

South Dakota Department of Environment and Natural Resources



DENR
SOUTH DAKOTA

One-Stop Environmental Permitting and Regulation Guide

(2020 Edition)



DENR
SOUTH DAKOTA

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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PIERRE, SOUTH DAKOTA 57501-3182
denr.sd.gov

EXECUTIVE SUMMARY

July 1, 2020

Dear Customer:

The mission of DENR is to protect public health and the environment by providing environmental monitoring and natural resource assessment, technical and financial assistance for environmental projects, and environmental regulatory services; all done with reduced red tape, expanded e-government functions, and exceptional customer service to promote a prosperous economy while protecting South Dakota's environment and natural resources for today and tomorrow.

Our hope is that this ONE STOP permitting guide assists you, the customer, in identifying the environmental regulations that pertain to your situation. It also includes a directory so you can contact the department staff who can help you get the permits and information you need. Additional information is also available on our DENR website (<http://denr.sd.gov>) as well as permit application forms and other documents to assist you.

If you have any suggestions on how to improve this guide, please let us know. We want to work with you to "Protect South Dakota's Tomorrow...Today," and hope this document will bring us one step closer to that goal.

Please don't hesitate to contact us if you need guidance in sorting through permitting and regulatory requirements. We are here to help you!

Sincerely,
Hunter Roberts
Secretary



Table of Contents

Section I.	Introduction to Guide and Instructions for Use.....	1
Section II.	Dept of Environment and Natural Resources Organizational Chart	2
Section III.	Environmental Permit/Programs that may apply to you.....	3-6
Section IV.	Environmental Permitting	7-32
	Air Quality Permits.....	7-8
	Drinking Water System - Certificate of Approval.....	9-10
	Concentrated Animal Feeding Operations	11-14
	Ground Water Discharge Permit	15-16
	Mine Permits and Exploration Notices of Intent	17-20
	NPDES/Surface Water Discharge Permits	21-23
	Storm Water Discharge Permits	24-25
	Oil and Gas Permits	26-28
	Solid Waste Permits.....	29-30
	Water Right Permits	31-32
Section V.	Environmental Regulations.....	33-42
	Asbestos.....	33
	Drinking Water	34
	Hazardous Waste	35
	SARA Title III	36
	On-site Septic Systems and Installer Certification	37
	Spill Reporting.....	38
	Underground Storage Tanks/Aboveground Storage Tanks	39
	Underground Injection Wells	40
	Water and Wastewater Operator Certification	41
	Water Quality Certification	42
Appendix A -	Department Directory (a guide for businesses)	44-45

Section I. Introduction to Guide and Instructions for Use Introduction

In South Dakota, the majority of environmentally regulated entities are small businesses or organizations that employ fewer than 100 people. The environmental coordinator for these entities typically wears many hats, such as the personnel director, safety director, human resource manager and (frequently) owner/operator. It can be difficult for these individuals to determine what state and federal regulations apply to their operation, where to apply for permit applications, and how the permitting, certification and notification processes work. The department understands that businesses and organizations want to comply with regulations, but first need to know that these regulations exist. Therefore, the department has developed this guide to clarify what the regulations are and to whom they apply. We hope this will lead to improved protection of our natural resources and provide a savings of time and money for businesses and the department.

Description of Guide

The guide is broken down into five sections:

Sections I (page 1) **and II** (page 2) present the introduction and department organization.

Section III (pages 3-6) is composed of a table that cross-references customer groups and environmental programs. Included in the table are both environmental permitting programs and environmental regulatory programs (programs that do not require a permit).

Sections IV (pages 7-32) **and V** (pages 33-42) describe the department's environmental programs.

The permitting programs are listed first and are followed by the regulatory programs. Each description contains the following:

1. Why the program exists, and why it is important;
2. An applicability section to determine if your organization needs to comply with that program;
3. Reference to the state or federal regulations that apply to that program; and
4. A flowchart for the permitting process (if applicable).

Appendix A (pages 42-43) is a Department Directory with the phone numbers most needed by businesses. It was developed to provide you a direct contact for the program you may need to reach.

Instructions for Use

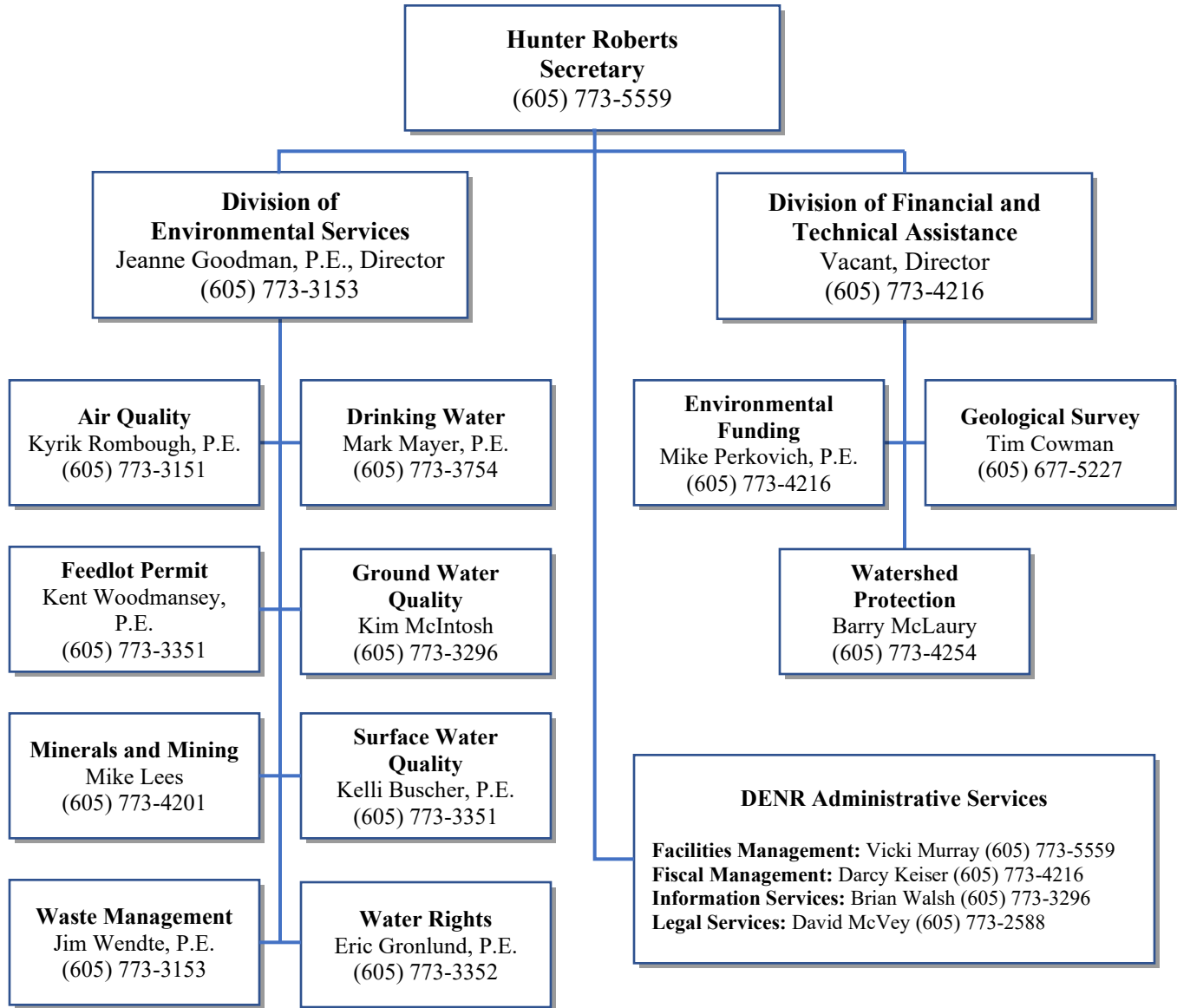
The most effective way to use this guide is to first locate your type of operation in the environmental permitting and regulation (Section III) portion of this document. This section will show the environmental programs that may typically apply to your operation. You should then read through the description of those environmental programs that may apply to your operation in Sections IV and V. If there is any question on whether a program applies to you, or if you need applications, regulations, or supplemental information, please contact the program.

Section II. DENR Organizational Chart



DENR
SOUTH DAKOTA

The mission of DENR is to protect public health and the environment by providing environmental monitoring and natural resource assessment, technical and financial assistance for environmental projects, and environmental regulatory services; all done with reduced red tape, expanded e-government functions, and exceptional customer service to promote a prosperous economy while protecting South Dakota's environment and natural resources for today and tomorrow.



Boards and Commissions

<p>Board of Water Management</p> <ul style="list-style-type: none"> Water use appropriation Water quality regulations Drinking water 	<p>Board of Water and Natural Resources</p> <ul style="list-style-type: none"> State Water Plan Financial assistance for water and solid waste projects 	<p>Board of Minerals and Environment</p> <ul style="list-style-type: none"> Water use appropriation Water quality regulations Drinking water 	<p>Board of Operator Certification</p> <ul style="list-style-type: none"> Water and Wastewater Operator Certification 	<p>Petroleum Release Compensation Board</p> <ul style="list-style-type: none"> Release Compensation 	<p>State Emergency Response Commission</p> <ul style="list-style-type: none"> Chemical Reporting Community Right-to-Know 	<p>Small Business Clean Air Advisory Panel</p> <ul style="list-style-type: none"> Air Quality Small Business Ombudsman and Assistance
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Section III. Environmental Permit Programs that may apply to you:

Customer Group	Environmental Permitting Programs									
	Air Quality Permit	Drinking Water System Approval	Feedlot Permit	Ground Water Plan	Mining Permit/License	Surface Water Discharge Permit	Stormwater Discharge Permit	Oil and Gas Permit	Solid Waste Permit	Water Rights Permit
	(page 7)	(page 9)	(page 11)	(page 14)	(page 16)	(page 20)	(page 22)	(page 24)	(page 27)	(page 29)
Ag Chemical	X						X			X
Asphalt Plants	X					1	X			X
Auto Repair	X					2				X
Campgrounds		X				1,3				X
Commercial Building Owners & Contractors		X					X		X	X
Concrete Batch Plants	X						X			X
Counties	X	X			X	1	X		X	X
Dry Cleaners	X					2				X
Electrical Generating Companies	X			X		1	X		X	X
Ethanol	X	X		X		1,2	X			X
Farmers and Ranchers	X									X
Federal Agencies	X	X		X	X	1,2	X		X	X
Feedlots (cattle, swine, chicken, etc.)	X		X	X		1	X			X
Food Processing Plants	X	X		X		1,2	X		X	X
Gas Stations	X	X								X
Grain Elevators	X						X			X
Lake Dredging					X	1	X		X	X
Manufacturing	X	X				1,2	X		X	X
Meat Packing	X					1,2	X		X	X
Medical	X								X	X
Metal Finishers	X					1,2	X			X

*May be a 1) Surface Water Discharge Permit or 2) Industrial Pretreatment Permit or 3) Biosolids Permit.

**A Water Right Permit is needed if using a private water supply.

Section III. Environmental Permitting Programs continued:

Customer Group	Environmental Permitting Programs									
	Air Quality Permit	Drinking Water Approval	Feedlot Permit	Ground Water Plan	Mining Permit/License	NPDES Surface Water Permit	Stormwater Discharge Permit	Oil and Gas Permit	Solid Waste Permit	Water Rights Permit
	(page 7)	(page 9)	(page 11)	(page 14)	(page 16)	(page 20)	(page 22)	(page 24)	(page 27)	(page 29)
Mineral Exploration					X		X			X
Mining	X			X	X	1	X			X
Municipalities	X	X		X		1,3	X		X	X
Municipal Solid Waste Landfills	X					1,2	X		X	X
Oil and Gas	X					1	X	X		X
Petroleum Land-farms							X		X	
Printing	X			X		2	X			X
Railroads						1	X			X
Housing and Mobile Home Developments		X				1,3				X
Rural Water Systems and Sanitary Dist.		X		X		1				X
Sand/Gravel	X				X	1	X			X
School Districts	X	X				1				X
State Agencies	X	X		X	X	1,3	X		X	X

*May be a 1) Surface Water Discharge Permit or 2) Industrial Pretreatment Permit or 3) Biosolids Permit.

**A Water Right permit is needed if using a private water supply.

Section III. Environmental Regulatory Programs that may apply to you:

Customer Group	Environmental Regulatory Programs									
	Asbestos	Drinking Water	Hazardous Waste	SARA Title III	Septic Tanks	Spills	Storage Tanks	Under Ground Injection Wells*	Water and Wastewater Certification	Water Quality Certification
	(page 31)	(page 32)	(page 33)	(page 34)	(page 35)	(page 36)	(page 37)	(page 38)	(page 39)	(page 40)
Ag Chemical			X	X	X	X	X			
Asphalt Plants			X	X	X	X	X			
Auto Repair			X	X	X	X	X	X		
Campgrounds		X		X	X	X	X		X	X
Commercial Building Owners & Contractors	X	X		X	X	X	X	X		X
Concrete Batch Plants				X	X	X	X			
Counties	X		X			X	X	X		X
Dry Cleaners			X	X	X	X	X	X		
Electrical Generating Companies	X	X	X	X	X	X	X			
Ethanol		X	X	X	X	X	X	X		X
Farmers and Ranchers			X		X	X	X			
Federal Agencies	X	X	X	X		X	X	X	X	X
Feedlots (cattle, chicken, swine, etc.)			X		X					
Food Processing Plants	X			X	X	X		X		
Gas Stations		X	X	X	X	X	X	X		
Grain Elevators	X		X	X	X	X	X			
Lake Dredging						X				X
Manufacturing	X		X	X	X	X	X	X		
Meat Packing	X		X	X	X	X	X	X	X	
Medical	X		X	X	X	X				
Metal Finishers			X	X	X	X		X		

* An underground injection control permit is needed whenever a septic tank drain-field system is used for disposing of wastes other than domestic wastewater.

Section III. Environmental Regulatory Programs continued:

Customer Group	Environmental Regulatory Programs									
	Asbestos	Drinking Water	Hazardous Waste	SARA Title III	Septic Tanks	Spills	Storage Tanks	Under Ground Injection Wells*	Water and Wastewater Certification	Water Quality Certification
	(page 31)	(page 32)	(page 33)	(page 34)	(page 35)	(page 36)	(page 37)	(page 38)	(page 39)	(page 40)
Mineral Exploration				X		X				
Mining	X	X	X	X	X	X	X	X	X	X
Municipalities	X	X	X			X	X	X	X	X
Municipal Solid Waste Landfills	X		X			X	X			
Oil and Gas			X	X		X	X	X		
Petroleum Land-farms						X				
Printing	X		X	X		X		X		
Railroads			X	X		X	X			X
Housing and Mobile Home Developments		X			X					X
Rural Water Systems and Sanitary Dist.		X		X	X	X				X
Sand/Gravel				X		X	X			
School Districts	X	X	X	X		X	X			
State Agencies	X	X	X			X	X	X		X

* An underground injection control permit is needed whenever a septic tank drain-field system is used for disposing of wastes other than domestic wastewater.

Section IV. Environmental Permitting

Air Quality Permit

Why are air quality regulations important?

In the early 1950s, an air pollution episode occurred in Donora, Pennsylvania, that resulted in several deaths directly associated with industrial air pollution.



To protect the public from air pollution, Congress enacted a series of Clean Air Acts starting in the 1960s and directed EPA to establish an air quality program. EPA devised regulations that consist of outdoor ambient air quality health standards, source specific emission limitations, and testing and monitoring requirements. EPA then empowered each state to develop a State Implementation Plan to carry out the federal regulations and devise regulations specific to problems in that state.

Do I need an air quality permit?

If you are planning on constructing a process or fuel burning unit in South Dakota that emits an air pollutant into the ambient air you may need an air quality construction permit. An example of a process that emits an air pollutant is a paint booth, rock crusher, fabrication line, etc. An example of a fuel burning unit that emits an air pollutant is a boiler, generator, asphalt plant, incinerator, etc. The type of air quality construction permit you may need depends on the size of the unit(s), the age of the unit(s), the type of fuel used, and the amount and type of air pollutant(s) emitted.

If you are currently operating a process or fuel burning unit that emits an air pollutant and have not submitted an air quality permit application or contacted the Air Quality Program about the operation, you may need an air quality operating permit. The type of air quality operating permit you may need depends on the size of the unit(s), the age of the unit(s), the type of fuel used, and the amount and type of air pollutant(s) emitted.

There are two categories of air pollutants. First, there are regulated air pollutants which consist of particulate matter, sulfur dioxide, nitrogen oxide, carbon monoxide, lead and volatile organic compounds. Second, EPA, through the 1990 Clean Air Act Amendments, developed regulations for 188 toxic air pollutants.

What are the statutes and regulations that apply to me?

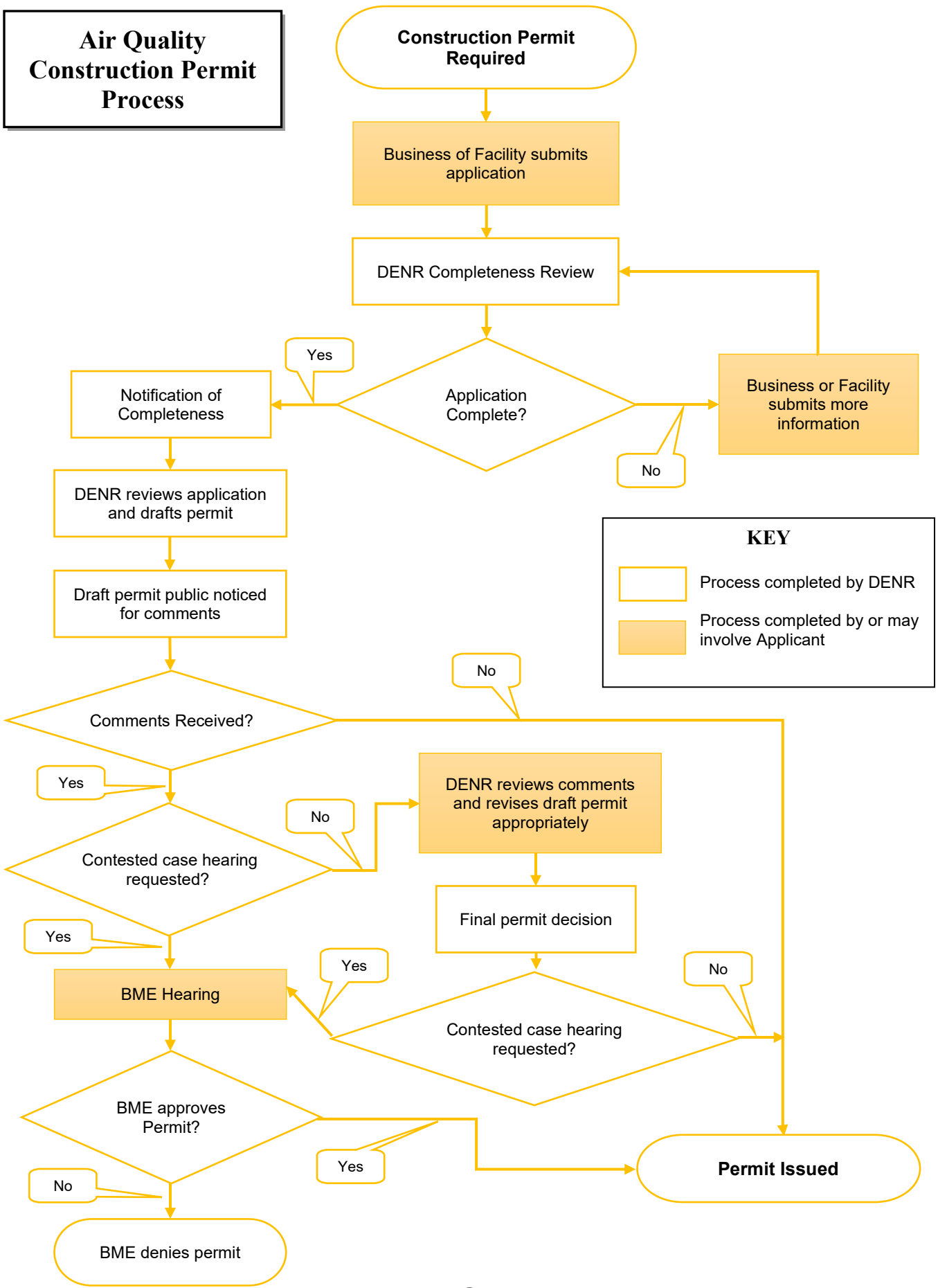
South Dakota's air quality statutes are in South Dakota Codified Law 34A-1. The regulations developed to implement these statutes are found in the Administrative Rules of South Dakota, Article 74:36. There are federal rules which the state adopts by reference. The adopted federal rules can be found in the Administrative Rules of South Dakota (ARSD), [Article 74:36](#), [Chapter 74:36:07](#), and [74:36:08](#).

Where do I get a permit application?

Air quality permit applications are available on line at <http://denr.sd.gov/des/aq/airpermits.aspx>, by contacting the department by email at DENRINTERNET@state.sd.us, or calling the Air Quality Program at (605) 773-3151.

<http://denr.sd.gov/des/aq/airprogr.aspx>

Air Quality Construction Permit Process



Drinking Water System - Certificate of Approval

Why is it important to obtain a certificate of approval?

A certificate of approval shows that the drinking water system went through the planning process. Planning is critical for all new and existing water systems. With increasing drinking water requirements, running a water system like a business has become essential. A system that lacks technical, managerial, or financial capacity will have problems complying with all the requirements of the 1996 Safe Drinking Water Act amendments. Because new water systems are now required to complete the planning process, systems will have adequate capacity and will ensure customers have safe drinking water.



Who needs a certificate of approval?

All new community and nontransient noncommunity water systems that begin operation after October 1, 1999, are required to obtain a certificate of approval from the department before beginning operation.

This includes water systems that do not meet the definition of community or nontransient noncommunity at start-up but are designed to one day meet that definition. For example, a developer plats 30 lots for homes in the development, but when the water system begins operation, there are only four homes hooked-up to the system. Obviously, the intent is for this water system to one day be large enough to qualify as a public water system; therefore, the developer must meet all the new water system requirements.

Any system that has infrastructure in place before October 1, 1999, and then becomes a new community or nontransient noncommunity water system only by the addition of new users is not required to obtain a certificate of approval.

What is the process for obtaining a certificate of approval?

The department recommends that you apply as soon as possible. It is going to take time to get the required documents approved. If more information is needed by the department during the review process, it could extend the amount of time needed for approval. The department has set the following minimum guidelines for you to follow; however, the key phrase is *the earlier, the better!* (see flow-chart for more information):

- Submit the New Water System Application and business plan no later than *90 days* before you anticipate beginning operation.
- Submit plans and specifications no later than *30 days* before the anticipated bid-letting and contract award date.
- Submit the operations and maintenance manual as soon as practicable before system start-up.

Where do I get more information on obtaining a certificate of approval?

For more information please contact Erin Fagnan (Erin.Fagnan@state.sd.us), with the Drinking Water Program at (605) 394-2229.

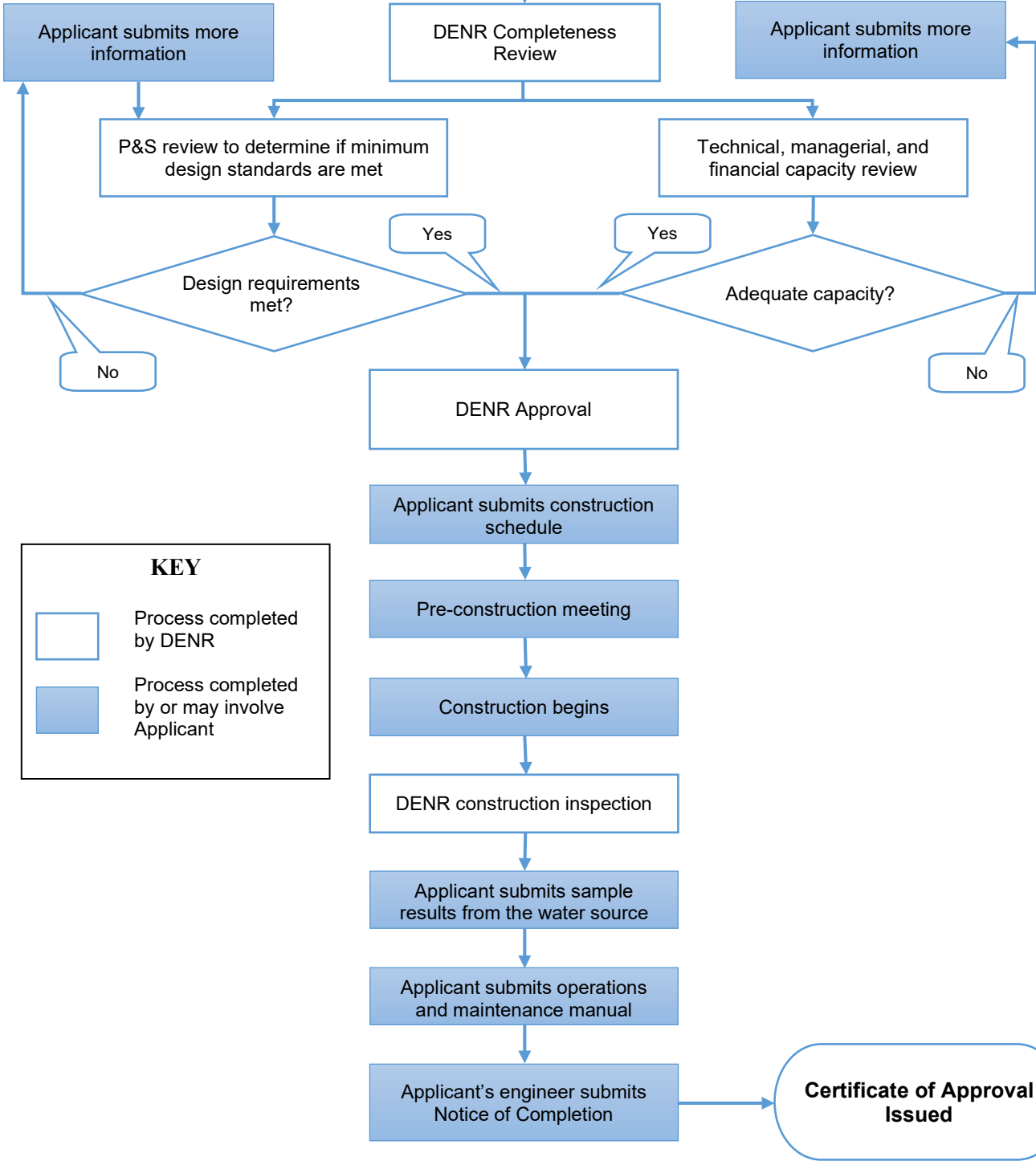
<http://denr.sd.gov/des/dw/newsys.aspx>

Drinking Water System Certificate of Approval Process

New Water System submits:

- New Water System application (90 days prior to system start-up)
- Business plan (due 90 days prior to system start-up)
- Plans and specifications (due 30 days prior to bid-letting/contract award date)

Optional pre-application
Conference



KEY

Process completed by DENR

Process completed by or may involve Applicant

Concentrated Animal Feeding Operations

Why are regulations for concentrated animal feeding operations (CAFOs) important?

Regulations for concentrated animal feeding operations in South Dakota establish environmental standards for producers to be able to properly manage the manure, litter, and process wastewater generated at their operations. The requirements ensure environmental controls are in place for the appropriate design, construction, operation, and management of animal feeding operations in a manner that protects the state's ground and surface water resources.



The federal Clean Water Act passed by Congress in 1972 along with regulations developed by the U.S. Environmental Protection Agency (EPA) in 1974 set the basis for CAFO regulations. These regulations were updated in 2012 and use the National Pollutant Discharge Elimination System (NPDES) Permit Program to regulate CAFOs. South Dakota law requires CAFOs to operate under a water pollution control permit. Animal feeding operations meeting the regulatory definition of a CAFO can obtain state or NPDES coverage under South Dakota's *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* (general permit) which became effective on April 15, 2017.

Do I need a permit?

You need a permit if you have a concentrated animal feeding operation (definition below) or if you have an operation required by local government regulations, such as county zoning ordinances, to obtain approval.

What is the definition of a concentrated animal feeding operation?

A CAFO is a lot or facility that stables or confines and feeds or maintains animals for a total of 45 days or more in any 12-month period and meets the following criteria for a large, medium, or small concentrated animal feeding operation:

- A large CAFO as described in Table 1 on the following page.
- A medium CAFO as described in Table 1 and meets one of the following conditions:
 - 1) Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or
 - 2) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.
- A small CAFO as described in Table 1 and designated as a CAFO by the Secretary.

Table 1. Number of Animals to Define Large, Medium and Small Concentrated Animal Feeding Operations			
Type of Animal Feeding Operation	Concentrated Animal Feeding Operations		
	Large	Medium	Small
	Animal numbers equal to or more than:	Animal numbers equal to:	Animal numbers less than:
Dairy cows (mature - milked or dry) ¹	700	200 to 699	200
Veal calves	1,000	300 to 999	300
Cattle other than mature dairy cows or veal calves ^{1 and 2}	1,000	300 to 999	300
Swine (weighing 55 pounds or more)	2,500	750 to 2,499	750
Swine (weighing less than 55 pounds)	10,000	3,000 to 9,999	3,000
Horses	500	150 to 499	150
Sheep or Lambs	10,000	3,000 to 9,999	3,000
Turkeys	55,000	16,500 to 54,999	16,500
Laying hens or broilers ³	30,000	9,000 to 29,999	9,000
Chickens, other than laying hens ⁴	125,000	37,500 to 124,999	37,500
Laying hens ⁴	82,000	25,000 to 81,999	25,000
Ducks ³	5,000	1,500 to 4,999	1,500
Ducks ⁴	30,000	10,000 to 29,999	10,000
Geese	30,000	10,000 to 29,999	10,000

¹ Animals are counted individually once separated from the mother.

² Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

³ Animal feeding operation uses a liquid manure handling system.

⁴ Animal feeding operation uses other than a liquid manure handling system.

NOTE: Other animal types not listed in the above table may be considered on a case-by-case basis.

How Does the Permitting Process Work?

The permit process begins when a producer submits an application to DENR for general permit coverage. The permit application must include a Certification of Applicant form, a Notice of Intent form, information on ownership of the operation, plans and specifications sealed, signed, and dated by a South Dakota licensed professional engineer, a signed operation and maintenance guideline, and a nutrient management plan. There are minor differences in the permit processing steps for obtaining state or NPDES coverage. The flow-charts on the following pages illustrate the steps for each type of general permit coverage.

Where do I get a feedlot permit?

For information please contact Kent Woodmansey (Kent.Woodmansey@state.sd.us), Feedlot Permit Program, at (605) 773-3351.

<http://denr.sd.gov/des/fp/fphome.aspx>

Operation is a Concentrated Animal Feeding Operation

Concentrated Animal Feeding Operation State General Permit Process

Producer submits permit application including:

- Plans and specifications (P&S)
- Nutrient management plan (NMP)
- Operation and maintenance guidelines
- Training certificate
- Certification of Applicant form
- Notice of intent form
- SPAW model (if applicable)

60 days prior to anticipated construction

30-day public notice in local newspaper (if new or expanding animal numbers)

Producer submits more information

DENR completeness review

Review of P&S and NMP to determine if permit's minimum design standards are met

Review of area ground water

Ground Water Discharge Permit or monitoring required

Minimum design criteria met?

Shallow ground water present?

Shallow aquifer present?

Yes

No

Yes

Yes

No

DENR Approval

Construction begins; Producer notifies DENR of completion schedule

DENR construction inspection

Engineer submits Notice of Completion

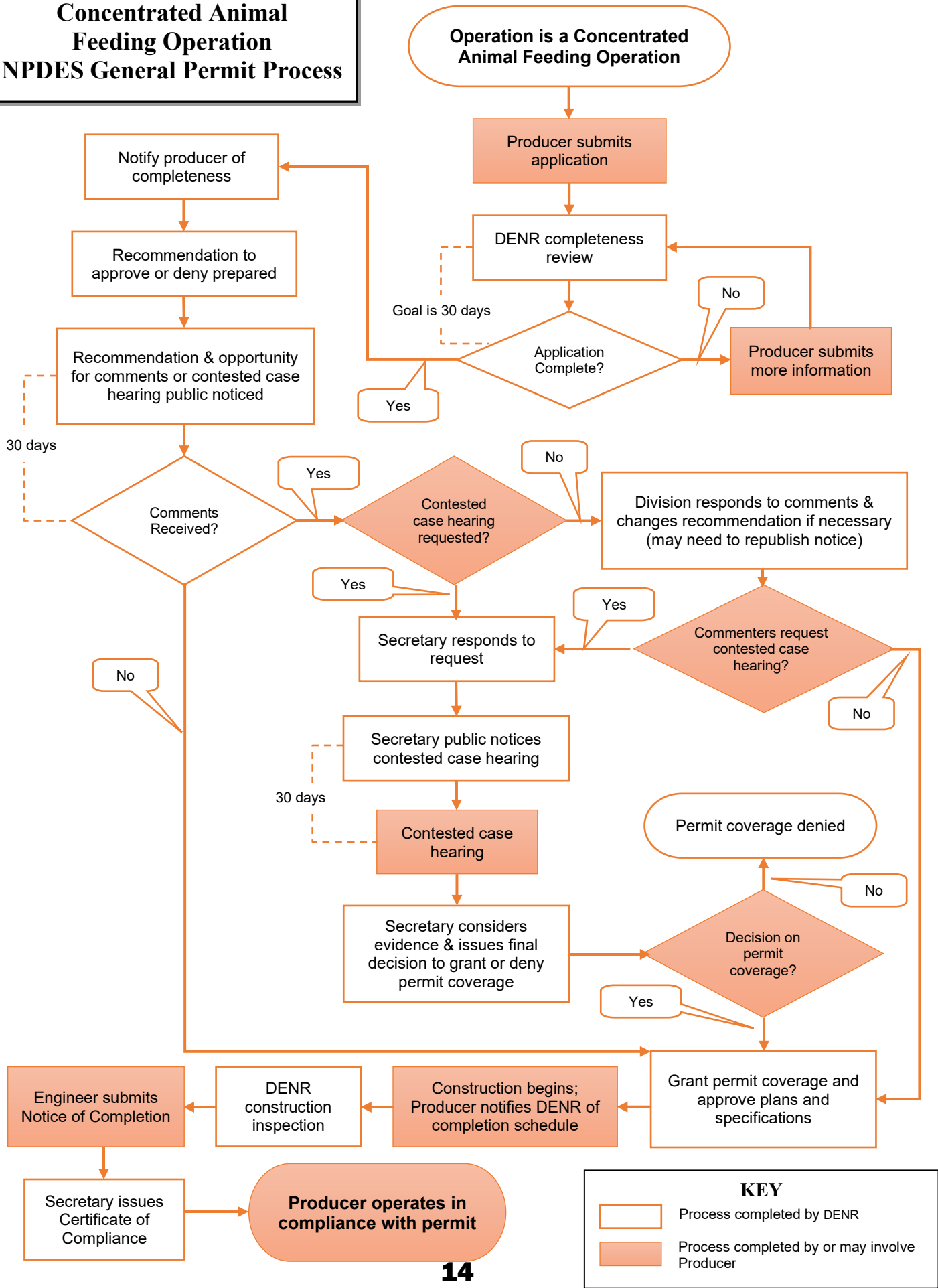
Secretary issues permit coverage & certificate of compliance

Producer operates in compliance with permit

KEY

- Process completed by DENR
- Process completed by or may involve Producer

Concentrated Animal Feeding Operation NPDES General Permit Process

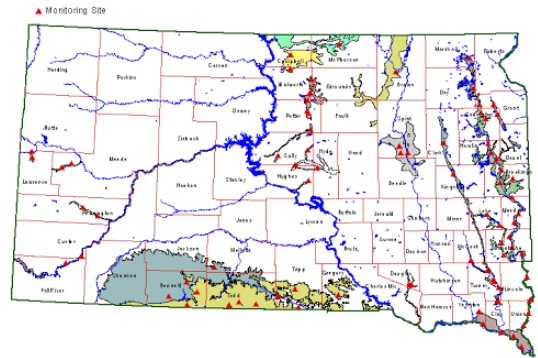


Ground Water Discharge Permit

Why are ground water discharge regulations important?

Ground water is one of the most precious natural resources in South Dakota. Because of the lack of dependable surface water supplies, our rural residents and 79 percent of our public water supply systems rely on ground water for their source of water.

In 1989, the South Dakota Legislature declared that ground water is a resource of immeasurable value ([South Dakota Codified Law \(SDCL\) 34A-2-104](#)) to public health and welfare, and that pollution of South Dakota's ground water constitutes a menace to public health, welfare and the environment. It was also determined that once ground water is polluted, it is extremely difficult and expensive to clean up, so prevention, public education and enforcement are necessary to minimize releases of pollutants. To maintain and improve ground water quality for present and future beneficial uses, the state implemented a ground water protection strategy that promotes pollution prevention, the correction of existing ground water pollution, and close control of limited degradation for necessary economic and social development.



What statutes and regulations apply to me if I have a facility that directly or indirectly discharges to ground water?

The ground water protection strategy is found in [SDCL 34A-2-103](#). This statute provides authorization for regulating groundwater discharges through ground water discharge plans and ground water quality standards. The regulations outlining the requirements for ground water discharge plans and standards are contained in the Administrative Rules of South Dakota [Chapter 74:54:01](#) and [Chapter 74:54:02](#).

Do I need to notify you that I discharge to ground water?

If you own or operate a facility that plans to discharge to ground water, you must apply to the secretary of the Department of Environment and Natural Resources for an approved ground water discharge plan at least 180 days before any discharge. Facilities currently discharging without a permit should contact the department for information on how to obtain a permit.

How does the notification process work?

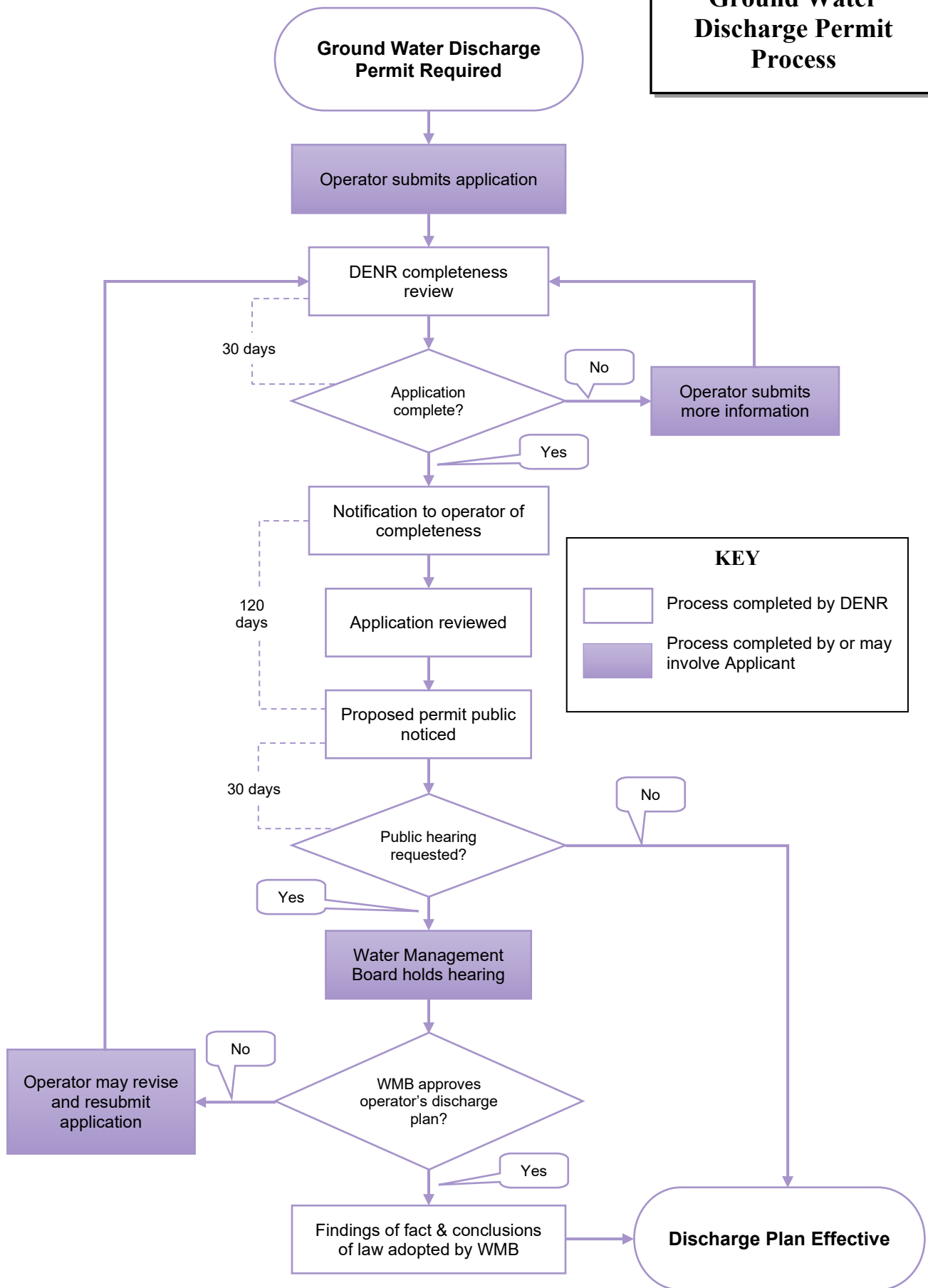
The application requirements for a ground water discharge plan approval are contained in ARSD 74:54:02:06. If the secretary determines the application to be complete, a notice of recommendation will be published in a local legal newspaper (controversial applications will be published statewide). A 30-day public notice period follows, allowing interested persons to file a petition for a contested case. If a petition is not filed, the discharge plan will become final.

Where do I get an application?

If you have any further questions or need an application, please contact Matt Hicks of the Ground Water Quality Program (Matt.Hicks@state.sd.us) at (605) 773-3296.

http://denr.sd.gov/des/gw/GWDischarge/GW_Discharge_Permit.aspx

Ground Water Discharge Permit Process



Mining Permits and Exploration Notices of Intent

Why are mining regulations important?

Although mineral rights are property rights and are protected by the U.S. Constitution, the rights of others affected by mineral operations must also be protected. Laws and statutes are necessary to regulate mining in order to protect water, air, natural resources, aesthetics and the welfare of the public. Prior to 1971, there were no requirements for mine reclamation in South Dakota. The improper disposal of mine waste and tailings made land unproductive and polluted ground and surface waters. Beginning in 1971, mining laws were enacted to require reclamation of affected lands to beneficial uses, and to require that water, air and other resources be protected.

What laws and regulations apply to me if I wish to mine or explore for minerals?

The laws pertaining to exploration of minerals, other than uranium, can be found in South Dakota Codified Law ([SDCL 45-6C](#)). This statute covers the exploration of all minerals and aggregates and seismic exploration for oil and gas using explosives but does not cover uranium exploration. Exploration notices of intent are issued administratively by the department. Uranium exploration is regulated under [SDCL 45-6D](#) and permits require a public hearing before the Board of Minerals and Environment (BME). Drilling for oil and gas is regulated under [SDCL 45-9](#) and [Administrative Rules of South Dakota \(ARSD\) 74:12](#).

A mining license ([SDCL 45-6](#)) is required to mine sand, gravel, rock to be crushed and used in construction, pegmatite minerals and limestone, iron ore, sand, gypsum, shale, limestone, or other materials used to make cement. A license is also required for lake dredging if soil, sediments, or organic materials are extracted for sale as potting soil, soil material, soil amendment or soil conditioner ([SDCL 45-6B-106](#)). Mining permits are required for other minerals such as gold, silver, uranium, metals, coal, bentonite, dimension stone and decorative rock. The laws pertaining to mining permits are located in [SDCL 45-6B](#) and the [ARSD 74:29](#). Contested mine permits require a public hearing before the BME.

Do I need to notify you that I plan to explore or mine?

For mineral exploration, an exploration notice of intent is not required for activities that cause very little or no surface disturbance. This includes airborne surveys; non-explosive seismic energy sources; or shallow drill holes in sand, limestone, gypsum or shale. Exploration notices of intent are required for mineral exploration if roads will be built; if holes will be drilled; if drill holes will be more than 50 feet deep in sand, limestone, gypsum or shale; or if explosive seismic sources will be used.

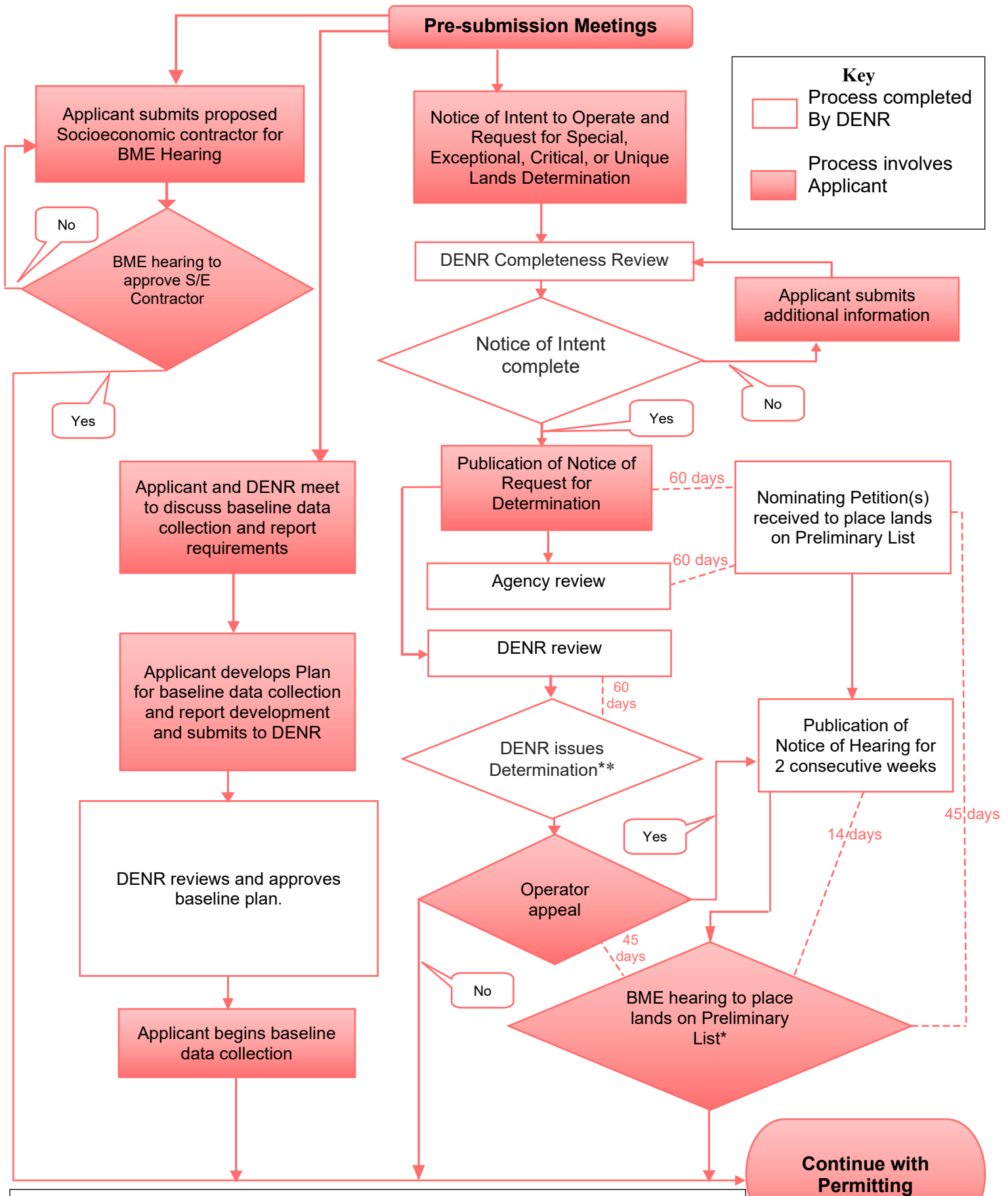
Recreational and hobby miners, such as gold panners and mineral collectors, do not have to obtain a mining permit if only hand-held equipment is used. However, a permit is required to use mechanized equipment such as a portable dredge in a stream. For sand and gravel operations, landowners are exempt from getting a mining license if the material mined is for personal use. If a landowner plans to sell the gravel, a mining license is needed.

Where do I get more information on mining regulation?

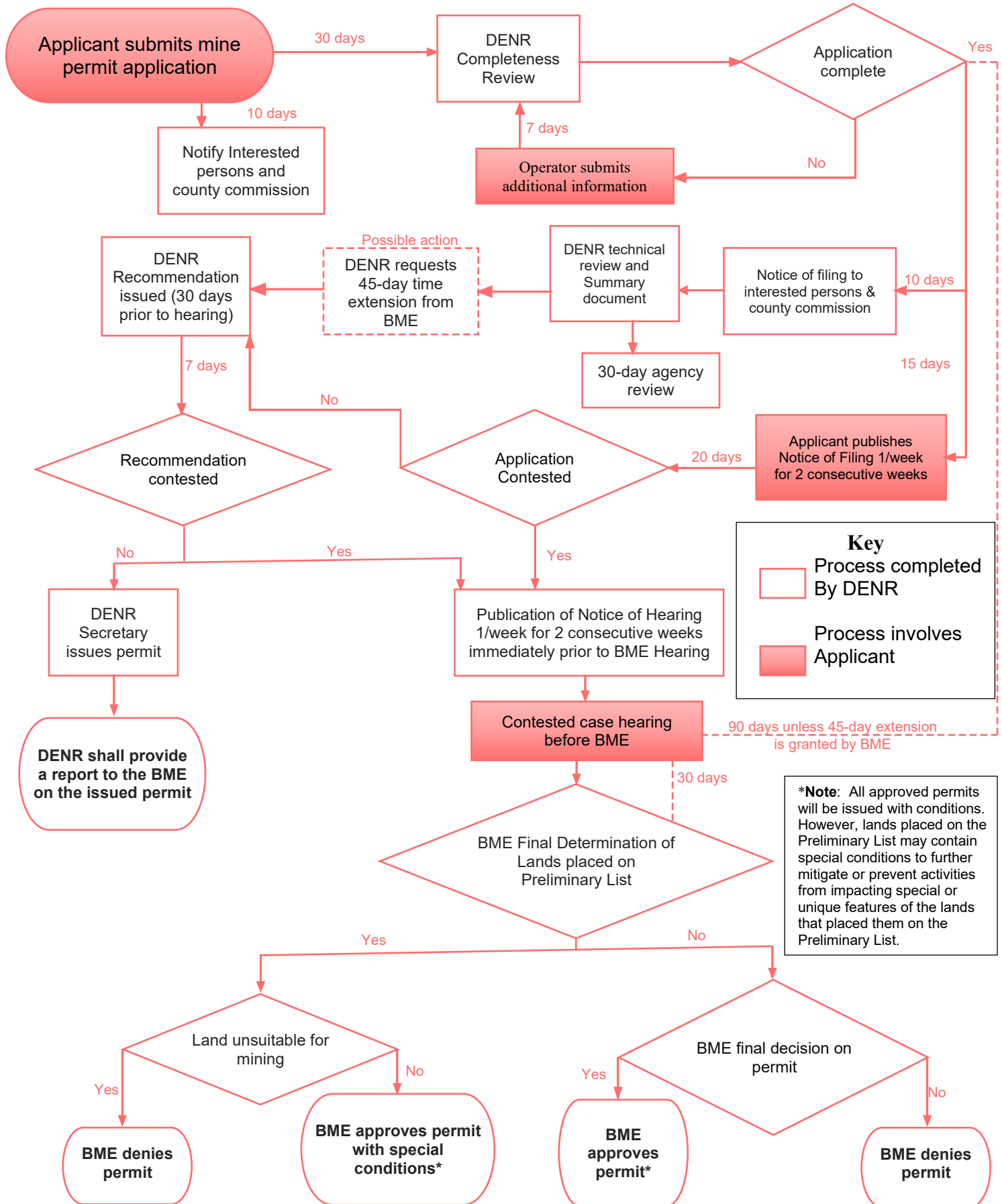
If you have any questions concerning mineral exploration notices of intent and mining permits in South Dakota, contact Eric Holm (Eric.Holm@state.sd.us) or Roberta Hudson (Roberta.Hudson@state.sd.us) at (605) 773-4201. For mine licenses, contact Bret Graves (Bret.Graves@state.sd.us) or Tom Cline (Tom.Cline@state.sd.us) at (605) 773-4201.

<http://denr.sd.gov/des/mm/mmprogram.aspx>

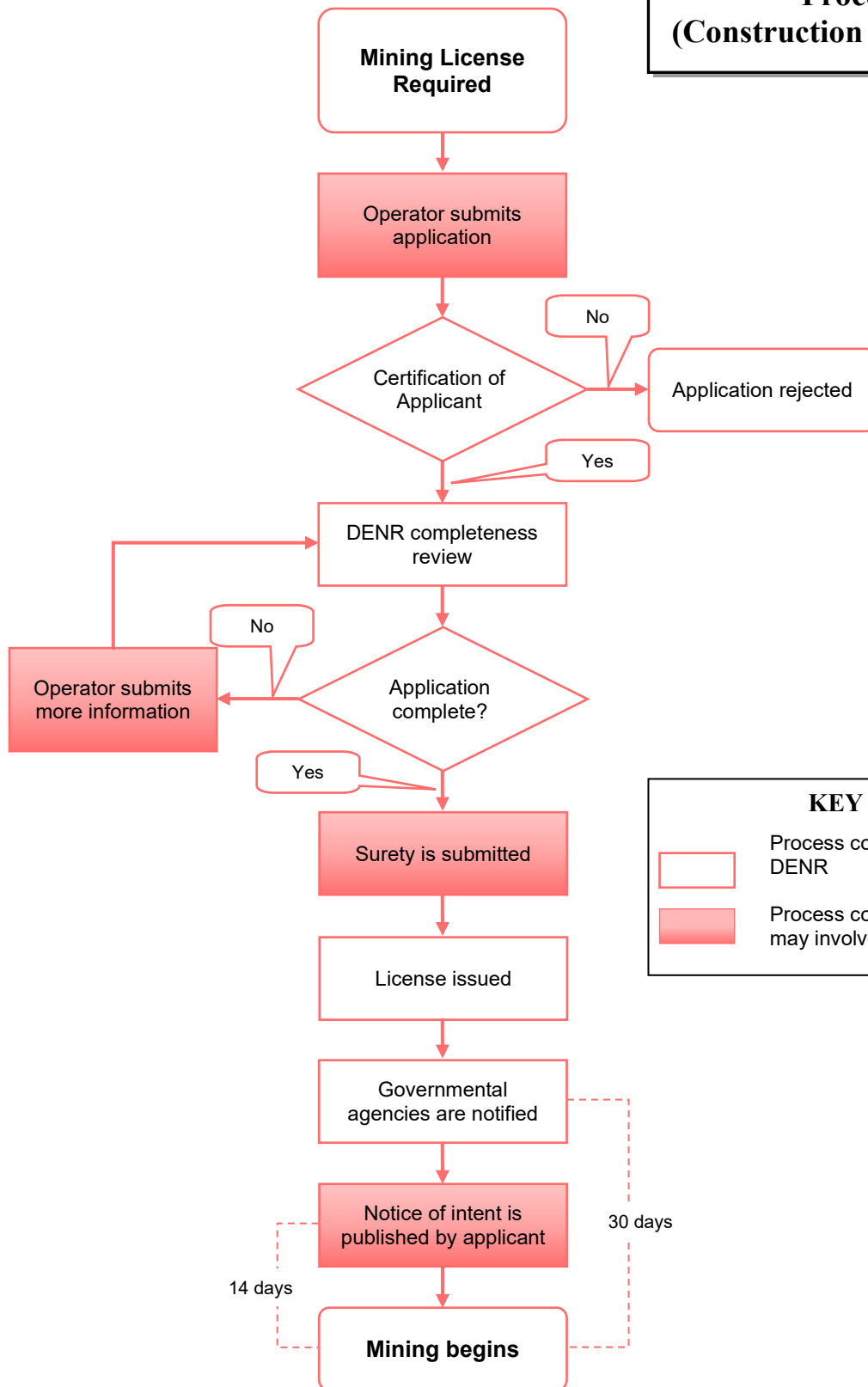
Large Scale Mine Permit Process (Pre-submission Flowchart)



Large Scale Mine Permit Process (Submission Flowchart)



Mining License Process (Construction Aggregates)



KEY

Process completed by DENR
 Process completed by or may involve Applicant

Surface Water Discharge (NPDES) Permits

Why are National Pollution Discharge Elimination System (NPDES) regulations important?

By 1972, municipal and industrial wastewater pollution of the rivers, streams, and lakes in America had become a national concern. To clean up the nation's waters, Congress passed the federal Clean Water Act of 1972.

This Act formed the **National Pollutant Discharge Elimination System (NPDES)** Permit Program. The main goals of the NPDES Program are to control the amount of pollution that can enter waters of the U.S. and protect the beneficial uses of all streams and lakes. EPA delegated authority for this program to South Dakota on December 30, 1993. South Dakota refers to these permits as "Surface Water Discharge" permits.



Who needs a NPDES/Surface Water Discharge permit?

Surface Water Discharge permits are required for any point source that is discharging pollutants to waters of the state. A "point source" is, for example, a municipal wastewater treatment facility, large scale mining operation, or industrial discharge. If the discharge contains something that could adversely impact the water body, a permit is written to ensure the beneficial uses of the water body are protected.

A Pretreatment Industrial User permit is another type of permit that we issue. A Pretreatment permit is issued to an industry that discharges process wastewater into a city's sanitary sewer. These permits are issued to ensure that a city's sewer system is protected and to ensure that the industrial discharge does not cause the city's discharge to violate its Surface Water Discharge permit. The cities of Aberdeen, Brookings, Huron, Mitchell, Rapid City, Sioux Falls, and Watertown have received delegation of this program, so the Pretreatment permit will be issued by those municipalities. DENR issues this permit to industries located in other municipalities. For more information about Pretreatment permits, contact Kyle Doerr at (605) 773- 3351 or by email at Kyle.Doerr@state.sd.us.

A Biosolids Management permit is another type of permit that we issue. Biosolids are sludges from municipal wastewater treatment facilities. Permits are issued to facilities that dispose of or beneficially reuse biosolids to ensure the biosolids are managed in an environmentally safe manner. For more information about a Biosolids Management Permit, contact Raul Vasquez at (605) 394-2229 or by email at Raul.Vasquez@state.sd.us.

The General Permit for Pesticide Discharges is required for all pesticide applicators that discharge pesticides into waters of the state. There are five types of activities covered by the pesticide general permit. These activities include mosquito and other flying pest control, weed and algae control, aerial pest control, ditch and stream bank pest control, and a declared pest emergency situation. The general permit provides automatic coverage to all applicators. For more information on this general permit contact Kyle Doerr at (605) 773-3351 or by email at Kyle.Doerr@state.sd.us.

Stormwater Discharge Permits are also required for several operations. Please refer to page 34 for more information on the storm water and the general permit process for this activity.

How does the permitting process work?

An application for a Surface Water Discharge or Pretreatment Industrial User permit should be sent to the department at least 180 days prior to any discharge. The department makes a recommendation on the permit and publishes it in a local newspaper for a 30-day public comment period. If the permit is not contested within this time frame, the permit is issued. The regulations can be found in the [ARSD Chapter 74:52](#).

Where do I get a Surface Water Discharge permit?

For information contact Tina McFarling with the Surface Water Quality Program in Pierre at (605) 773-3351, or by email at Tina.McFarling@state.sd.us. Applications for each of these permits, along with additional information, are available at our website.



<http://denr.sd.gov/des/sw/swdischargepermits.aspx>

Surface Water Discharge Permit (NPDES) Process

Surface Water Discharge Permit Required

Operator submits Application

DENR Completeness Review

Application Complete?

Operator submits more information

Notify operator of completeness

Draft permit written

Draft permit & opportunity for comments or contested case hearing public noticed

30 Days

Comments Received?

Contested case hearing requested?

Division responds to comments & changes permit if necessary (may need to republish notice)

Commenters request contested case hearing?

Secretary responds to request

Secretary public notices contested case hearing

Contested Case Hearing

Secretary considers evidence & issues final decision – permit is changed to reflect decision

Permit Denied

Decision to issue permit?

Final Permit Issued

KEY



Process completed by DENR

Process completed by or may involve Applicant

Stormwater Discharge Permits

What is the Stormwater Program?

Polluted stormwater runoff has been found to be a leading cause of impairment to surface waters across the United States. Polluted runoff is discharged from surface drainage or through storm sewers, often untreated, directly into local water bodies. If not controlled, this pollution can result in the destruction of habitats; a deterioration of aesthetic value; and threats to public health due to contaminated food, drinking water supplies, and recreational waterways.

To address these concerns, the Clean Water Act was amended to include the Stormwater Program, which is a comprehensive national program for addressing stormwater discharges from municipal separate storm sewer systems (MS4s), industrial activities, and construction sites, which can adversely affect the quality of our waters. The Stormwater Program requires the design and implementation of controls, also known as Best Management Practices (BMPs), to prevent harmful pollutants from being washed by stormwater runoff into local water bodies. The South Dakota Department of Environment and Natural Resources (DENR) took over the program from the US Environmental Protection Agency (EPA) in 1993.



Who needs a Stormwater Permit?

The Stormwater Program requires permit coverage for the following:

- Municipal separate storm sewer systems serving a population of at least 10,000 people.
- Facilities engaged in “industrial activity” – this includes, but is not limited to, sites such as hazardous waste facilities, landfills, airports, wastewater treatment facilities, recycling facilities, manufacturing facilities, and mining operations.
- Construction activities that disturb at least one acre of land.



What does the permit require?

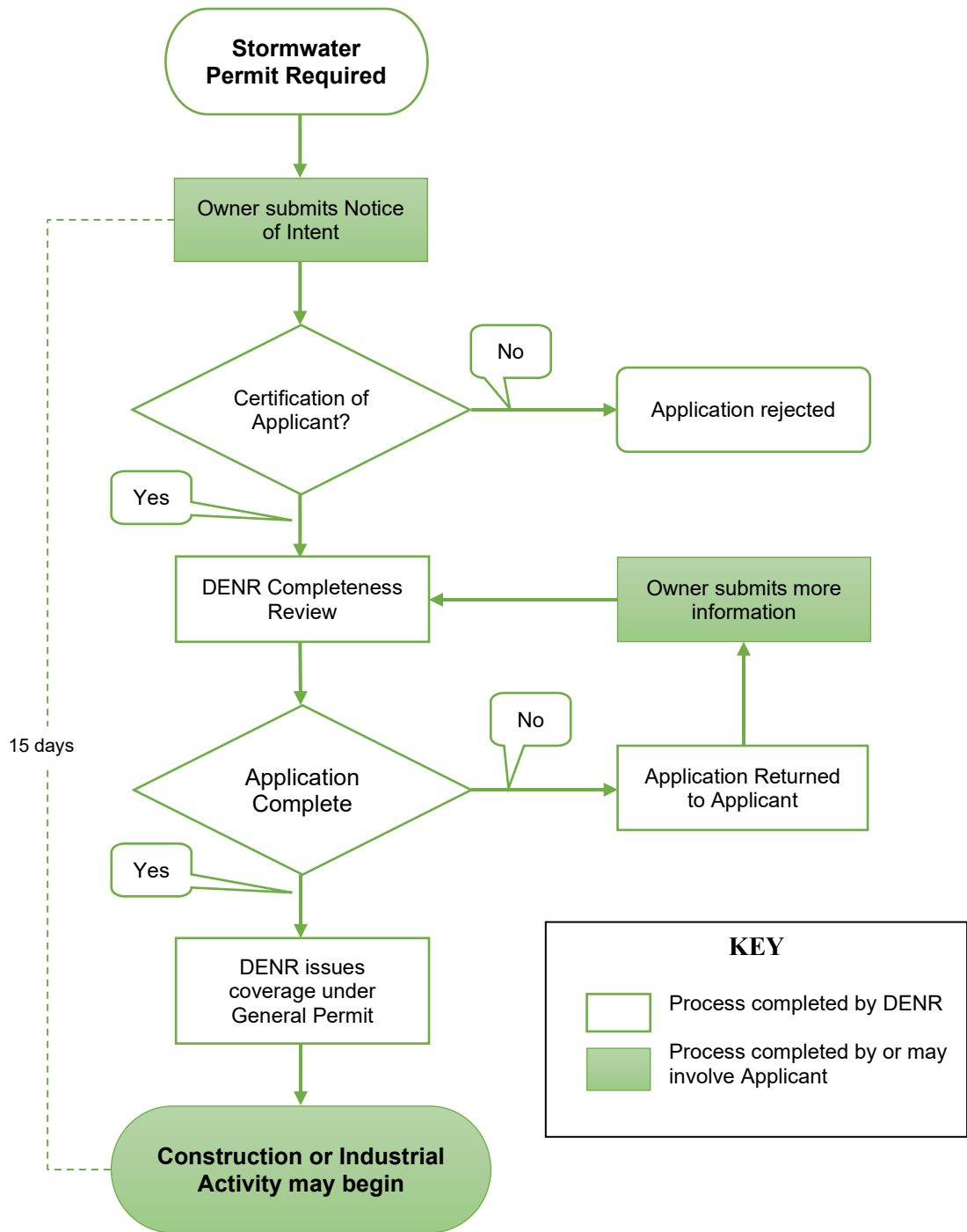
Typically, the permits for stormwater discharges require the permittee to develop a [pollution prevention plan](#). This plan details site management activities and BMPs that you will use to reduce or eliminate the pollution of stormwater runoff at your site.

How do I get a permit?

South Dakota has developed general permits to provide a simple process for getting a stormwater permit. You need to fill out a simple form, called a Notice of Intent, and submit the form to the department at least 15 days before you begin your operation. These forms are available by contacting Stormwater Staff at Stormwater@state.sd.us, 1-800-SDSTORM (737-8676), or by visiting <http://denr.sd.gov/des/sw/stormwater.aspx>.

<http://denr.sd.gov/des/sw/stormwater.aspx>

Stormwater Permit Process (Construction or Industrial)



Oil and Gas Permits

<http://denr.sd.gov/des/og/oghome.aspx>

Why are oil and gas rules important?

The Oil and Gas Conservation Statute, South Dakota Codified Law ([SDCL](#)) [Chapter 45-9](#), requires the Board of Minerals and Environment (board) and the department to promote the development of oil and gas resources in the state. This is to be conducted in a manner that will prevent waste, encourage the greatest economic recovery of oil and gas, and protect correlative rights, ground water resources, the environment, and human health.

What laws and rules apply to me if I want to drill for oil and gas?

Drilling for oil and gas is regulated under [SDCL 45-9](#) and the Administrative Rules of South Dakota ([ARSD](#)) [Article 74:09](#) and 74:12. In addition, underground injection, for the purpose of enhanced oil recovery or the disposal of exploration and production wastes, is regulated by the same statute and rules.

What are the requirements for starting oil and gas operations?

There are five types of approval processes for oil and gas operations: 1) spacing, pooling or unitization requests; 2) potential contested case hearings (Notice of Recommendation Procedure); 3) drilling, deepening or reentering requests; 4) Underground Injection Control Class II Permits to Inject; and 5) Sundry Notice requests for approval.



Spacing, pooling or unitization requests:

Operations involving spacing, unitization, and pooling are initiated by the submission of a petition in accordance with ARSD 74:09:01. Spacing, pooling, and unitization requirements are found in SDCL 45-9 and ARSD 74:12. Applications for orders will only go to hearing if they are contested after publication of a notice of opportunity for hearing. If there is no contest, orders will be issued administratively by the department Secretary.

Potential contested case hearings (Notice of Recommendation Procedure): The department Secretary or designee may grant administrative approval after issuing and publishing a Notice of Recommendation (NOR) for applications involving the following: drilling at exception locations, drilling a directional or horizontal well in an area not already spaced by the board, exception to gas to oil ratios, underground commingling of oil from separate pools, new underground injection permits, major modifications of injection permits, exemption of a portion of an aquifer, and multiple zone completions of an oil well. If the recommendation is not contested, approval is granted in accordance with the recommendation. Contested recommendations must be heard by the board. This process is initiated by the submission of a petition in accordance with ARSD 74:09:01.

Drilling, deepening, or reentering requests—Application for Permit to Drill (APD): Permits for drilling new wells or deepening or reentering existing wells require department approval. This is initiated by the submission of an application for a permit to drill. Forms and procedures required for obtaining a permit to drill, deepen, or reenter an oil or gas well are available at <http://denr.sd.gov/des/og/ogforms.aspx>.

Underground injection control (UIC) Class II Permits to Inject: In conjunction with submitting a petition to initiate the Notice of Recommendation procedure (see “Potential contested case hearings” above), a permit to inject is required for any injection of fluid associated with oil and gas production into, above, or through underground sources of drinking water. For more information on permits to inject contact the Minerals and Mining Program. The permit to inject application form is available at <http://denr.sd.gov/des/og/ogforms.aspx>.

Sundry Notice requests for approval: The department Secretary or designee may grant administrative approval of the following: proposed well cementing procedures, proposed plugging procedures, temporary abandonment of a well, proposed mechanical integrity test procedures, drilling without a blowout preventer, extending the term of an APD beyond 12 months, proposed soil remediation techniques, using produced water on roads for dust suppression, atmospherically discharging water produced from a gas well, surface restoration, construction of produced water handling facilities, conversion of a mud pit to an evaporation pit, dissolving abandoned oil or gas fields, the method of annual gas well test to determine daily open flow, the method of determining production from separate pools prior to commingling, confidentiality of technical data, and the method of and interval for checking tank metering equipment against actual tank measurements. The Sundry Notice form used to approve the requests is available at <http://denr.sd.gov/des/og/ogforms.aspx>. (Signed copies of Sundry Notices submitted to request approval for one of these actions will be returned upon approval. However, Sundry Notices submitted to report information will not be signed or returned.)

How do I apply for approval for various oil and gas operations?

You should contact Lucy Blocker (Lucy.Blocker@state.sd.us) or Jeff Klenner (Jeff.Klenner@state.sd.us) of the Minerals and Mining Program at (605) 773-4201 or visit the Oil and Gas Regulatory homepage at <http://denr.sd.gov/des/og/oghome.aspx> for application forms, oil and gas rules, and information regarding UIC permits to inject or other UIC requests.

Oil and Gas Permit Process

KEY

- Process completed by DENR
- Process completed by or may involve Applicant

Oil and gas permit or approval required

Operator submits application

DENR completeness review

Application Complete?

Operator submits more information

Notification to operator of completeness

Spacing, pooling, or unitization request

Public notice of potential contested case hearing

Mailing of notice to potentially affected property owners

Case contested?

Submit draft order and supporting documents

Order issued administratively by DENR

BME hearing– BME approves order?

Order Denied

Notice of Recommendation (NOR) procedure

Recommendation drafted

Public Notice of Recommendation

Mailing of NOR to potentially affected property owners

Recommendation contested?

Recommendation of conditional approval finalized

BME hearing– BME approves order?

Request Denied

Drilling, deepening, or reentering request

Technical review, conditions drafted

UIC Permit to inject (processed in conjunction with NOR procedure)

Technical review, conditions drafted

Sundry notice request for approval

Technical review, conditions drafted

Approval granted under parallel NOR procedure?

Permit Denied

Approval Granted

Solid Waste Permit

Why are solid waste regulations important?

[South Dakota Codified Law 34A-6](#) requires that for the purposes of proper, effective, and safe disposal of solid waste, any person intending to dispose of solid waste within South Dakota must comply with the provisions of state law. These provisions require a solid waste permit and establish requirements and procedures for obtaining the permit.

Prior to the early 1970s, there were few restrictions on the disposal of solid waste. Following passage of state laws in the 1970s and additional federal legislation, a state permitting program was developed to ensure the safe and environmentally sound disposal of solid waste.

In 1991, EPA adopted new regulations on the disposal of municipal solid waste. The state regulations were revised in 1993 to include these new federal requirements. In October 1993, the state received approval from EPA for its program. This was extremely important because it allows the state flexibility in the application of the federal rules.



What is a solid waste facility, and which statutes and rules apply if I operate one?

A solid waste facility, as defined in state law, is any facility that is acquired, purchased, modified, maintained or operated to facilitate the storage or disposal of solid waste. The statutes are found in [SDCL 34A-6](#), and the rules developed to implement these statutes are found in the [Administrative Rules of South Dakota 74:27](#).

Do I need to obtain a permit if I dispose of solid waste?

Individuals, government entities, businesses and industries are required to obtain a permit only if they own or operate a solid waste facility. Farmers and ranchers are allowed to dispose of their wastes on their own land without a permit under the following conditions: 1) if the domestic waste is generated on their property; 2) if the disposal is not a threat to human health or the environment; and 3) if the disposal does not unduly pollute the air or waters of the state. In regard to landfill bans, state law ([SDCL 34A-6-67](#)) prohibits certain materials from being landfilled, unless it is determined that recycling costs more than disposal. These began taking effect in 1995.

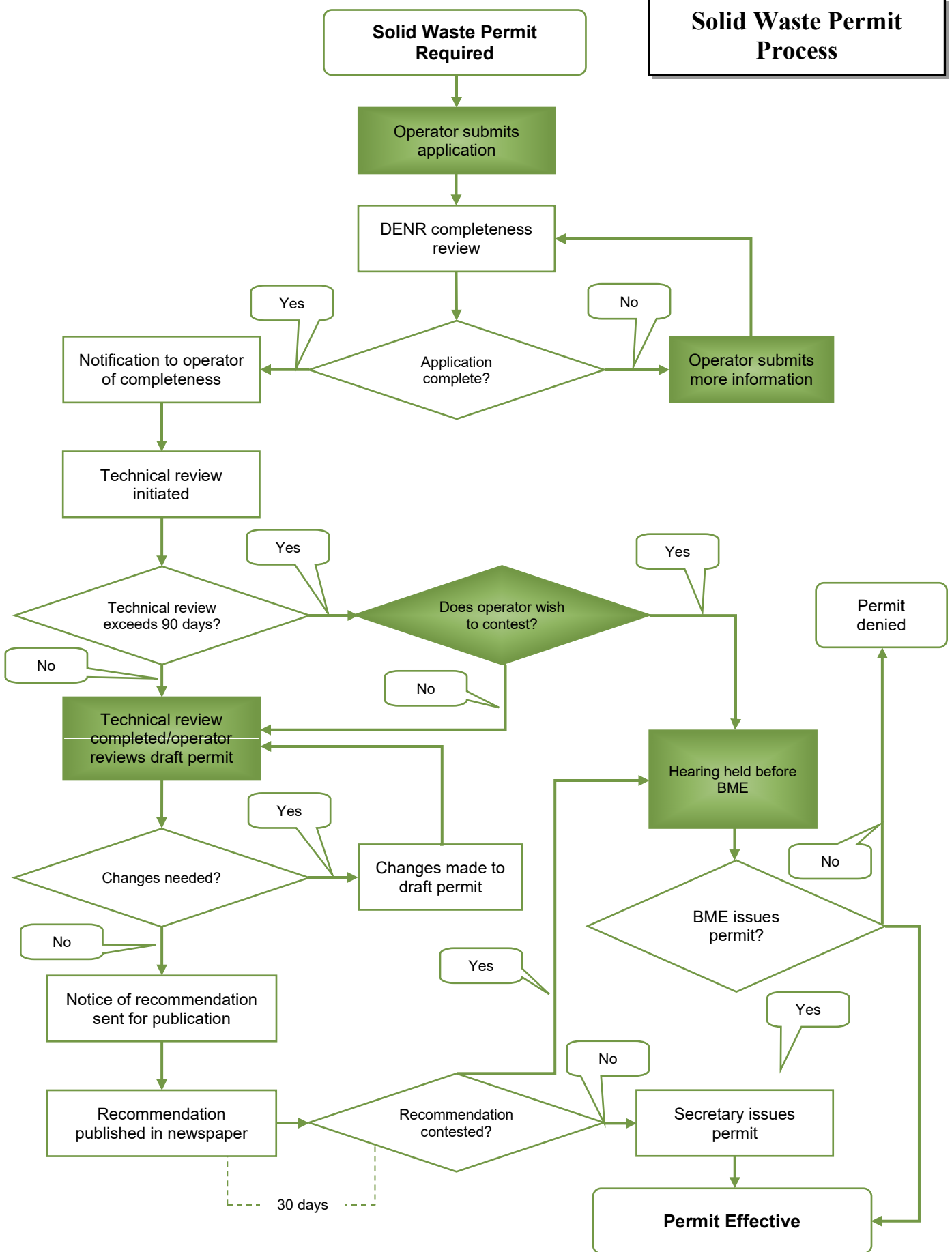
How does the permitting process work?

The permitting process requires that you send the department an application. The department reviews the application to determine whether the facility will comply with the statutes and administrative rules. The department makes a recommendation on the permit and publishes it in a local newspaper for a 30-day public comment period. If the permit is not contested within this time frame, the recommendation becomes final.

Where do I get more information?

For particular questions about solid waste requirements, please contact Steve Kropp (Steve.Kropp@state.sd.us) or any of the staff in the Waste Management Program at (605) 773-3153.

Solid Waste Permit Process



Water Right Permit

<https://denr.sd.gov/wr>

Why are water rights important?

Water is the property of the people of the state. However, a water right holder is afforded certain legal rights that are similar to holding a private property right. The water right holder enjoys the right to make personal and beneficial use of the public's resource. Once a water right is obtained, it remains effective indefinitely provided water use is within permit parameters and not forfeited due to nonuse or abandonment. A priority date is assigned to the water right and the right is protected from “adverse” impairment by subsequent development of the resource.

All water uses in South Dakota, except certain domestic uses of water, require a water right permit and are subject to the doctrine of prior appropriation. The doctrine originated in 1881 when the territorial legislature established a procedure to “locate” water rights. In 1907, the state legislature affirmed the doctrine by authorizing the state engineer to administer appropriation of surface water. Domestic use is the highest use of water and takes precedence over appropriative uses. Examples of domestic water uses are: 1) drinking, washing, sanitary, and culinary uses by an individual or household; 2) irrigation of a noncommercial garden, trees, etc. not exceeding one acre in size; 3) stock watering; and 4) use in schools, parks, and public recreation areas.

In 1955, the authority to issue water right permits was given to a citizens’ board with a chief engineer making recommendations to the board. The board is appointed by the governor and called the Water Management Board. The 1955 legislation also included ground water in the doctrine and allowed vested water rights to be claimed for uses predating March 2, 1955.

What is required in an application for a water right?

An application for a water right must be filed on forms supplied by the chief engineer. Applications and instructions to complete the forms are available at <https://denr.sd.gov/wr>. Information required includes the water source, amount of water to be claimed, diversion point locations, annual period during which water may be used, and type of use. The application also needs to include a map of the project, the application fee, and supplemental information such as the storage capacity of impoundment structures or a well driller's test hole or well log, when applicable. Several other types of applications are also processed by the Water Rights Program, including permit applications to: 1) amend existing permits or rights, 2) reserve water for future use, 3) flood control, and 4) claim vested water rights. The same procedure is used for processing each type of application.



What criteria must be met for a water right to be issued?

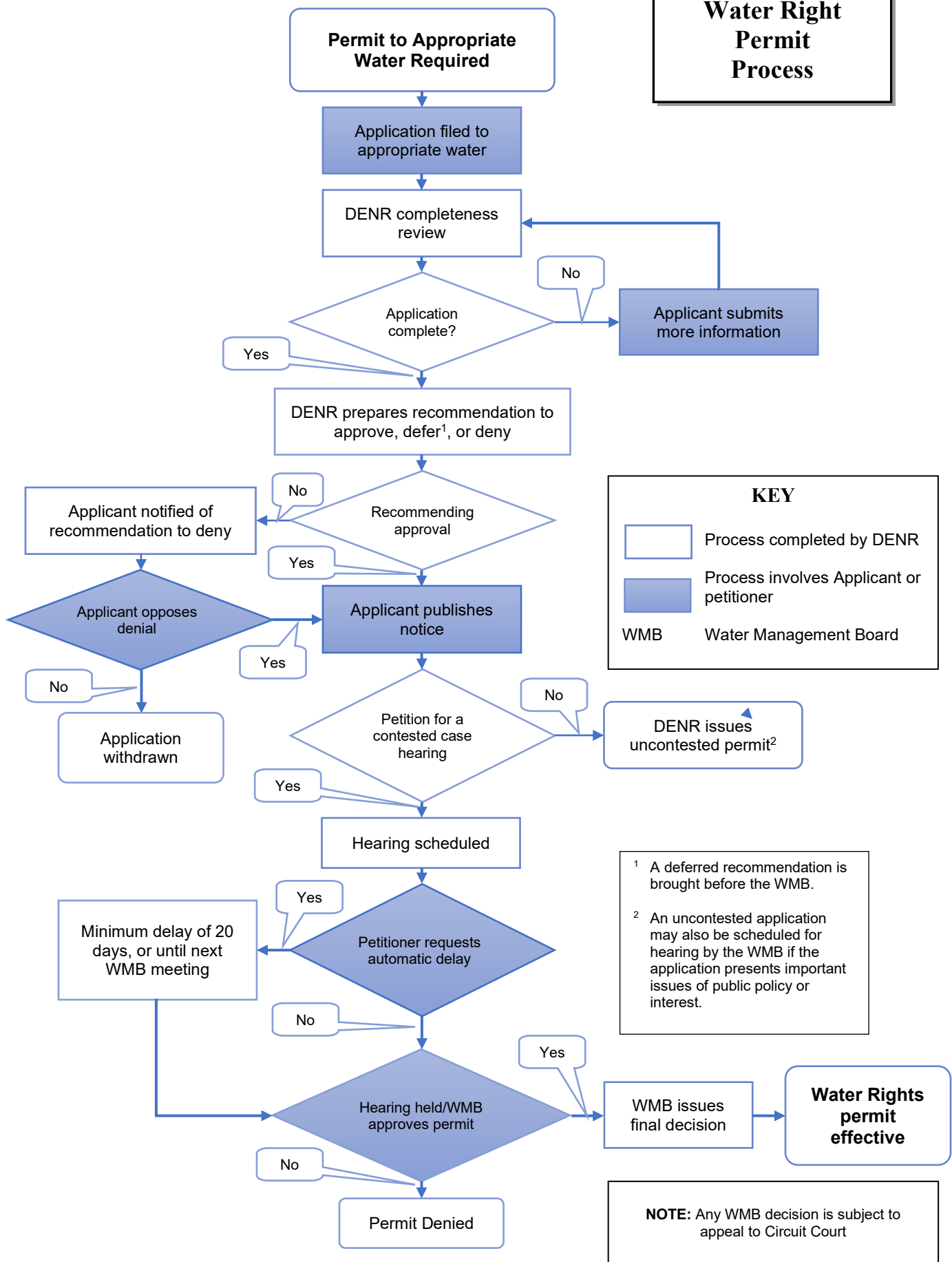
A permit may be issued only if:

- 1) there is a reasonable probability that unappropriated water is available;
- 2) the proposed diversion can be developed without unlawful impairment of existing rights;
- 3) the proposed use is a beneficial use; and
- 4) the proposed use is in the public’s interest.

How do I get an application?

South Dakota water rights are administered by Eric Gronlund (Eric.Gronlund@state.sd.us), Chief Engineer of the Water Rights Program in Pierre at (605) 773-3352.

Water Right Permit Process



V. Environmental Regulations

Asbestos

Why are asbestos regulations important?

Most uses of asbestos have been federally-banned or restricted since asbestos was found to cause lung cancer and other respiratory diseases in humans. However, it is estimated that 30 million tons of asbestos were used in thousands of building products since the late 1800s. Asbestos-containing building materials are commonly found in buildings constructed prior to the mid-1970s. The asbestos regulations currently in place are necessary to ensure that people are not exposed to airborne asbestos fibers when buildings are remodeled or demolished.



What are the statutes and regulations and to whom do they apply?

The regulations apply to remodeling or demolition projects which occur in public or commercial buildings. Private residences and apartment buildings with four or fewer dwellings are exempt from the regulations. Any project that is subject to these regulations requires a notification to the department 10 working days prior to the start of the project.



The statutes that apply to asbestos are found in [South Dakota Codified Law 34-44](#). The emission standards for asbestos during remodeling or demolition projects are adopted from the federal standards in [Administrative Rules of South Dakota 74:36:08](#). These federal standards are found in 40 CFR Part 61.

Contractors or workers who are involved in asbestos projects are required to have the appropriate training and a South Dakota asbestos certification card. The training and certification regulations are found in [Administrative Rules of South Dakota 74:31](#).

Where do I get an asbestos project notification form or an asbestos certification application?

These forms, as well as copies of the applicable statutes and regulations, can be obtained by contacting Chad Babcock (Chad.Babcock@state.sd.us) of the Waste Management Program in Pierre at (605) 773-3153.

<http://denr.sd.gov/des/wm/asb/asbhomepage.aspx>

Drinking Water

Why are drinking water regulations important?

In 1974, Congress passed the Safe Drinking Water Act (SDWA) to regulate contaminants in drinking water for the purpose of protecting public health. The state assumed enforcement of the Act from EPA in 1983 by adopting state drinking water statutes and regulations. The 1996 Safe Drinking Water Act amendment "Certificate of Approval" requirements are discussed on page 9. The Drinking Water Program within the department is responsible for drinking water issues in South Dakota.

What are the regulations that apply to drinking water?

The federal regulations are found in 40 CFR 141-142. The state statutes are in South Dakota Codified Law 34A-3A (Safe Drinking Water). The state rules are in Administrative Rules of South Dakota 74:04:12 (Drinking Water Standards), 74:04:07 (Laboratory Certification), 74:04:09 (Capacity Development), 74:04:10 (Consumer Confidence Report), and 74:04:11 (Sanitary Surveys). New drinking water systems have to obtain a certificate of approval from the department before they can begin operation. The regulations are in Administrative Rules of South Dakota 74:04:09.

Do I need to comply with drinking water regulations?

Any water system serving at least 25 people or 15 service connections for at least 60 days per year is classified as a public water system and is regulated under the Safe Drinking Water Act. Public water systems are further classified as community systems that serve residential populations; transient noncommunity systems that serve the traveling public; or nontransient, noncommunity systems that serve the same nonresidential population each day, i.e., school or factory. In order to make the regulation less burdensome, each type of system is regulated in a different manner.

Where do I get more information?

If you have questions, please call Mark Mayer (Mark.Mayer@state.sd.us) of the Drinking Water Program in Pierre at (605) 773-3754.



<http://denr.sd.gov/des/dw/dwhome.aspx>

Why are hazardous waste regulations important?

In 1976, Congress passed the Resource Conservation and Recovery Act. This Act gave EPA the authority to regulate the management of industrial wastes. The Act also required that EPA delegate the hazardous waste program to the states once the states had developed an equivalent program.

Before 1976, most industrial wastes were not regulated, and many of these wastes were buried in the ground without protective liners or other forms of ground water protection. Consequently, ground water and surface water were being contaminated across the nation. Thus, regulations were developed to protect these water sources and individuals who might come in contact with contaminated water or soils. The purpose of the Resource Conservation and Recovery Act is to ensure that all industrial wastes are minimized, handled properly, and if not reused or recycled, disposed of in a manner that does not endanger public health or the environment.

What statutes and rules apply to me if I generate hazardous waste?

South Dakota commercial businesses and industries generating hazardous waste are regulated through the Hazardous Waste Management Act, which is found in [South Dakota Codified Law 34A-11](#). The state's hazardous waste rules are found in the [Administrative Rules of South Dakota Chapter 74:28](#), which adopts the federal hazardous waste regulations by reference. This means that South Dakota's rules cite the federal regulations and are no more stringent than the EPA hazardous waste regulations. The referenced regulations are found in 40 CFR Parts 260-279.

Do I need to notify you that I generate hazardous waste?

If you generate 220 pounds or more of hazardous waste in a calendar month, you are required to notify this department that you generate hazardous waste. A notification form is available upon request or from our DENR website. Used oil is also regulated as a special waste if you transport, market, or burn it for energy recovery.



Please note if you generate or accumulate as little as 2.2 pounds per month of an "acute" hazardous waste, you are considered a Large Quantity Generator of hazardous waste. As a Large Quantity Generator, you must notify the department of hazardous waste generation and you must submit Biennial Hazardous Waste Reports.

How does the notification process work?

Once you have filled out the information on the notification form, you send it to the department for processing. You will receive a notice with your identification number in two to three weeks. This identification number is required to ship wastes to a permitted hazardous waste facility, or to transport, market, or burn used oil.

Does my business have to submit a Biennial Report Form?

A business is required by federal and state rules to submit a hazardous waste biennial report if the business is considered a large quantity generator. A biennial report must also be submitted if the company is permitted to treat, store, or dispose of hazardous waste.

Where do I get more information?

If you have any questions concerning the management of hazardous waste or used oil, contact Carrie Jacobson (Carrie.Jacobson@state.sd.us) at (605) 773-3153 in Pierre. In Rapid City, contact Kevin Christensen (Kevin.Christensen@state.sd.us) at (605) 394-2229.

SARA Title III

<http://denr.sd.gov/titleiii>

Why are SARA Title III regulations important?

In 1986, Congress passed the Superfund Amendments and Reauthorization Act (SARA) as a response to the chemical accident in Bhopal, India. This was the incident in which gas escaped from an industrial plant and killed and injured thousands people. Title III of SARA, also known as the Emergency Planning and Community Right to Know Act, establishes the public's right to know what chemicals are stored in their communities. It also requires state and local governments to establish local committees to identify hazardous materials and plan for responding to releases of the materials.

What are the regulations that apply?

The federal regulations for SARA Title III are found in 40 CFR 300-355. Related state statutes are found in [South Dakota Codified Law 1-50](#).

Who must report?

Tier II and Section 311 Reports:

A business that uses or stores a hazardous substance may be required to submit a Tier II Report or a 311 report. The reporting thresholds are as follows:

- Occupational Safety and Health Administration (OSHA) hazardous substances such as petroleum products, pesticides, solvents, compressed gases, etc., may be reportable if the amount located on site exceeds 10,000 pounds at any one time during the calendar year.
- **Retail** gas stations that store fuel in underground tanks, are subject to a reporting threshold of 75,000 gallons for gasoline and 100,000 gallons for diesel fuel; and
- Chemicals referred to as Extremely Hazardous Substances (EHS) have reporting thresholds ranging from 10 to 500 pounds. A list of EHS can be found in EPA's "List of Lists" document – check the column titled "Section 302 (EHS) TPQ." The Tier II and Section 311 reporting threshold for EHS chemicals is 500 pounds or the number in the EHS column (whichever is less).

Tier II reports are annual reports due each March 1st. Section 311 reports are due within 90 days of beginning new storage.

Section 302/303 Reports-

A business that stores an EHS in an amount meeting or exceeding the number in the "Section 302 (EHS) TPQ" column of EPA's "List of Lists" document, may need to submit this report. Section 302/303 reports are due within 60 days of beginning reportable storage of an EHS.

Toxics Release Inventory (TRI) Reports-

Certain facilities may be required to submit an annual TRI report to both US EPA and DENR. Only facilities that meet all of the following criteria are required to report:

- have ten or more employees for a total of 20,000 hours worked by all employees,
- manufacture, process or otherwise use an above threshold amount of a TRI listed chemical; and
- is in a covered industry sector (e.g., manufacturing, mining, electric power generation, etc.).

TRI reports are due by July 1st of each year.

Where do I get more information about SARA Title III?

Contact Kelsey Newling (Kelsey.Newling@state.sd.us) at (800) 433-2288.

On-site Septic Systems and Installer Certification

Why are on-site wastewater system regulations and installer certification important?

Approximately 25 to 30 percent of our residences use on-site wastewater treatment systems. These systems have the potential to contaminate ground water and surface water if they are not operated and installed properly. Regulations were developed to ensure proper wastewater treatment and proper construction of new systems.

What are the regulations that apply?

The authority for the on-site wastewater system and installer certification regulations is found in [South Dakota Codified Law 34A-2](#). The regulations are in the [Administrative Rules of South Dakota 74:53:01](#) and [ARSD 74:53:02](#). These regulations are the state's minimum requirements and standards, but local governments may have more stringent regulations. Typically, local requirements are found by contacting county government or the local planning and zoning agency in your area.

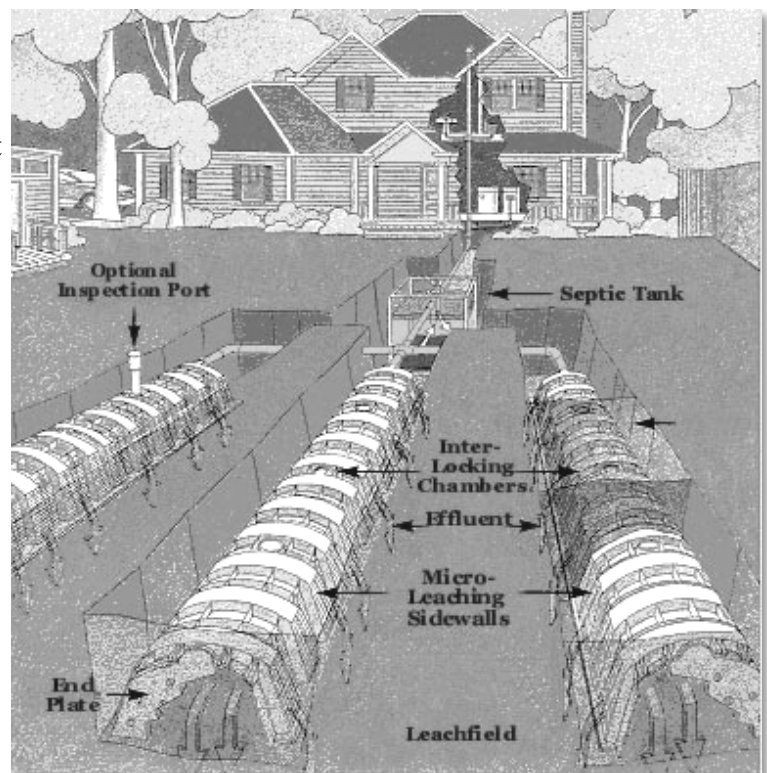
When should I contact the department if I am working with individual and small on-site wastewater systems?

You should contact the department prior to the installation of any new on-site system except those that are conventional on-site systems that service an individual residence. The department will review information about the on-site system to make sure that it will be in compliance with the regulations.

All persons who intend to install individual and small wastewater systems must be certified by the state to conduct such activities. To become certified, a person must pass an open-book, take-home style exam that is based on the regulations. The department will send copies of the regulations and exams upon request.

Where can I get more information about the on-site system review process or the installer certification program?

Requests for information about these programs or for the exams can be directed to Matt Cherney (Matt.Cherney@state.sd.us) in the Feedlot Permit Program at (605) 773-3351.



<http://denr.sd.gov/des/fp/septic.aspx>

Spill Reporting

Why is it important to report spills?

When gasoline, pesticides, solvents, or other substances are spilled or released, there is a potential that surface water, ground water or human health may be threatened. The South Dakota Regulated Substance Program was established to identify what substances and quantities of substances need to be reported, when they should be reported, and to ensure that a spill or release is contained or remediated as quickly as possible.

What statutes and regulations apply to me if I have a release or spill?

The statutes can be found in South Dakota Codified Law ([SDCL](#)) 34A-12, and the regulations are in the [Administrative Rules of South Dakota \(ARSD\) Article 74:34](#).

When should I report a release or spill?

Spills/releases of 25 gallons or more of a regulated substance (petroleum, oils, agricultural chemicals, and other substances) must be reported to DENR. Spills/releases must also be reported to DENR if they threaten or have impacted waters of the state. Finally, a spill/release must be reported to DENR if it meets or exceeds a federal reporting threshold (see the CERCLA RQ's and Section 304 EHS RQ's found in EPA's "List of Lists" document). If you have questions about federal reporting thresholds, contact DENR. Staff can assist by showing you how to check the federal lists.

When a spill is reported to DENR, staff will provide guidance and direction regarding state cleanup requirements. Report to DENR by calling the numbers listed below. The after-hours DENR number is answered by South Dakota State Radio. The dispatcher will record your information and will pass it to DENR. Someone with DENR will return your call.

DENR Business hours	(605) 773-3296
DENR 24-hours	(605) 773-3231
National Response Center (for federally reportable spills only)	(800) 424-8802



Where do I get more information?

If you have questions please contact Trish Kindt (Trish.Kindt@state.sd.us), Jackie McGuire (Jaelyn.McGuire@state.sd.us) or Baylee Hoff (Baylee.Hoff@state.sd.us) at (605) 773-3296.

<http://denr.sd.gov/spills>

Please note that costs associated with cleanup of some petroleum releases may be eligible for reimbursement through the Petroleum Release Compensation Fund. The Petroleum Release Compensation Fund can be reached at (605) 773- 3769.

Underground Storage Tanks/Aboveground Storage Tanks

Why are storage tank regulations important?

When petroleum products, such as gasoline and diesel fuel, leak into the ground, they can cause a variety of problems. If petroleum gets into ground water, that water can become unusable for drinking or stock watering. Just one gallon of a petroleum product can pollute one million gallons of water. Even ground water not used to supply drinking water is of concern. Petroleum products can be carried by the ground water and may impact subsurface utilities or basements.

To help prevent future contamination and deal with already contaminated sites, EPA established standards for underground storage tanks in 1988. In South Dakota, the department administers this federal program. The department also regulates aboveground storage tanks. They have a potential to leak as well.

What statutes and regulations apply if I have a facility with a regulated storage tank?

The storage tank statutes are found in South Dakota Codified Laws [34A-2-98](#), [34A-2-99](#), [34A-2-100](#), and [34A-2-101](#). These statutes authorize the department to develop and implement a regulatory program for storage tanks to ensure protection of human health and the environment. The regulations outlining the requirements for storage tanks are contained in the Administrative Rules of South Dakota Chapters [74:56:01](#), [74:56:02](#), and [74:56:03](#).

Do I need to notify you that I have a storage tank?

If you own or operate a facility that has a storage tank containing a regulated substance, such as petroleum, the tank must be registered with the department. Certain types of tanks, such as heating oil tanks, are exempt from regulation. The department will assist you in determining whether you have a regulated tank. Prior to installation of regulated tanks, plans and specifications must be submitted to DENR for review and approval for new tanks or new tank systems.



How does the registration process work?

The department has a standardized registration form for all regulated tanks. The form asks for information on the tank size, age, type of construction, type of product stored and other pertinent facts.

Where do I get more information?

If you have any further questions concerning the storage tank program, please contact Terry Florentz (Terry.Florentz@state.sd.us) Groundwater Quality Program, (605) 773-3296.

<http://denr.sd.gov/tanks>

Underground Injection Wells

Why are underground injection control regulations important?

The federal Safe Drinking Water Act protects all sources of drinking water, including underground sources (aquifers).

The underground injection control program regulates any injection of waste into the subsurface through six classes of wells.

Class I and Class IV injection wells are used for the disposal of hazardous, non-hazardous, radioactive, municipal and some industrial wastes, and wastewater. Both types of wells are banned in South Dakota. Class II injection wells are used for the disposal of wastes generated in the production of oil and gas or for the injection of materials to enhance the recovery of hydrocarbons. Class III wells are used to inject materials for the purpose of extracting minerals such as sulfur, salts and uranium. Class VI wells are used to inject carbon dioxide captured from an industrial source for long-term geologic sequestration.



All other types of injection wells are included in Class V. Typical Class V wells include geothermal return wells, domestic wastewater disposal wells (septic systems), septic systems and sumps used in various types of industrial/commercial businesses, and wells used in ground water remediation projects.

What statutes and regulations apply to me if I inject wastes?

[South Dakota Codified Law 45-9](#) and [Administrative Rules of South Dakota Chapter 74:12:07](#) contain statutes and regulations for Class II injection wells. These are the only wells for which South Dakota has primary enforcement authority. EPA regulates all other types of injection wells in South Dakota. The Underground Injection Control Program of the Federal Safe Drinking Water Act is found in 40 CFR Parts 144-147.

Do I need to notify you if I operate an injection well?

If you operate any type of injection well, you need to notify this department. Notification is not necessary for septic systems used for domestic sewage, unless the system handles more than 20 people.

Where do I get more information on underground injection regulations?

If you have questions concerning the Class II underground injection control program, please contact Lucy Blocker (Lucy.Blocker@state.sd.us) at 605-773-4201, in Pierre. If you have questions concerning any other class of underground injection, please contact Brian Walsh (Brian.Walsh@state.sd.us) at (605) 773-3296, in Pierre.

<http://denr.sd.gov/des/gw/UIC/UIC.aspx>

Water and Wastewater Operator Certification

Why are Operator Certification Program regulations important?

Drinking water and wastewater treatment systems protect public health and the environment only if they are working and operated correctly.

The Operator Certification Program is intended to protect public health, environmental quality, and water/wastewater systems' investment in their facilities. A voluntary certification program was started in 1954. The mandatory certification law was passed by the South Dakota State Legislature in 1970. There are certifications in water treatment, water distribution, wastewater treatment, wastewater collection, stabilization ponds, small water treatment systems, and very small water systems.

What rules and statutes apply to this program?

South Dakota's Water and Wastewater Operator Certification rules are found in the [Administrative Rules of South Dakota Article 74:21](#), and the statutes are in [South Dakota Codified Law 34A-3](#).

Who needs to be certified?

Any wastewater treatment plant or wastewater collection system that serves 500 or more people (or a population equivalent of 500 people) must employ a certified operator. All community and non-transient non- community water systems must have a certified water treatment and distribution operator. Any transient non- community water system using disinfection equipment or that uses surface water or ground water under the influence of surface water must employ a certified operator. An operator certified at the level of a particular water treatment plant or distribution system must be available for each operating shift. Any operator at a water treatment plant or distribution system making process control system integrity decisions about water quality or quantity that affect public health must be certified at any level.

How do I obtain the certification?

Training courses are presented 18 times throughout the state by the South Dakota Rural Water Association (under contract to the department) and other water/wastewater organizations. Applications for exams must be submitted to the department at least two weeks in advance of the exam date. There are education and experience requirements to take any exam. The exams contain true/false, multiple choice, and math questions. An operator must score 70 or more points out of 100 to pass an exam. Upon passing the exam, operators receive a certificate that must be renewed each year.

Where do I get more information on Operator Certification?

Information on operator certification can be received by contacting Rob Kittay (Rob.Kittay@state.sd.us) in the Drinking Water Program at (605) 773-4208.



<http://denr.sd.gov/des/dw/exam.aspx>

Water Quality Certification

Why are water quality certification regulations important?

Early in the 1970s, there was widespread concern over the poor quality and condition of the nation's waters. Congress passed the federal Clean Water Act of 1972 that established many programs to ensure the integrity of our waters would be restored, protected and maintained. This effort was aided greatly by the development of surface water quality standards and water quality certification processes administered by each of the states. Surface water quality standards establish the level of water quality that is needed to protect the assigned uses the water can provide. The water quality certification program, often referred to as "401 Certification," allows the state to verify that any federally-permitted activities with the potential to exceed water quality standards, or impact water quality are completed in the least damaging manner practicable, and that they conform to all applicable requirements.

What are the statutes and regulations that apply?

Legislative authority for water quality certification can be found in South Dakota Codified Law, [34A-2-11](#), [34A-2-33](#), [34A-2-34](#), and [34A-2-93](#). Regulations pertaining to the water quality certification process are located in Administrative Rules of South Dakota [74:51:01:63-65](#). Activities requiring a water quality certification must be public noticed to provide interested parties an opportunity to comment on the proposed project.

What activities require a water quality certification, and how do I get one?

Any federally-permitted activity that has the potential to discharge pollutants into waters of the state must comply with water quality standards. The actual discharge of pollutants is permitted by a variety of state or federal programs, depending on the type of discharge proposed. When the project requires a *federal* permit or license, such as a federal 404 dredge and fill permit issued by the U.S. Army Corps of Engineers, the state must issue a water quality certification before the federal permit can be issued. To obtain a water quality certification for your project, you have the option of working directly with DENR or you can ask the federal permit-issuing authority to work with DENR.

Where do I get more information?

Please contact Patrick Snyder (Patrick.Snyder@state.sd.us) of the Surface Water Quality Program at (605) 773-3351 in Pierre for assistance with water quality certifications or surface water quality standards.



<http://denr.sd.gov/des/sw/401.aspx>

NOTES

Appendix A

DEPARTMENT DIRECTORY (a guide for businesses)

Subject	Contact	Phone
Air toxics	Marlys Heidt	773-3151
Aquifer maps	Tim Cowman – Vermillion	677-5227
Asbestos.....	Chad Babcock	773-3153
Asphalt plants & rock crushers.....	Mike Erickson or Tom Cline	1-800-848-8203
Biosolids.....	Raul Vasquez – Rapid City	394-2229
Brownfields	Nayyer Syed	773-3296
Consolidated funding.....	Mike Perkovich or Andy Bruels	773-4216
Dam safety.....	Whitney Kilts.....	773-3352
Drinking water quality.....	Mark Mayer	773-3754
Engineering plans		
Above & underground storage tanks	Terry Florentz	773-3296
Dams.....	Whitney Kilts.....	773-3352
Feedlots	Kent Woodmansey.....	773-3351
Mining facilities & pollution controls	Eric Holm or Roberta Hudson	773-4201
On-site wastewater or septic systems	Matt Cherney	773-3351
Solid waste facilities.....	Steve Kropp	773-3153
Drinking water treatment & distribution with DENR funding	Eric Meintsma.....	773-4216
Drinking water treatment & distribution without DENR funding	Mark McIntire.....	773-3754
Wastewater treatment & collection with DENR funding.....	Eric Meintsma.....	773-4216
Wastewater treatment without DENR funding	Kelli Buscher	773-3351
Wastewater collection without DENR funding	Kent Woodmansey.....	773-3351
Feedlots	Kent Woodmansey.....	773-3351
Flooding.....	Mark Rath	773-3352
Geological studies	Layne Schultz – Vermillion	677-5227
Ground water levels & aquifers	Adam Mathiowetz	773-3352
Ground water quality monitoring	Tom Marshall – Vermillion	677-5227
Hazardous waste	Carrie Jacobson.....	773-3153
Irrigation questionnaire	Genny McMath.....	773-3352
Lakes		
Levels & outlets	John Farmer or Mark Rath.....	773-3352
Water quality.....	Paul Lorenzen	773-4254
New water system planning	Erin Dreis – Rapid City	394-6780
Nonpoint source pollution	Barry McLaury	773-4254
Oil & gas geologic data	Darren Johnson – Vermillion	677-5227
On-site wastewater – septic tanks.....	Matt Cherney	773-3351

DEPARTMENT DIRECTORY (a guide for businesses) continued...

Subject	Contact	Phone
Operator assistance.....	Ray Woodworth.....	773-3351
Operator certification.....	Rob Kittay.....	773-3754
Permits:		
Air quality	Kyrik Rombough.....	773-3151
Ground water discharge	Matt Hicks or Brian Walsh.....	773-3296
Mineral exploration notices of intent	Roberta Hudson.....	773-4201
Mining	Eric Holm or Roberta Hudson	773-4201
Oil & Gas and Class II UIC.....	Lucy Blocker or Jeff Klenner	773-4201
One stop industrial permitting.....	Ashley Brakke	773-3351
Pesticide Discharges	Kyle Doerr	773-3351
Solid waste	Steve Kropp.....	773-3153
Surface water discharge/NPDES.....	Tina McFarling	773-3351
Water rights	Eric Gronlund	773-3352
Water rights – temporary.....	Genny McMath.....	773-3352
Petroleum cleanup reimbursement	Mike Perkovich or John McVey.....	773-3769
Pretreatment.....	Kyle Doerr	773-3351
Project financing.....	Andy Bruels or Mike Perkovich	773-4216
Recycling.....	Nick Emme.....	1-800-438-3367
Sand & gravel mining.....	Thomas Cline or Bret Graves	773-4201
SARA Title III chemical reporting.....	Kelsey Newling	773-3296
Solid waste grant/loan funding	Drew Huisken or Andy Bruels	773-4216
Source water	Brian Walsh	773-3296
Spills.....	Trish Kindt or Jackie McGuire.....	773-3296
.....	or Baylee Hoff.....	after hours 773-3231
State revolving funds.....	Mike Perkovich or Andy Bruels.....	773-4216
State water plan	Andy Bruels.....	773-4216
Storage tanks	Terry Florentz.....	773-3296
Stormwater	Katie Adair	1-800-737-8676
Superfund (CERCLA).....	Mark Lawrensen.....	773-3296
Surface water quality data	Shannon Minerich or Aaron Leingang	773-3351
Surface water quality standards.....	Patrick Snyder.....	773-3351
Total maximum daily loads (TMDLs).....	Paul Lorenzen.....	773-4254
Underground injection control (General UIC, not Class II)....	Brian Walsh	773-3296
Well construction, driller licensing, & plugging	Adam Mathiowetz or Whitney Kilts.....	773-3352
Wellhead protection.....	Brian Walsh	773-3296