winter in open feedyards contains a lot of "brown snow" and ice. Allowing the application of this type of manure product to uplands and certain lands protected by setbacks to protect waterways is a better option than stockpiling brown snow that will melt in a concentrated site in the spring. Also the spring application of manure tends to compact soils which tends to reduce yields and promote runoff. From a producer workload point of view, allowing the winter application of manure also likely allows the producer more time to better manage his or her nutrient management program.

Section 1.4.4.1.q discusses the application of manure to property owned by other persons. I understand the need for regulators to know who is applying what to where should a "violation" of some sort occur. In today's world of large operations buying silage, buying haylage, contracting manure application, selling manure, composting, switching renters, and switching land owners; keeping track of all of this poses a logistical challenge at best. And when a nutrient management plan is developed for a CAFO regulators want it to include more land than is necessary for the optimal use of the manure produced by the CAFO (1.4.4.2.i.). This then means that some of the land in the nutrient management plan will not receive enough manure, if any, to meet nutrient requirements for crop production.

The producer can remedy this situation with commercial fertilizer. This situation becomes a conundrum for the producer if a separate CAFO has manure available but the producer is prevented from utilizing it because the land is included in the other nutrient management plan and regulators are either prevented from or are reluctant to allow land to be included in more than one nutrient management plan. DNR does allow lands to be moved from one plan to another (1.4.4.3.b.) but this typically takes months to accomplish when manure and land availability is sorted out in a matter of weeks or days after harvest and before freeze up in the fall of the year. This situation needs to be more timely and user friendly. The solution may be the basis for a masters thesis in code writing for a computer engineering student.

As indicated earlier keeping track of this is a challenging logistical problem. On the flip side, as producers need to be flexible to respond and adjust to opportunities some sort of timely tracking reporting needs to be developed if the oversight agency insists on micromanaging these ever changing situations. As the permit now reads (1.4.4.2.w.) a manure producer can sell manure to a separate entity with no nutrient management plan and that entity can land apply the manure and not be in violation of the permitting process. The 100 ton limit is five big spreaders full, covers maybe twenty acres, and makes little sense. My favorite wife's 100 ewes and their lambs produce more manure than that annually. Liquid manure is not even mentioned. The 100 ton limit needs expnding.

From an economic perspective most manure management arrangements are not likely to result in the over application of manure. The over application of manure is most likely to occur when a manure producer over applies manure to lands adjacent to the manure production facility because he/she does not want to incur the transportation costs to move the manure a significant distance from the production facility. Making it easier to add fields or "switch" fields would likely encourage manure producers to approach neighbors to utilize the manure when such situations occur. Economics is most likely to limit the "incentive" to over apply manure to lands some distance from the manure source. A crop producer's checkbook and banker will manage the over application of manure in the same way that they manage commercial fertilizer rates. Economics will often provide the regulatory oversight that DNR is striving for in many situations.

Recognizing that DNR is charged with oversight and noncompliance issues as per manure management permits, looking harder at situations where

violations are most likely to occur only makes sense. South Dakota relies to some degree on complaints to surface violations as well as regular inspections and should continue to do so. Compliance checks and annual inspections should include verification that actual inspection soil sample results compare favorably with records in the files of the permit holder. Understanding that inspections take time, manpower, and dollars many producers may willingly pay a significant portion of such inspection costs if the end results are likely sufficient to blunt frivolous nuisance complaints as well as expose those that are not in compliance and give everyone else a less than favorable view in the public's eye.

Solid manure often contains long fibrous material that actually acts much like mulch when surface applied to frozen and snow covered lands. Recognizing this can be an asset. Set backs provide good protection guidance for waterways but need to be reasonable.

Manure is a slow release fertilizer. When properly incorporated into the soil it is less likely to leach than commercial fertilizer. This fact needs to be recognized as a positive asset when writing manure management regulations, especially in today's world of renewability and sustainability.

Thank you for allowing comment on the CAFO permit. If someone wishes to visit with me about any of this my phone number is 605-321-0915.

Sincerely,



Michael L. Schmidt

Cc:
DANR, 
file



SIoux FALLS SD 570
19 DEC 2025 AM 2 L

Dept of Ag + Natural Resources
Division of Ag + Environmental Services
Livestock Services Program
523 East Capitol Joe Foss Bldg
Pierre
5057501

Michael L. Schmitt
[Redacted]

RECEIVED
DEC 29 2025
LIVESTOCK SERVICES

5750193182 0012

From: [DANR No Reply](#)
To: [DANR Mail; Duvall, Ron](#)
Subject: [EXT] Public Notice Comments
Date: Friday, December 19, 2025 6:40:16 PM
Attachments: [SDACD general permits comments 2025Dec 1.pdf](#)

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Public Notice Category:

gp

Public Notice:

NPDES General Permit for Concentrated Animal Feeding Operations
Notice of reissuance of the general water pollution control permit for concentrated animal feeding operations. The permit will be reissued as two separate permits. This notice is for the permit to be issued under delegated federal NPDES authority.

Comment Deadline:

12/22/2025

Date Comment Filed:

12/19/2025 18:39:46

Commenter Info:

Angela Ehlers
116 N Euclid Avenue
Pierre SD, 57501

Email: sdoffice@sdconservation.net **Phone:** [REDACTED]

Comments:

The Association of Conservation Districts offers these comments regarding the reissuance of the state general permit for concentrated animal feeding operations (CAFOs) and the NPDES general permit for CAFOs. 1) We support the issuance of separate state general permits for CAFOs and NPDES general permits for CAFOs. Requirements differ for each general permit and, therefore, should be issued as separate permits. 2) We appreciate the Department consulting closely with the USDA-Natural Resources Conservation Service and the Extension Service to incorporate their technical standards. Consistency between agencies providing similar assistance is desirable. When it occurs, producers, technical or engineering assistance professionals and the public are assured that they are not receiving conflicting guidance from each agency. 3) We support designating the permit terms as five years for NPDES general permits and ten years for CAFO state general permits. 4) We appreciate the incorporation of technology not available in 2017 and the flexibility within the permits to update technical references. Technology and best management practices will still evolve and the permits need to be flexible to continue to provide environmental protection. It is obvious the Department diligently sought input from diverse sources and, as important, listened carefully to their feedback. We appreciate your time spent with the Association board of directors discussing

the draft permits. Thank you for the opportunity to provide comments.

Attachments:



South Dakota Association of Conservation Districts

PO Box 275
116 N Euclid Avenue
Pierre, South Dakota 57501-0275
605-895-4099
www.sdconservation.net
sdoffice@sdconservation.net

December 19, 2025

Hunter Roberts, Secretary
SD Department of Agriculture and Natural Resources
523 E Capitol Avenue
Pierre, South Dakota 57501-3182

Secretary Roberts:

The Association of Conservation Districts offers these comments regarding the reissuance of the state general permit for concentrated animal feeding operations (CAFOs) and the NPDES general permit for CAFOs.

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Thank you for the opportunity to provide comments.

Angela Ehlers, executive director

From: [DANR No Reply](#)
To: [DANR Mail; Duvall, Ron](#)
Subject: [EXT] Public Notice Comments
Date: Friday, December 19, 2025 6:38:22 PM
Attachments: [SDACD general permits comments 2025Dec.pdf](#)

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Public Notice Category:

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Public Notice:

State General Permit for Concentrated Animal Feeding Operations
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Comment Deadline:

12/22/2025

Date Comment Filed:

12/19/2025 18:37:57

Commenter Info:

Angela Ehlers
116 N Euclid Avenue
Pierre SD, 57501

Email: sdoffice@sdconservation.net **Phone:** [REDACTED]

Comments:

The Association of Conservation Districts offers these comments regarding the reissuance of the state general permit for concentrated animal feeding operations (CAFOs) and the NPDES general permit for CAFOs. 1) We support the issuance of separate state general permits for CAFOs and NPDES general permits for CAFOs. Requirements differ for each general permit and, therefore, should be issued as separate permits. 2) We appreciate the Department consulting closely with the USDA-Natural Resources Conservation Service and the Extension Service to incorporate their technical standards. Consistency between agencies providing similar assistance is desirable. When it occurs, producers, technical or engineering assistance professionals and the public are assured that they are not receiving conflicting guidance from each agency. 3) We support designating the permit terms as five years for NPDES general permits and ten years for CAFO state general permits. 4) We appreciate the incorporation of technology not available in 2017 and the flexibility within the permits to update technical references. Technology and best management practices will still evolve and the permits need to be flexible to continue to provide environmental protection. It is obvious the Department diligently sought input from diverse sources and, as important, listened carefully to their feedback. We appreciate your time spent with the Association board of directors discussing

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December 19, 2025

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SD Department of Agriculture and Natural Resources
523 E Capitol Avenue
Pierre, South Dakota 57501-3182

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- 4) We appreciate the incorporation of technology not available in 2017 and the flexibility within the permits to update technical references. Technology and best management practices will still evolve and the permits need to be flexible to continue to provide environmental protection.

It is obvious the Department diligently sought input from diverse sources and, as important, listened carefully to their feedback. We appreciate your time spent with the Association board of directors discussing the draft permits.

Thank you for the opportunity to provide comments.

A handwritten signature in cursive script that reads "Angela Ehlers".

Angela Ehlers, executive director

From: [DANR No Reply](#)
To: [DANR Mail](#); [Duvall, Ron](#)
Subject: [EXT] Public Notice Comments
Date: Monday, December 22, 2025 9:07:39 AM
Attachments: [CF Comment Letter to DANR.pdf](#)

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Public Notice Category:

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Public Notice:

State General Permit for Concentrated Animal Feeding Operations
Notice of reissuance of the general water pollution control permit for concentrated animal feeding operations. The permit will be reissued as two separate permits. This notice is for the permit to be issued under state authority.

Comment Deadline:

12/22/2025

Date Comment Filed:

12/22/2025 09:06:43

Commenter Info:

Adam Barka
23971 County Road 10
Sleepy Eye MN, 56085

Email: Phone:

Comments:

Please see the attached letter for comment from Christensen Farms.

Attachments:



December 18, 2025

South Dakota Department of Agriculture and Natural Resources
ATTN: Secretary Hunter Roberts
523 E Capitol Ave
Pierre, South Dakota 57501

RE: Christensen Farms comments on the reissuance of the general water pollution control permit for concentrated animal feeding operations

Secretary Roberts,

Thank you for the opportunity to provide comments on the reissuance of the State General Permit for concentrated animal feeding operations.

Over the past year, the DANR team has demonstrated a clear commitment to transparency and collaboration throughout this process. Livestock producers, including Christensen Farms, were consistently kept informed as proposed revisions were announced. The availability of redlined permit drafts, clear explanations of proposed changes, and timely responses to questions were all appreciated and helped ensure meaningful stakeholder engagement. We are grateful for that effort.

Environmental Stewardship has been foundational to Christensen Farms for more than five decades. During that time, both our operations and the broader swine industry have made substantial progress. Advances in nutrition and feeding strategies have resulted in improved feed efficiency, reduced manure volumes, and lower nutrient excretion per animal. Modern feedlots generate fewer gallons of manure with more precise nutrient content than in the past, reflecting continuous improvement across the industry and supporting the effectiveness of this regulatory framework.

One item Christensen Farms would like to highlight is Section 1.4.3.4.c, which addresses standards for concrete design. Our intent is to ensure this provision is both technically sound and enhances long-term structural integrity. Members of our team, including professionals with advanced engineering expertise, have noted that in certain applications increased rebar requirements may not improve safety and, in some cases, could result in less effective structural performance. Containment structure designs have performed reliably for decades, and there is no clear indication that the existing standards have been inadequate. As such, Christensen Farms respectfully requests that the agency consult with qualified subject matter experts to confirm that the proposed revisions will provide a measurable benefit to the long-term strength and stability of these facilities.

This draft permit reflects a mutual commitment, shared by DANR and family-owned livestock operations like Christensen Farms, to responsible environmental stewardship. Manure remains a valuable, organic nutrient resource that plays an important role in maintaining soil health and supporting crop productivity. As a locally produced, low-carbon fertilizer, manure reduces reliance on commercial



fertilizers, helping limit greenhouse gas emissions while supporting long-term soil health objectives. Policies that unnecessarily restrict its use risk unintended environmental consequences and run counter to these shared goals.

Once again, we appreciate the opportunity to provide comments on this draft permit. Christensen Farms values our ongoing operations in South Dakota and appreciates the State's positive role in supporting family farms, including our own and those of our growers, across South Dakota and the broader Midwest.

Sincerely,

A handwritten signature in blue ink that reads "Adam Barka".

Adam Barka
Director of Environmental Stewardship
Christensen Farms

From: [DANR No Reply](#)
To: [DANR Mail; Duvall, Ron](#)
Subject: [EXT] Public Notice Comments
Date: Monday, December 22, 2025 3:51:26 PM
Attachments: [Riverview Public Comments.pdf](#)

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State General Permit for Concentrated Animal Feeding Operations
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Comment Deadline:

12/22/2025

Date Comment Filed:

12/22/2025 15:51:02

Commenter Info:

Riverview, LLP
26406 470th Ave
Morris MN, 56567

Email: [REDACTED] **Phone:** 3203925609

Comments:

Riverview, LLP appreciates DANR's work to protect South Dakota's natural resources and regulate livestock facilities. Thank you for the opportunity to comment on the proposed State General Permit for Concentrated Animal Feeding Operations.

Attachments:



26406 470th Avenue, Morris, MN 56267
Office: (320) 392-5609 Fax: (320) 392-5319

South Dakota Department of Agriculture and Natural Resources
523 E Capitol Ave
Pierre, SD 57501

December 22, 2025

Thank you for the opportunity to comment on the proposed State General Water Pollution Control Permit (“State Permit”) for Concentrated Animal Feeding Operations (“CAFOs”). Riverview, LLP recognizes the important role the Department plays in protecting the state’s natural resources while regulating livestock facilities. The following comments are respectfully submitted for the Department’s consideration.

SDCL § 1-41-3.4 states that "no rule that has been promulgated pursuant to Title 34A, 45, 46, or 46A may be more stringent than any corresponding federal law, rule, or regulation governing an essentially similar subject or issue." The State Permit is promulgated pursuant to Title 34A and governs CAFOs. The Code of Federal Regulations provides corresponding federal rules and regulations governing CAFOs as well. Therefore, pursuant to SDCL § 1-41-3.4, South Dakota rules governing CAFOs may not be more stringent than the federal rules. Despite this, the proposed State Permit appears to exceed the corresponding federal rules in several respects and should therefore be revised to ensure compliance with SDCL § 1-41-3.4.

1. In addition, we offer the following comments: **Land application fields in NMPs should be identified and approved by operators of the land, not titled landowners.** The draft State Permit requires that lands enrolled in an NMP require written agreements from the legal landowners of those lands. We do not believe this is required by the federal rules, and it is inconsistent with typical farming practices in South Dakota, where operators of the land typically make cropping and fertilizing decisions. We suggest revising the proposed State Permit accordingly so that operators of the land can sign land application agreements to enroll their fields in a permittee’s NMP.

- 2. Land application fields should not require pre-approval in every instance.** The Department currently requires all fields used for land application of manure or process wastewater be identified and pre-approved in an NMP, even those being added to an NMP that already has enough land application acres. The pre-approval process, however, is often cumbersome and does not always occur in a timely manner. This creates challenges for permittees. Land application of manure can be a dynamic process, that often requires adaptation to changing conditions, such as weather and the desires and actions of NMP field operators. By expressly allowing permittees to identify land application fields and application activities in an annual report (for example) versus a pre-approval process, the Department could reduce administrative burdens and allow a more-streamlined land application process, while maintaining a reporting mechanism that ensures compliance and transparency in the land application process.
- 3. Alternative manure application setbacks should be allowed when sufficiently protective of surface waters.** The draft State Permit language requires producers to maintain at least a 100-foot buffer zone or 35-foot vegetated buffer between any manure land application areas and any downgradient surface waters or tile intakes. It is our understanding that alternative setbacks are allowed under the federal rules for protective land application practices. For example, direct injection or immediate incorporation of manure is an alternative land application practice that should allow for reduced buffer zones between land application areas and tile intakes.
- 4. Allowing manure and process wastewater transfers between permitted CAFOs can help streamline manure field transfer among cooperating feedlots.** The current process for transferring manure and process wastewater between the nutrient management plans (“NMPs”) of permitted CAFOs requires paper forms with multiple signatures each year, which need to be reviewed and pre-approved before transfers occur. This is a cumbersome process that adds to the administrative workload for both the feedlot and the Department. Section 1.4.4.1t of the proposed permit would give operators greater flexibility to transfer manure and process wastewater. This provision would create more options while ultimately ensuring that each field used for manure application has been vetted and approved.
- 5. Stormwater gravity pipe testing requirements.** In consultation with our engineers, we are of the belief that if a pipe is consistently full, (e.g. pipe connecting stormwater basins) water leaking into the pipe is not a major concern. Pipes installed under production areas with approved liners would also have little to no risk of contamination. Focusing the testing requirements on pipes installed under liquid manure containment structures would be a more practical approach for operators.

6. Snowmelt on impermeable covers. The proposed permit would require that snowmelt (or other precipitation) accumulated on top of impermeable covers be treated as process wastewater. Producers would thus have two primary options for managing this liquid: 1) Contain it using current storage structures or 2) obtain an NPDES permit to be able to discharge it. However, manure storage covers are impermeable, made from acceptable liner material, and seam tested for proper installation. All this makes for a watertight barrier that prevents the mixing of cover precipitation with manure and process wastewater. The currently proposed language would require operators to either revisit their storage capacities to accommodate the additional volume or change the permit under which they operate. Both options create additional economic hardship for producers since they come with additional costs and timelines.

Thank you again for considering our comments. Please do not hesitate to reach out should any further questions or comments arise.

Sincerely,
Riverview, LLP

From: [DANR No Reply](#)
To: [DANR Mail](#); [Duvall, Ron](#)
Subject: [EXT] Public Notice Comments
Date: Monday, December 22, 2025 2:32:46 PM
Attachments: [2025.12.22 South Dakota Farm Bureau Federation SD DANR CAFO Reissuance Comments 1.pdf](#)

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Comment Deadline:

12/22/2025

Date Comment Filed:

12/22/2025 14:32:40

Commenter Info:

South Dakota Farm Bureau Federation
2225 Dakota Ave. S
Huron SD, 57350

Email: [REDACTED] **Phone:** [REDACTED]

Comments:

Please see attached document.

Attachments:



SOUTH DAKOTA FARM BUREAU®

2225 Dakota Ave. S. • Huron, SD 57350

December 22, 2025

Livestock Services Program
Department of Agriculture and Natural Resources
523 E. Capitol Ave
Pierre, SD 57501-3182

Re: CAFO Permit Reissuance

South Dakota Farm Bureau Federation (SDFB) values the opportunity to provide comments in support of the Department of Agriculture and Natural Resources' reissuance of the proposed state water pollution control general permit for concentrated animal feeding operations and a proposed water pollution control general permit for concentrated animal feeding operations using DANR's delegated National Pollutant Discharge Elimination System (NPDES) authority. As South Dakota's largest general farm organization, representing 13,000 family farmers, ranchers, and rural families, SDFB is deeply invested in ensuring that agricultural operations in our state remain sustainable, environmentally sound, and economically viable.

SDFB supports the proposed changes and views them as common sense and positive for South Dakotans. For example, extending the state permit length to 10 years gives farmers and ranchers stability to plan for the future, which supports SDFB's goal of a streamlined, practical regulatory framework for agriculture. Our organization also views the proposed definition changes as better aligned to fit today's agricultural industry and fit the evolving technologies that are present in the industry. Additionally, we view the proposed changes to the CAFO permit as an appropriate balance between the needs of farmers and ranchers and the protection of South Dakota's natural resources.

Farmers and ranchers strongly support state-level implementation of CAFO permitting, as opposed to federally operated program. By keeping this program at the state level, producers can work directly with regulators who understand the challenges and opportunities specific to South Dakota and offer responsiveness that a federally implemented program cannot replicate.

Thank you for the opportunity to provide comments on this reissuance.

Sincerely,

Scott VanderWal, SDFB President

Krystil Smit, SDFB Executive Director

From: [DANR No Reply](#)
To: [DANR Mail](#); [Duvall, Ron](#)
Subject: [EXT] Public Notice Comments
Date: Monday, December 22, 2025 2:32:22 PM
Attachments: [2025.12.22 South Dakota Farm Bureau Federation SD DANR CAFO Reissuance Comments.pdf](#)

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Date Comment Filed:

12/22/2025 14:32:00

Commenter Info:

South Dakota Farm Bureau Federation
2225 Dakota Ave. S
Huron SD, 57350

Email: [REDACTED] **Phone:** [REDACTED]

Comments:

Please see attached document.

Attachments:



SOUTH DAKOTA FARM BUREAU[®]

2225 Dakota Ave. S. • Huron, SD 57350

December 22, 2025

Livestock Services Program
Department of Agriculture and Natural Resources
523 E. Capitol Ave
Pierre, SD 57501-3182

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