

**Department of Environment and Natural Resources (DENR)  
Concentrated Animal Feeding Operation Permit Process  
Application Checklist  
2017**

A National Pollutant Discharge Elimination System (NPDES) permit or State Water Pollution Control Permit is required for certain animal feeding operations. This checklist can assist producers in determining whether they need permit coverage and to determine which permit they should apply for.

**1. Does your animal feeding operation need a water pollution control permit?**

When a concentrated animal feeding operation is owned by one person but is operated by another person, the operator shall apply for the permit.

You need a permit if:

- You operate a livestock confinement operation that is a concentrated animal feeding operation (see definition on page 8);  
 Yes  No
- You operate an animal feeding operation, regardless of size, required to obtain permit coverage by a local government entity – such as a county commission. Local government may also have other requirements that apply to your operation.  
 Yes  No
- You operate an animal feeding operation, regardless of size, required by DENR to obtain permit coverage to protect the state’s water resources;  
 Yes  No
- You operate a large concentrated animal feeding operation, located in another state, that plans to stockpile or land apply un-manipulated manure or process wastewater in South Dakota.  
 Yes  No
- The producer does not meet any of the categories above, but is voluntarily obtaining permit coverage.  
 Yes  No

**(If you answered “No” to all of the bullets above you are not required to obtain coverage under this permit; If you answered Yes to any of the bullets, continue to #2.)**

**2. Hire an engineer, engineer and crop consultant, or sign a contract with NRCS.**

Contact several consulting engineers and crop consultants, or the Natural Resources Conservation Service (NRCS) about design services and permit application preparation. The engineer must be licensed to practice in South Dakota. If you are planning a new operation, talk with them about your existing or proposed location, location standards, and system requirements. For new operations, a properly selected site will speed DENR’s review and save you time and money. Check the engineer’s references for similar systems.

We encourage producers looking for an engineer to design a manure management system to ask the following two questions:

1. How many manure management systems have you designed in South Dakota?
2. How many days did it take to get the construction plans and specifications approved by DENR?

In considering the answers to these two questions, producers need to understand the following:

- a) Producers should talk to other producers who were clients. Ask those other producers what they liked, what they did not like, and if they would hire that engineer again.
- b) Producers still may choose an engineer with little experience designing manure management systems to meet South Dakota requirements, but they should expect approval of those systems to take longer.
- c) The amount of time it takes DENR to approve construction plans is variable and dependent on many factors. However, getting the reviews done as fast as possible has been and remains a priority for DENR staff.
- d) Delays are not always the engineer's fault. For example, many times the producer wants to change something that causes delays. However, a good engineer will be able to work changes into the process to minimize delays.
- e) Producers may call DENR to verify the answers.

With these understandings, the producer will have a better idea of the experience and expertise an engineer has in designing manure management systems in South Dakota, and their ability to get the design done right the first time and avoid unnecessary delays and costs.

**Completed**

3. **Determine if you want a NPDES general permit or a state general permit.** The 2016 general permit offers two options for permit coverage for facilities. You should decide which permit meets the needs of your operation.

| <b>Summary of Significant Differences Between State and NPDES Permit</b> |   |  |
|--|---|--|
|  | <b>State Permit</b>   | <b>NPDES Permit</b>  |
| <b>Effluent Limits</b>   | No discharge allowed to waters of the state under any circumstance  | Allows certain operations to discharge to waters of the state in the event of a 25-year, 24-hour storm event   |
| <b>Permit Application</b>  | Requires NRCS' Soil Plant Air Water (SPA W) model to verify operation is designed to not discharge  | SPA W model only required for new source swine, poultry, and veal operations   |
| <b>Permit Issuance Process</b>   | <ul style="list-style-type: none"> <li>• Does not allow for a contested case hearing</li> <li>• If a public notice is required, the public notice and DENR review are concurrent</li> <li>• Operation must obtain DENR</li> </ul> | <ul style="list-style-type: none"> <li>• Allows for a contested case hearing which may lengthen the time before construction can begin</li> <li>• If a public notice is required, DENR's review and</li> </ul> |

|                         |   |  |
|-------------------------|---|--|
|                         | approval before beginning construction<br>• Operation must obtain permit coverage and Certificate of Compliance before populating | recommendation must be complete before the public notice<br>• Operation must obtain coverage under the permit before beginning construction<br>• Operation must obtain Certificate of Compliance before populating |
| <b>Annual Reporting</b> | Same as 2003 permit requirements based on EPA's 2003 regulations  | In addition to 2003 permit requirements, requires all annual nutrient management information to be submitted   |

All other requirements such as design, construction, nutrient management planning, inspection, and record keeping requirements are the same for both permits.

**Producer plans to apply for a  state general permit, or a  NPDES general permit.**

**4. The consulting engineer and/or NRCS prepare a permit application package and review these documents with you prior to submitting the application to DENR.**

Completed

**5. There are additional permits that your operation may need.**

**Does your operation need a Water Right Permit?**

You need a permit if you have your own water source and will exceed either 25,920 gallons per day (gpd) or a peak pump rate of 25 gallons per minute (gpm). If you exceed either of these volumes, you must submit a water right application. An application can be obtained from the department's website (<http://denr.sd.gov/des/wr/wr.aspx>) or by calling (605) 773-3352.

Yes  No

**Does your operation need a Storm Water Permit?**

You need a permit if one or more acres of land will be disturbed during construction. If you will disturb more than one acre of land, you must submit a storm water permit application. An application can be obtained from the department's website (<http://denr.sd.gov/des/sw/stormwater.aspx>) or by calling 1-800-737-8676.

Yes  No

**Does your operation need an Air Quality Permit?**

You need a permit prior to construction if pollutants will be emitted to the air. The air quality permit will cover any source that releases air contaminants to the ambient air. Examples of equipment that may be regulated in the permit are generators, boilers, incinerators, and feed mills. The permitting process may take up to 180 days. An application can be obtained from the Air Quality staff at (605) 773-3151.

Yes  No

**Does your operation need a Permit to Occupy a Right of Way?**

If manure application will involve placing hoses or other equipment in a state highway right of way (for example, in a road ditch or through a culvert), you must obtain a Permit to Occupy Right of Way. Application for this permit may be made through your local South Dakota Department of Transportation area office. Contact your local SD DOT area office for more information on this permit (<http://sddot.com/dot/region/>). In addition, please contact your county highway superintendent to determine if your county has similar requirements.

Yes  No

**Does your operation need to Report Emissions from Animal Waste?**

Certain livestock operations are required by the federal Environmental Protection Agency to report their livestock emissions. More information can be obtained on the department's internet site at:

[http://denr.sd.gov/des/gw/SARATitleIII/Emissions\\_from\\_Animal\\_Waste.aspx](http://denr.sd.gov/des/gw/SARATitleIII/Emissions_from_Animal_Waste.aspx).

Yes  No

**Is your operation required to report to the federal EPA?**

Manure management systems emitting at least 25,000 metric tons of CO<sub>2</sub> equivalent per year may be required to report to the federal Environmental Protection Agency. For more information contact Chris Dresser with EPA, Region 8, at (303) 312-6385.

Yes  No

**Will your operation encroach, damage or destroy historic sites?**

If an operation will encroach, damage or destroy any of the historic sites identified at the following websites: <http://history.sd.gov/Preservation/NatReg/NatReg.aspx> or <http://www.nps.gov/nhl/find/statelists/sd/SD.pdf>, the producer shall first contact the State Historic Preservation Office at (605) 773-3458.

Yes  No

- 6. Your permit application is submitted to DENR at least 60 days (state permit) or 180 days (NPDES permit) prior to the anticipated start of construction.**

Completed.

- 7. If required, DENR submits a 30-day public notice to a local newspaper and posts it on DENR's One-Stop Permitting website (<http://denr.sd.gov/public/>).**

**State Permit**

A public notice is required for state permit applications if your application is for a new operation or for a proposed increase in the maximum animal numbers.

**NPDES Permit**

A public notice is required for all NPDES permit applications. The public notice will not occur until the review of the application is complete and a recommendation to approve or deny permit coverage is made (See #9 below).

Producer is billed by newspaper and pays for notice.

**Note: If at any time after a permit application is public noticed and before a Certificate of Compliance is granted, your permit application is significantly changed; the application shall start the permitting process over.** This includes a new public notice. Significant changes include: 1) Any revised or as-built plans that include a change in location of the process wastewater containment system where additional soil borings are required; 2) A change to the type of manure or process wastewater storage structure; 3) An increase in the amount of manure or process wastewater generated; 4) A decrease in the manure or process wastewater storage volume in the manure containment system; or 5) A modification to the nutrient management plan resulting in a change in a planned crop rotation or an increase in land application field acres.

- 8. You must attend, or have attended within the last 3 years, the approved environmental training program for producers held by the South Dakota Cooperative Extension Service (Contact the Cooperative Extension Service at (605) 688-5144 for dates and locations).**

Attend producer training and submit training certification to DENR.

- 9. DENR review and approval process.**

**State Permit**

**DENR completes the review and if the application meets all permit requirements, sends producer an approval letter. This letter may have conditions that need to be met to keep the approval valid. If a shallow aquifer is present, ground water monitoring or a ground water discharge permit will be required. or;**

**NPDES Permit**

**If the application meets all permit requirements and depending on the outcome of any contested case hearing, permit coverage is granted or denied.**

For either permit, if the approval letter indicates a liquid manure containment system is located over a shallow aquifer, submit a ground water discharge permit application and /or ground water monitoring information.

- 10. All county requirements completed.**

Completed

- 11. Construction can begin.**

Prior to starting construction, producer notifies DENR of construction schedule and tentative completion date.

- 12. DENR performs at least one construction inspection.**

Completed

- 13. Consulting engineer or NRCS submits Notice of Completion.**

Completed

**14. The following document(s) must be issued before a new operation or a component of an existing operation may be populated or a manure management system can be used to store manure or wastewater.**

**State Permit**

**DENR issues permit coverage and Certificate of Compliance. or;**

**NPDES Permit**

**DENR issues Certificate of Compliance.**

Completed

**15. Producer populates animal feeding operation and begins keeping records required by the permit.**

**DENR staff will conduct an inspection of the operation in the first 18 months of operation, and then yearly if your operation has a maximum population of two times the number of animals to be a large CAFO or at least every three years for all other operations. During these inspections, DENR staff will look at the manure management system, manure management cropping plan, and records required by the permit to ensure the operation remains in compliance with the permit.**

**By August 1<sup>st</sup> of each year the department will send you a bill for your annual permit fee. This fee helps pay for our feedlot activities. The fee is two hundred fifty dollars for operations with a maximum population of two times the number of animals to be a large CAFO, one hundred seventy-five dollars for operations that are large CAFOs with a maximum population of less than 2 times the number of animals to be a large CAFO, and one hundred dollars for operations below the threshold to be a large CAFO. The fee is due by September 30<sup>th</sup> of each year.**

**At the beginning of the calendar year, the department will also send you an annual report form. The form must be completed and returned no later than March 28<sup>th</sup> of each year.**

## Definition of Concentrated Animal Feeding Operation

A “**Concentrated Animal Feeding Operation**” 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:

1. A large concentrated animal feeding operation as described in Table 1 below.
2. A medium concentrated animal feeding operation as described in Table 1 below 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.
3. A small concentrated animal feeding operation as described in Table 1 and designated as a concentrated animal feeding operation 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                |   |   |
|  | <u>Large</u><br>Animal numbers equal to or more than: | <u>Medium</u><br>Animal numbers equal to: | <u>Small</u><br>Animal numbers less than: |
| Dairy cows (mature – milked or dry)  | 700   | 200 to 699                                | 200                                       |
| Veal Calves  | 1,000   | 300 to 999                                | 300                                       |
| Cattle other than mature dairy cows or veal calves <sup>1</sup>                                      | 1,000   | 300 to 999                                | 300                                       |
| Swine (weighing more than 55 pounds)   | 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 <sup>2</sup>   | 30,000  | 9,000 to 29,999                           | 9,000                                     |
| Chickens, other than laying hens <sup>3</sup>  | 125,000   | 37,500 to 124,999                         | 37,500                                    |
| Laying hens <sup>3</sup>   | 82,000  | 25,000 to 81,999                          | 25,000                                    |
| Ducks <sup>2</sup>   | 5,000   | 1,500 to 4,999                            | 1,500                                     |
| Ducks <sup>3</sup>   | 30,000  | 10,000 to 29,999                          | 10,000                                    |
| Geese  | 30,000  | 10,000 to 29,999                          | 10,000                                    |

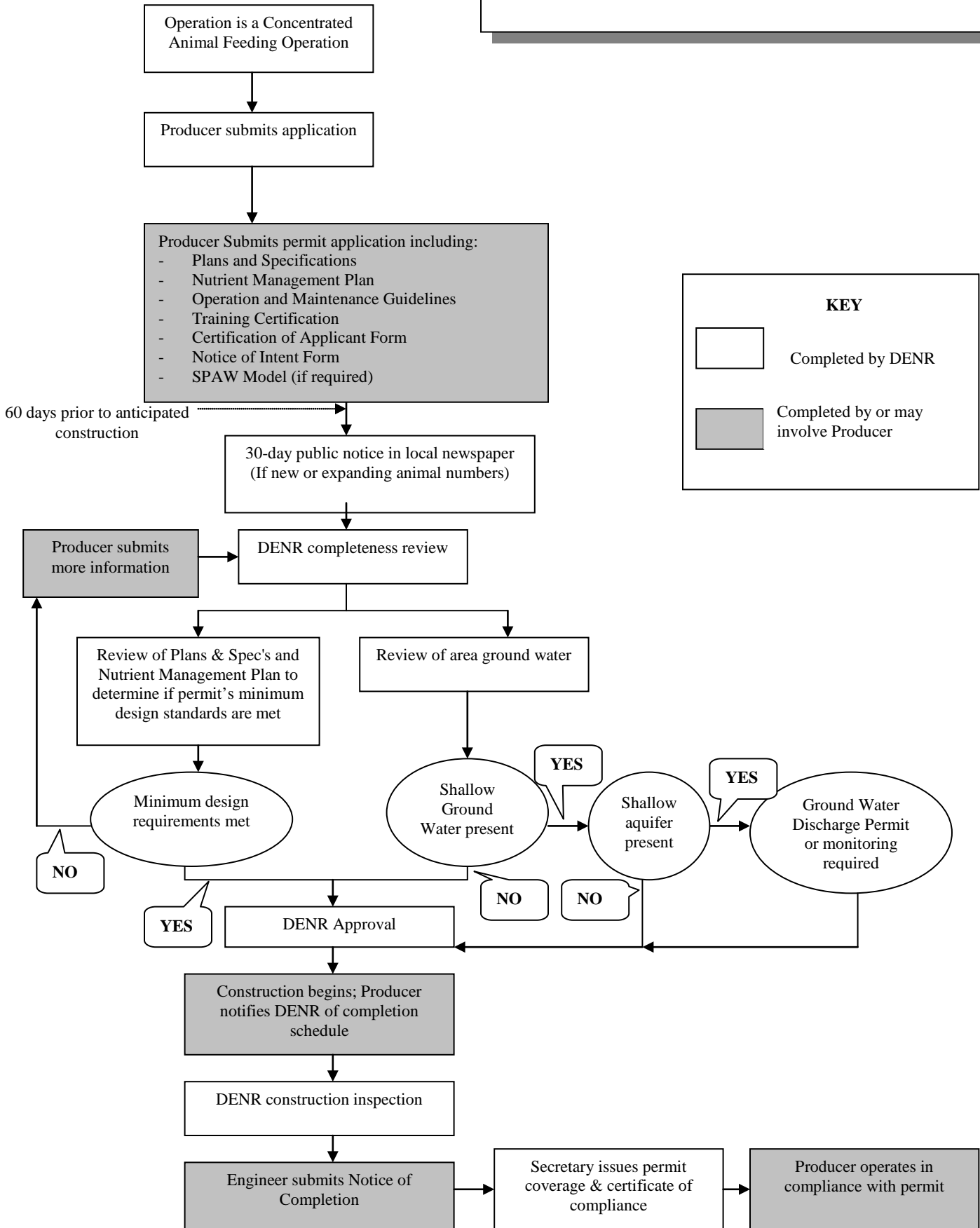
<sup>1</sup> Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.

<sup>2</sup> Animal feeding operation uses a liquid manure handling system.

<sup>3</sup> Animal feeding operation uses other than a liquid manure handling system.

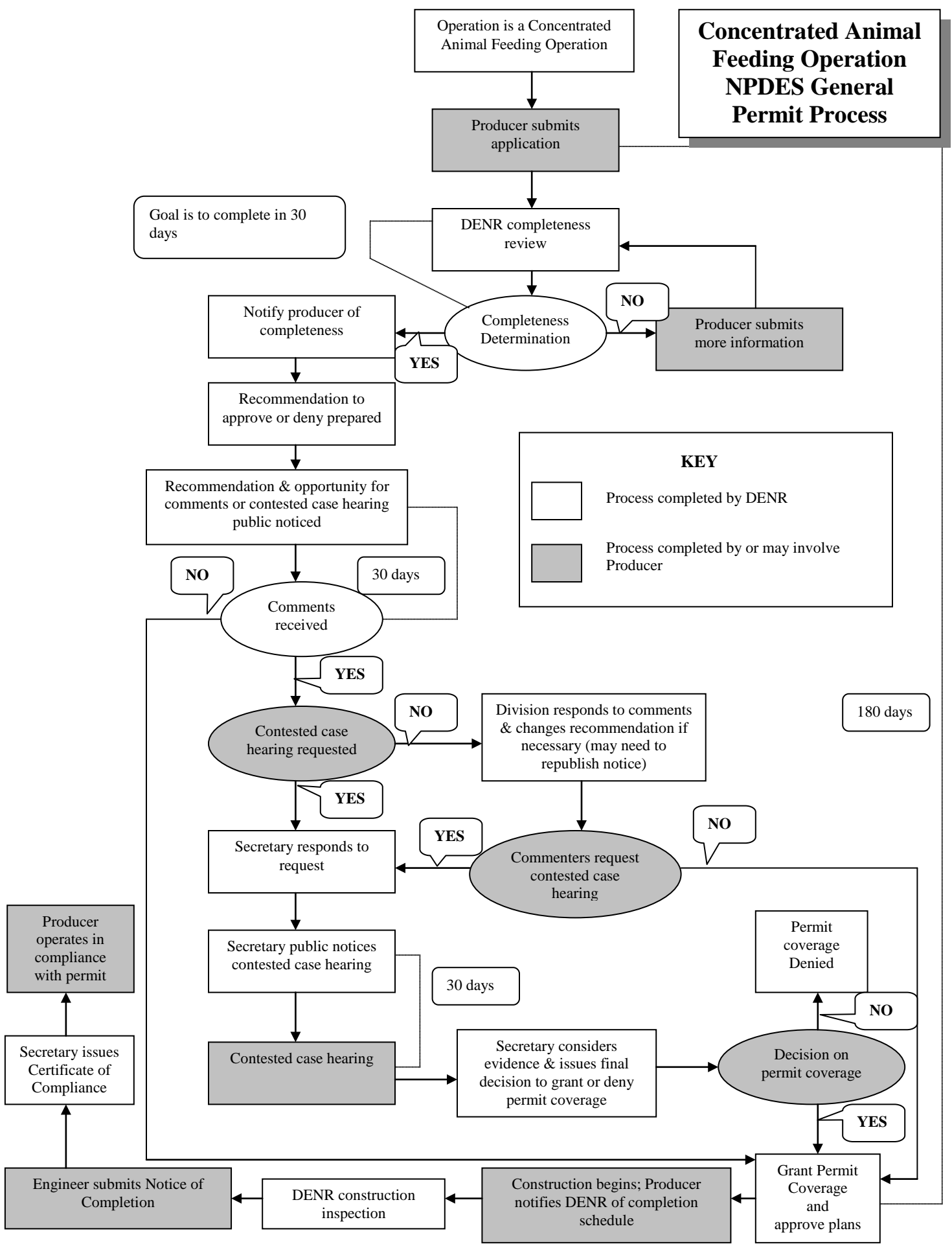
**NOTE:** Other animal types not listed in the above table may be considered on a case-by-case basis.

# Concentrated Animal Feeding Operation State General Permit Process





# Concentrated Animal Feeding Operation NPDES General Permit Process



## Examples of Permit Scenarios

The following scenarios identify the permit options for common permitting situations:

### Scenario 1

An animal feeding operation houses 3,000 finishing hogs in total confinement barns with concrete manure storage pits below the barns. The facility is designed to not discharge.

**Permit Options:** This animal feeding operation is a large CAFO that does not discharge. The producer has the option to submit an application for coverage under the state permit or a NPDES permit. A NPDES permit would cover a possible discharge from land application activities.

### Scenario 2

The facility is a cattle operation that houses 3,000 steers on open lots where runoff is directed to a liquid manure storage area to prevent a discharge to surface waters.

**Required Permit:** This facility is a large CAFO; therefore, the producer has the option to apply for either a state permit or a NPDES. Permit. If the producer applies for a state permit, the producer's engineer must submit with the permit application the Natural Resource Conservation Service's Soil Plant Air Water model results verifying the operation is designed to not discharge. The owner may choose to obtain an NPDES permit in lieu of the state permit. Consideration should be given to getting coverage under the NPDES permit as an extreme rainfall event could lead to a discharge from an overflow of the liquid manure containment system. No discharge is allowed under the state permit.

### Scenario 3

An existing 500-cow dairy is proposing to add another 500 cows to the operation, for a total of 1,000 mature dairy cows. Manure and process wastewater will be stored in an existing holding pond that will also be expanded in size. There are no open lots and site is designed to not discharge.

**Required Permit:** Currently the feedlot is not a large CAFO, but the feedlot is proposing to expand and will be a large CAFO. As a result, the owner is required to apply for an either a state permit or a NPDES permit. If the producer applies for a state permit, the producer's engineer must submit with the permit application the Natural Resource Conservation Service's Soil Plant Air Water model results verifying the operation is designed to not discharge. Consideration should be given to getting coverage under the NPDES permit as an extreme rainfall event could lead to a discharge from an overflow of the holding pond. No discharge is allowed under the state permit.

### Scenario 4

The facility is a 100,000 laying hen chicken operation that uses dry litter for manure handling and houses the animals in housed lots. The site is designed to not discharge.

**Required Permit:** The proposed site is a large CAFO. As a result, the owner is required to apply for an either a state permit or a NPDES permit. Even though the facility is designed to not discharge there is a limited possibility of discharge from the facility, consideration should be given to applying for a NPDES permit which would allow the operation to discharge in the event of an emergency. Under the state or NPDES general permit, a producer can sell or give away up to 100 cubic yards of solid manure per year without including that manure in their annual nutrient management plan. If the producer wants to sell or give away more than 100 cubic yards of solid manure, the producer will need to apply for an individual permit.