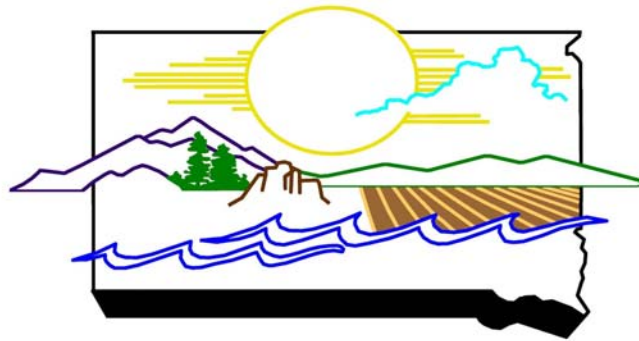


# South Dakota Department of Environment and Natural Resources



## *Stop Environmental Permitting and Regulation Guide*

*(2018 Edition)*



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE SOUTH DAKOTA 57501-3182

<http://denr.sd.gov>

**EXECUTIVE SUMMARY**

**January 1, 2018**

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,  
Steven M. Pirner  
Secretary



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# **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. It has become apparent to the department 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 7-30) **and V** (pages 31-40) 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.

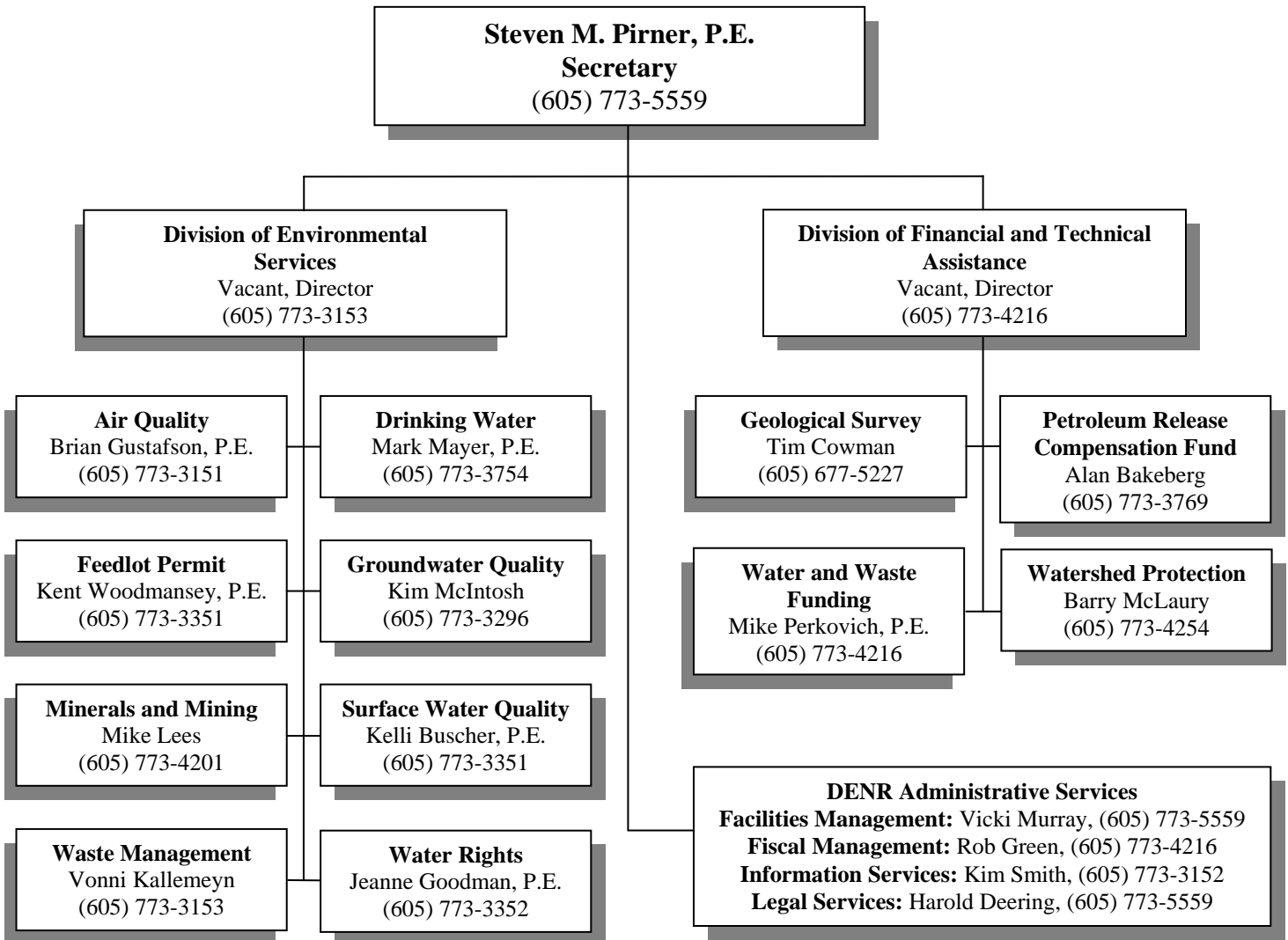
## **Instructions for Use**

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



*“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

<b>Board of Water Management</b> - Water Use Appropriation - Water Quality Regulations - Drinking Water	<b>Board of Water &amp; Natural Resources</b> - State Water Plan - Financial Assistance for Water & Solid Waste Projects	<b>Board of Minerals and Environment</b> - Air Quality - Asbestos - Hazardous Waste - Mining - Oil and Gas - Solid Waste	<b>State Emergency Response Commission</b> - Chemical Reporting - Community Right to Know	<b>Board of Operator Certification</b> - Water and Wastewater Operator Certification	<b>Small Business Clean Air Advisory Panel</b> - Air Quality - Small Business Ombudsman & Assistance	<b>Petroleum Release Compensation Board</b> - Release Compensation
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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	NPDES Water Discharge Permit	Storm Water 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						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			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		1,2	X		X	X
Gas Stations	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 (page 7)	Drinking Water Approval (page 9)	Feedlot Permit (page 11)	Ground Water Plan (page 14)	Mining Permit/License (page 16)	NPDES Surface Water Permit (page 20)	Storm Water Discharge Permit (page 22)	Oil and Gas Permit (page 24)	Solid Waste Permit (page 27)	Water Rights Permit (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				X	1	X	X		X
Petroleum Landfarms							X		X	
Printing	X			X		2				X
Railroads						1	X			X
Housing and Mobile Home Developments		X				1,3	X			X
Rural Water Systems and Sanitary Dist.		X		X		1	X			X
Sand/Gravel	X				X	1	X			X
School Districts	X	X				1	X			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
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		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	X					
Food Processing Plants	X			X	X	X		X		
Gas Stations			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 (page 31)	Drinking Water (page 32)	Hazardous Waste (page 33)	SARA Title III (page 34)	Septic Tanks (page 35)	Spills (page 36)	Storage Tanks (page 37)	Under Ground Injection Wells* (page 38)	Water and Wastewater Certification (page 39)	Water Quality Certification (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		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

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

#### **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.

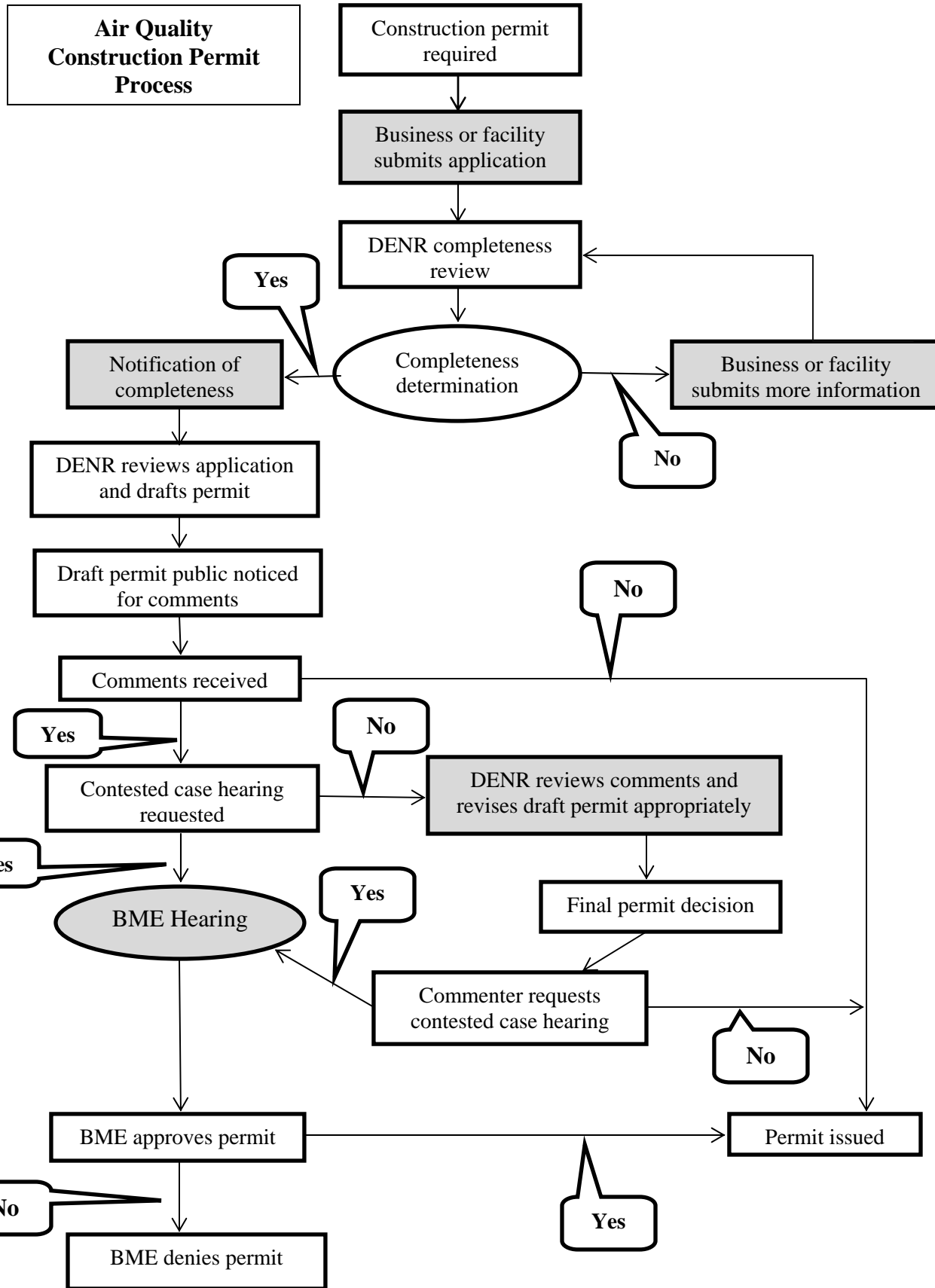
There are two categories of air pollutants. First, there are regulated air pollutants which consist of particulate matter, sulfur dioxide, nitrogen oxide, carbon monoxide, lead and volatile organic compounds. Second, EPA, through the 1990 Clean Air Act Amendments, developed regulations for 188 toxic 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, 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](mailto:DENRINTERNET@state.sd.us), or calling the Air Quality Program at (605) 773-3151.



**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?**

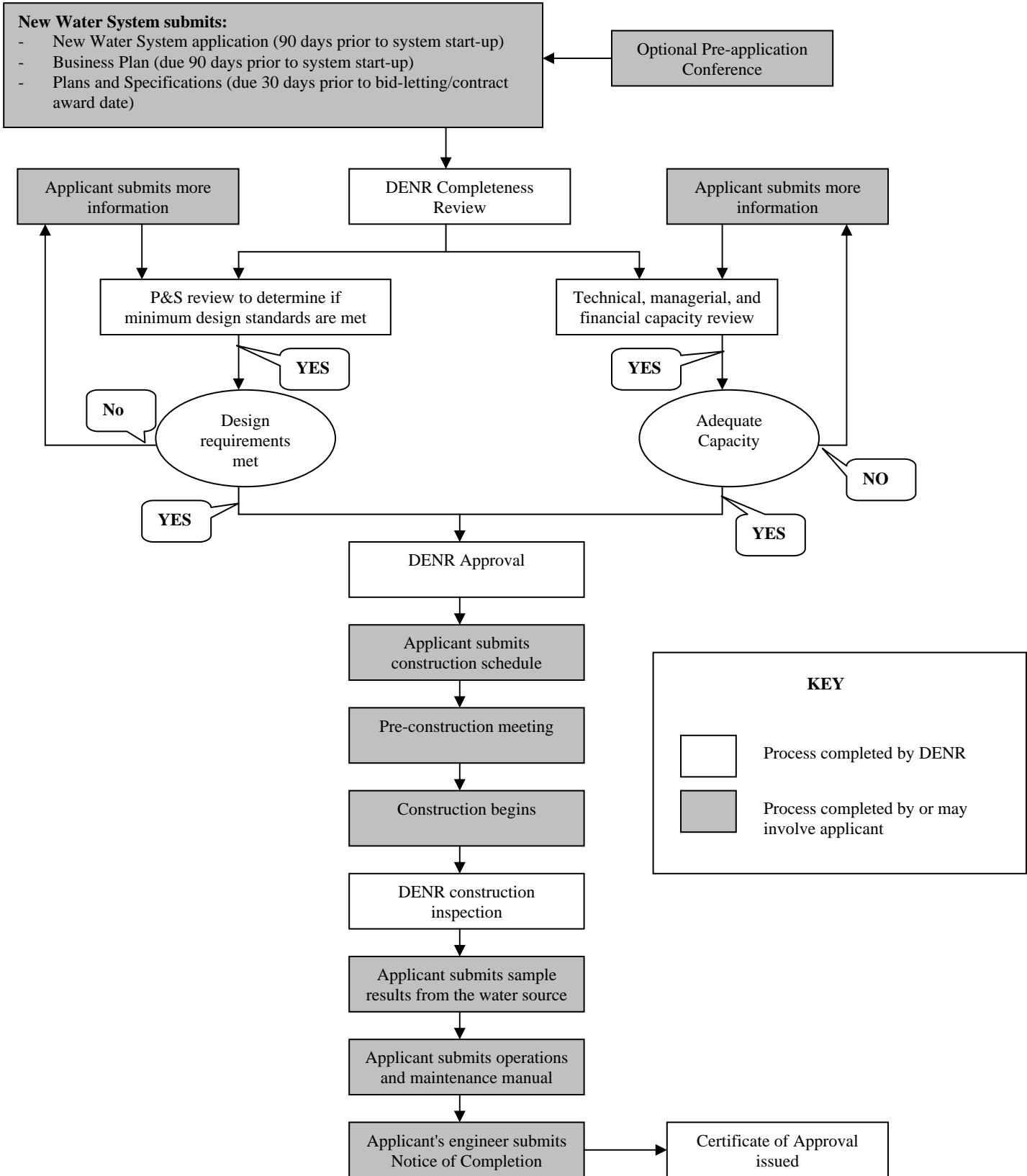
The department recommends that you apply as soon as possible. It is going to take time to get the required documents approved. If more information is needed by the department during the review process, it could extend the amount of time needed for approval. The department has set the following minimum 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 Dreis (Erin.Dreis@state.sd.us), with the Drinking Water Program at (605) 773-3754.

# Drinking Water System Certificate of Approval Process



**What is the history of animal feeding operation laws in South Dakota?**

The animal feeding operation requirements in South Dakota are based on a federal law passed by Congress in 1972. This law was called the Clean Water Act and specified that certain animal feeding operations were subject to the permitting system created by the Act. This permitting system was called the National Pollutant Discharge Elimination System or NPDES Permit Program. Essentially, the Act requires a NPDES permit for any discharge of pollution that comes from a point source. Congress said that animal feeding operations were considered a point source. In 1974, the U.S. Environmental Protection Agency (EPA) developed regulations establishing the basic requirements animal feeding operations have to meet today.

In the late 1980's and early 1990's, the state began to develop a program that met all federal requirements so the state Department of Environment and Natural Resources (DENR) could implement the Concentrated Animal Feeding Operation (CAFO) program in South Dakota instead of EPA. To do that, the state had to adopt laws and regulations that met the minimum requirements established by Congress and EPA. In December 1993, EPA gave South Dakota the authority to administer the program in South Dakota. In 1996, the DENR worked cooperatively with the SD Pork Producers Council, many other agriculture groups, and local governments in drafting a proposed general permit that would apply to only swine feeding operations. After several public comment periods and a two-day contested case hearing, the Secretary issued the final permit on January 21, 1997. The permit became effective on February 1, 1997. Based on the success of the general swine permit, the South Dakota Department of Agriculture asked the DENR to develop a second permit that would cover other types of livestock feeding operations. The DENR drafted the permit during the summer of 1997 and provided several opportunities for public comment. After a hearing on January 28, 1998, the Secretary issued a final permit that became effective on February 10, 1998. In December 2002 EPA revised the Clean Water Act regulation for CAFOs to update the old regulations. The new federal rules became effective April 14, 2003, and new state rules became effective July 1, 2003. Elements of the previously existing general permits and the new federal and state rules were incorporated into one general permit for CAFOs that was signed after a public hearing on September 12, 2003, and became effective October 20, 2003. New federal rules were effective in December 2008; however, South Dakota has not yet adopted those rules or made changes to the general permit. The existing general permit has been administratively extended and remains effective until a new general permit is issued.

**Do I need a permit?**

You need a permit if you have a concentrated animal feeding operation. (See definition below)

**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 below.
- A medium CAFO 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.
- 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		
	<u>Large</u> Animal numbers equal to or more than:	<u>Medium</u> Animal numbers equal to:	<u>Small</u> 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.

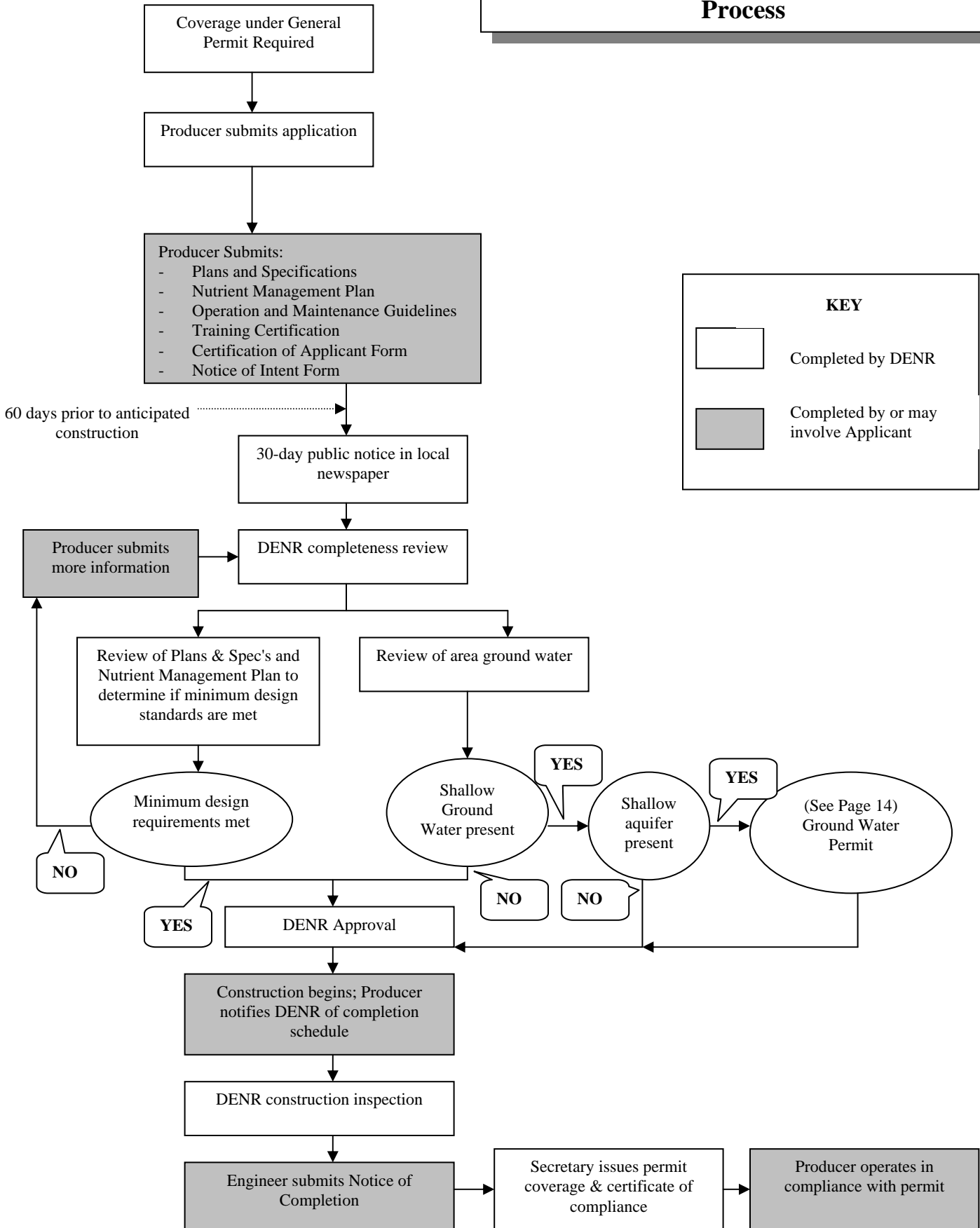
### How Does the Permitting Process Work?

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, plans and specifications signed and stamped by a South Dakota licensed engineer, a signed operation and maintenance guideline, and a nutrient management plan. Following DENR's review and approval of the permit application, construction of the manure management system can begin. The department must be notified when construction begins to allow for construction inspections as required by state rules. The project engineer must submit a Notice of Completion to DENR when construction of the manure management system is completed. Certificate of Compliance and permit coverage is then issued by DENR, allowing the facility to begin operation.

### 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.

# Concentrated Animal Feeding Operation Discharge Permit Process





**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 83 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 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 South Dakota Codified Law 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 74:54:01 and 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.

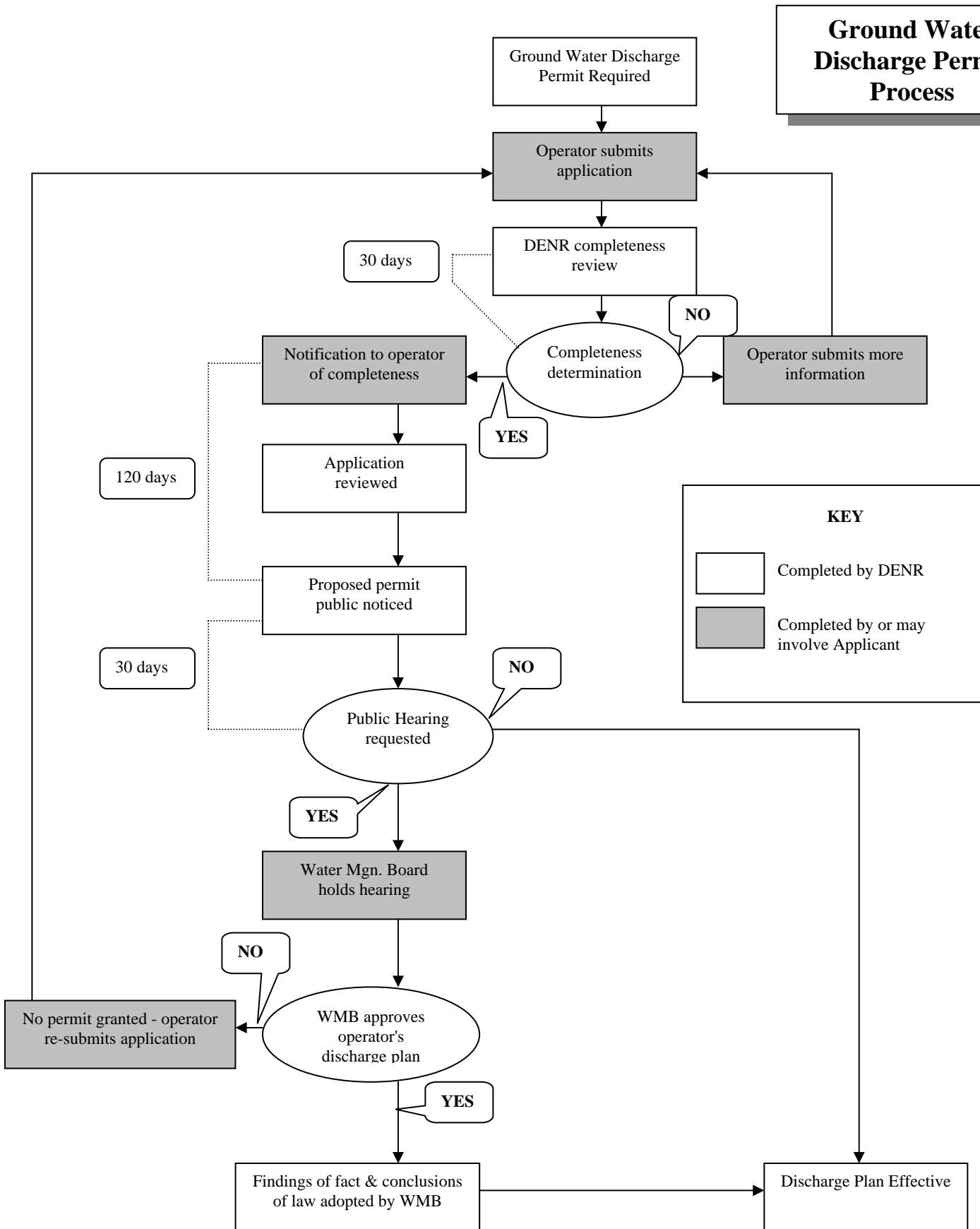
**How does the notification process work?**

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 (Matt.Hicks@state.sd.us) of the Ground Water Quality Program at (605) 773-3296.

# Ground Water Discharge Permit Process



### **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 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. Mineral exploration permits 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. Drilling for oil and gas is regulated under SDCL 45-9 and Administrative Rules of South Dakota 74:10.

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.

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 Administrative Rules of South Dakota 74:29. Contested mine permits require a public hearing before the Board of Minerals and Environment.

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

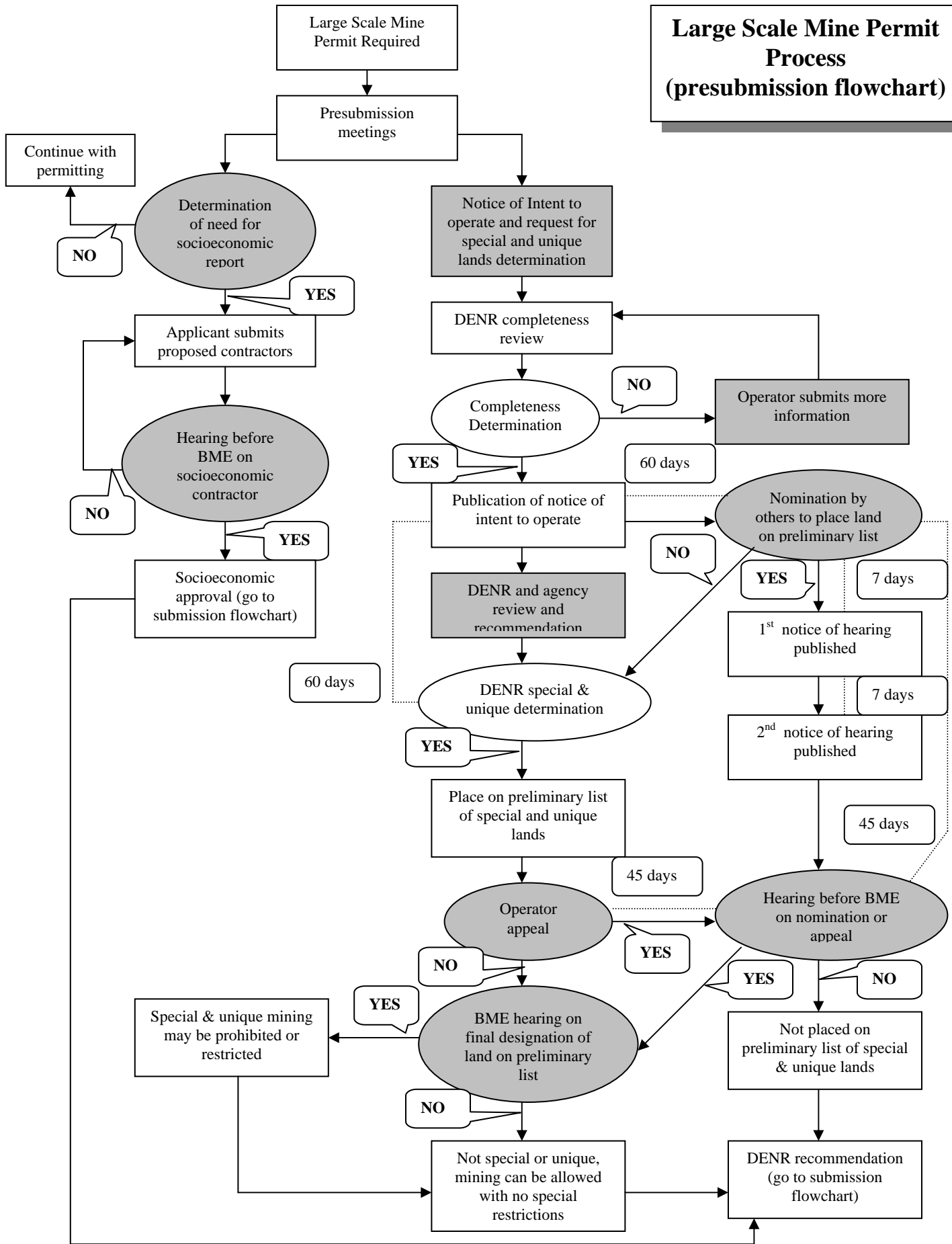
For mineral exploration, a permit is not required for activities that cause very little or no surface disturbance. This includes airborne surveys; non-explosive seismic energy sources; or shallow drill holes in sand, limestone, gypsum or shale. Permits are required for mineral exploration if roads will 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.

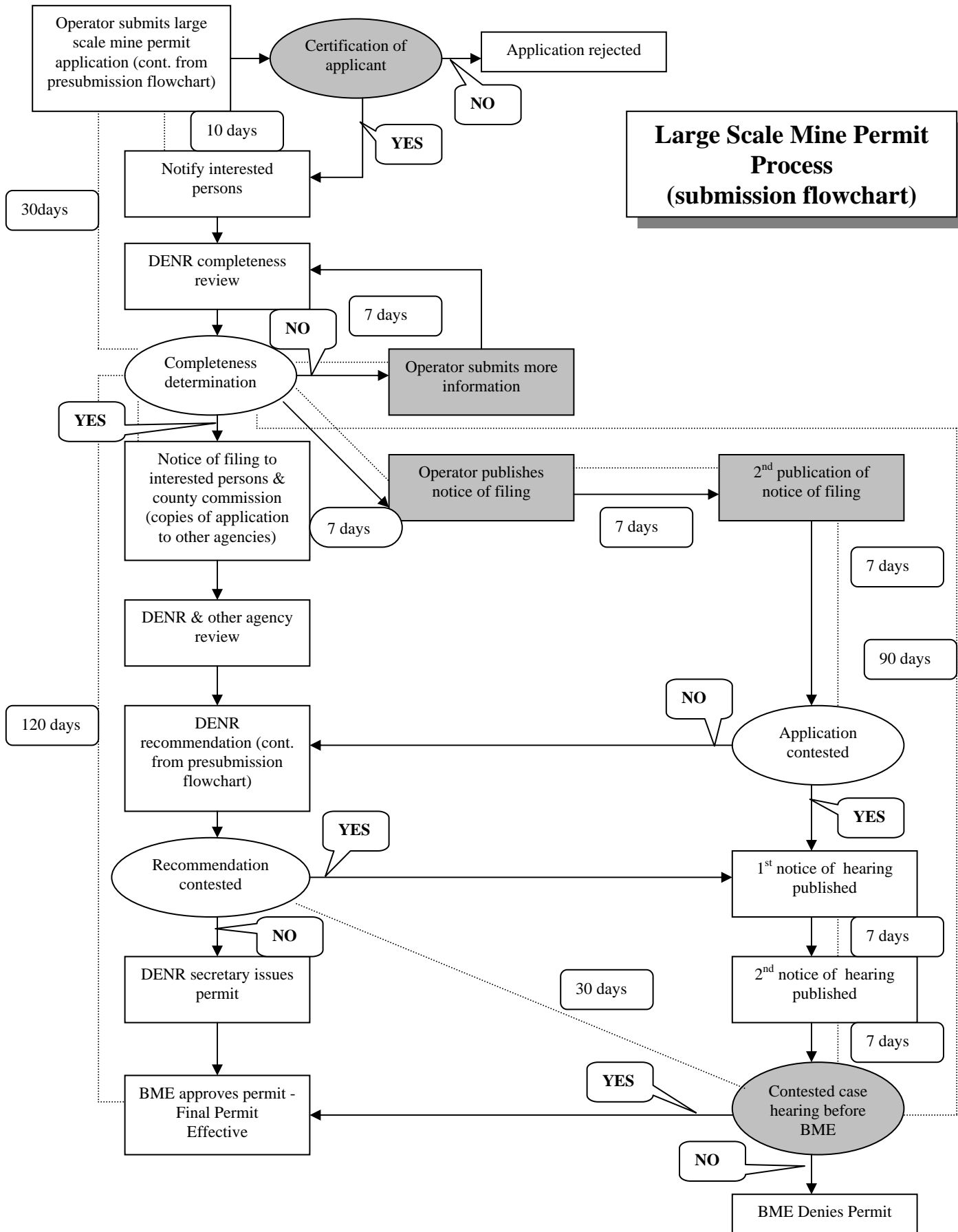
Recreational and hobby miners, such as gold panners and mineral collectors, do not have to obtain a mining permit if only hand held equipment is used. However, a permit is required to use mechanized equipment such as a portable dredge in a stream. For sand and gravel operations, landowners are exempt 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?**

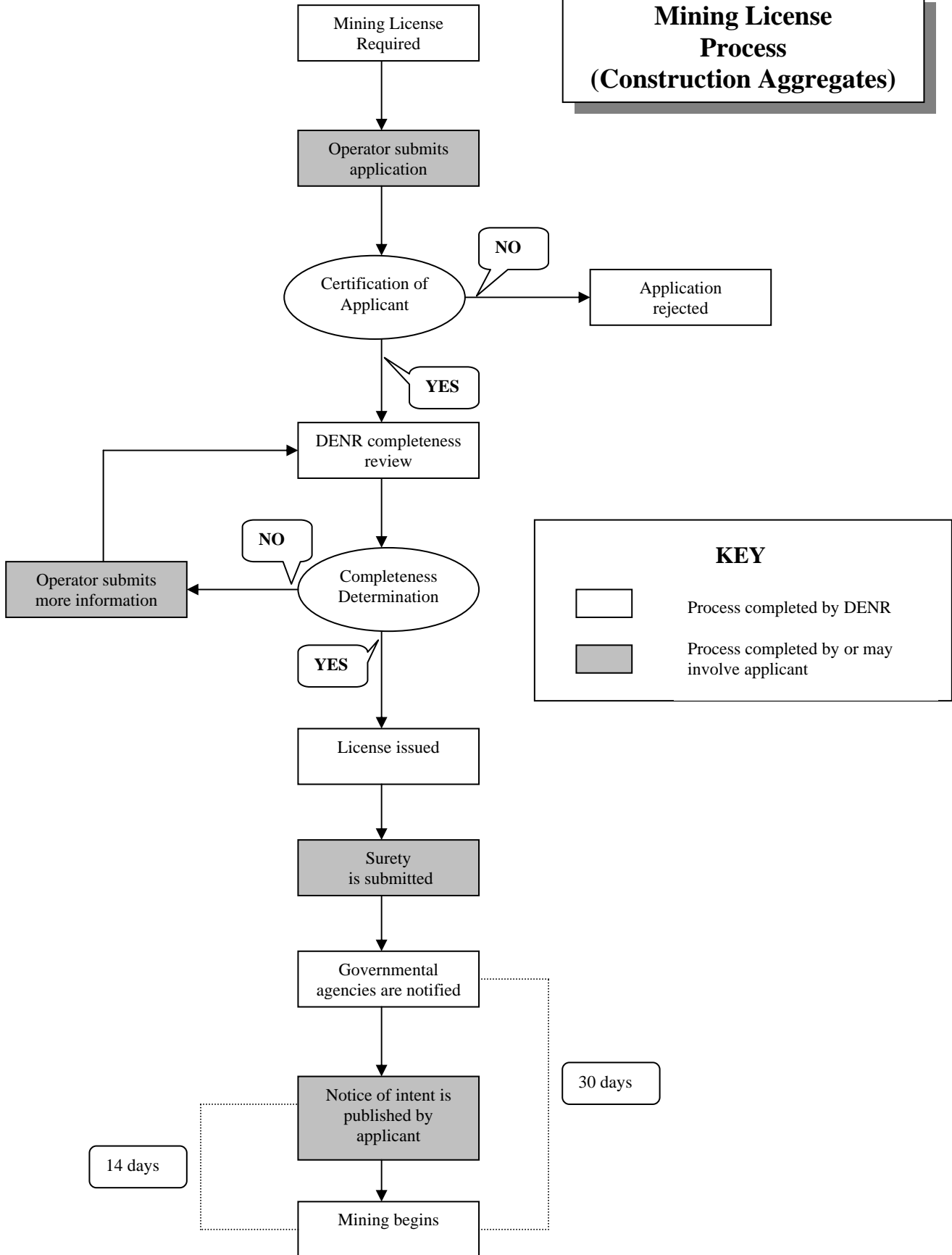
If you have any questions concerning mineral exploration permits and mining permits in South Dakota, contact Mike Cepak (Mike.Cepak@state.sd.us) or Eric Holm (Eric.Holm@state.sd.us) at (605) 773-4201. For mine licenses, contact Mike Erickson (Michael.Erickson@state.sd.us) or Tom Cline (Tom.Cline@state.sd.us) at (605) 773-4201.

# Large Scale Mine Permit Process (presubmission flowchart)





## Mining License Process (Construction Aggregates)



**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 Tina McFarling at (605) 773-3351 or by email at [Tina.McFarling@state.sd.us](mailto:Tina.McFarling@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 Tina McFarling at (605) 773-3351 or by email at [Tina.McFarling@state.sd.us](mailto:Tina.McFarling@state.sd.us). Storm Water 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.

**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 Al Spangler at (605) 773-3351 or by email at [Albert.Spangler@state.sd.us](mailto:Albert.Spangler@state.sd.us).

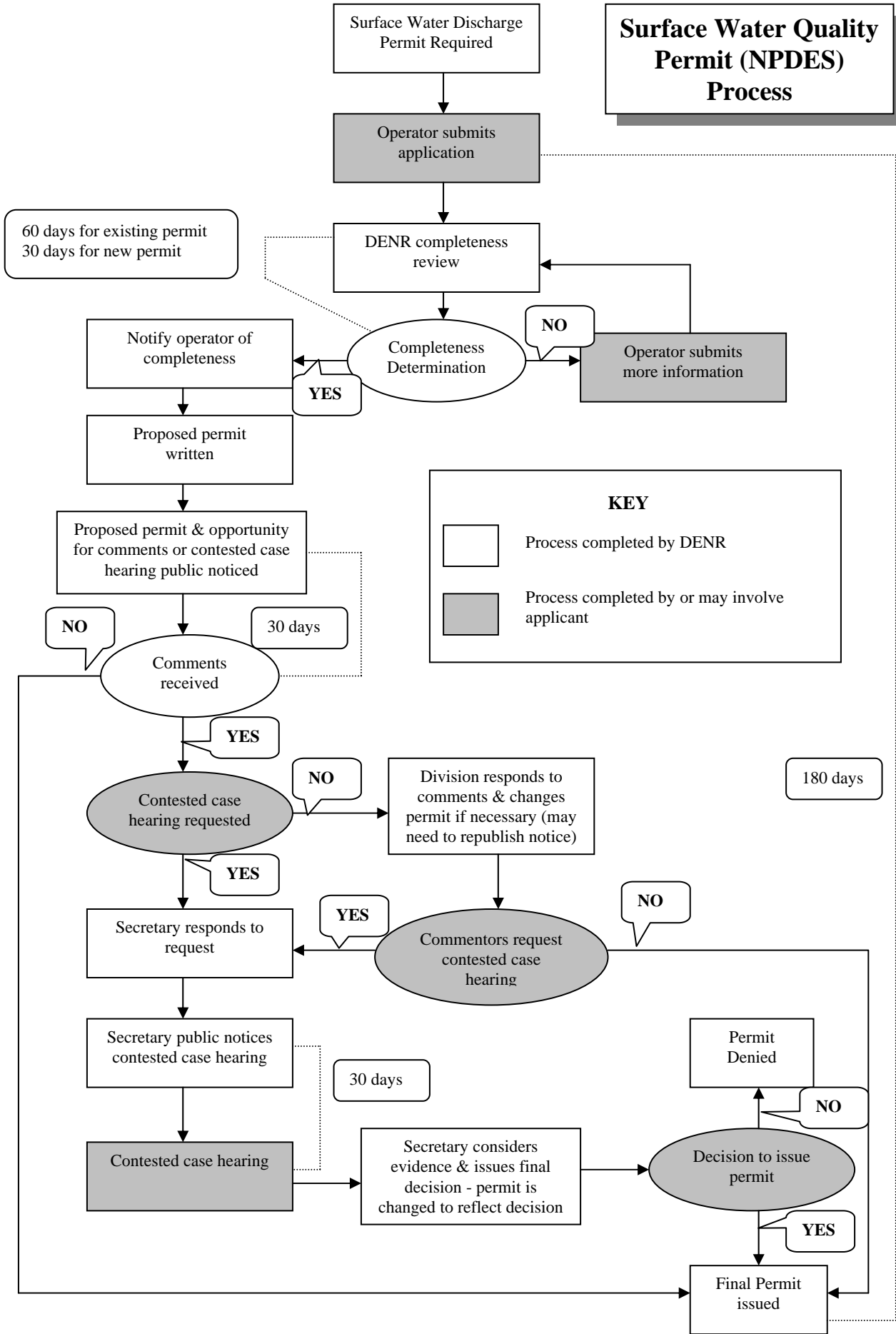
**How does the permitting process work?**

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 Administrative Rules of South Dakota 74:52.

**Where do I get a Surface Water Discharge permit?**

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

# Surface Water Quality Permit (NPDES) Process





### **What is the Storm Water Program?**

Polluted storm water 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 Storm Water Program, which is a comprehensive national program for addressing storm water discharges from municipal separate storm sewer systems (MS4s), industrial activities, and construction sites, which can adversely affect the quality of our waters. The Storm Water Program uses the National Pollutant Discharge Elimination System (NPDES) permitting mechanism to require the implementation of controls, also known as Best Management Practices (BMPs), designed to prevent harmful pollutants from being washed by storm water 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 Storm Water Permit?**

The Storm Water Program requires permit coverage for the following:

- MS4s 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.

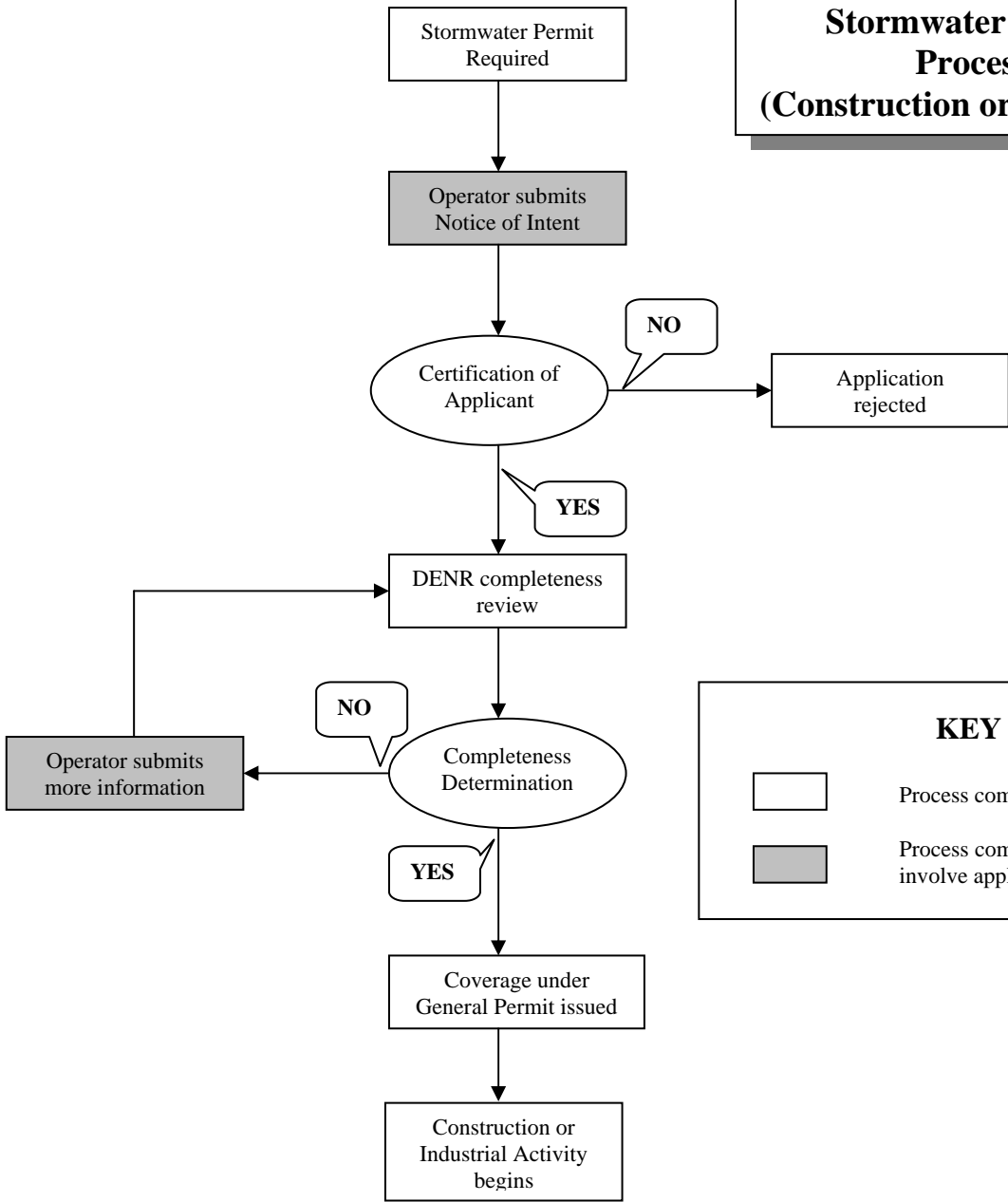
### **What does the permit require?**

Typically, the permits for storm water 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 storm water at your site.

### **How do I get a permit?**

South Dakota has developed general permits to provide a simple process for getting a storm water 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 ([denrinternet@state.sd.us](mailto:denrinternet@state.sd.us)) at 1-800-SDSTORM (737-8676) or by visiting <http://denr.sd.gov/des/sw/stormwater.aspx>.

## Stormwater Permit Process (Construction or Industrial)



**KEY**

	Process completed by DENR
	Process completed by or may involve applicant

### **Why are oil and gas rules important?**

The Oil and Gas Conservation Statute (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>.

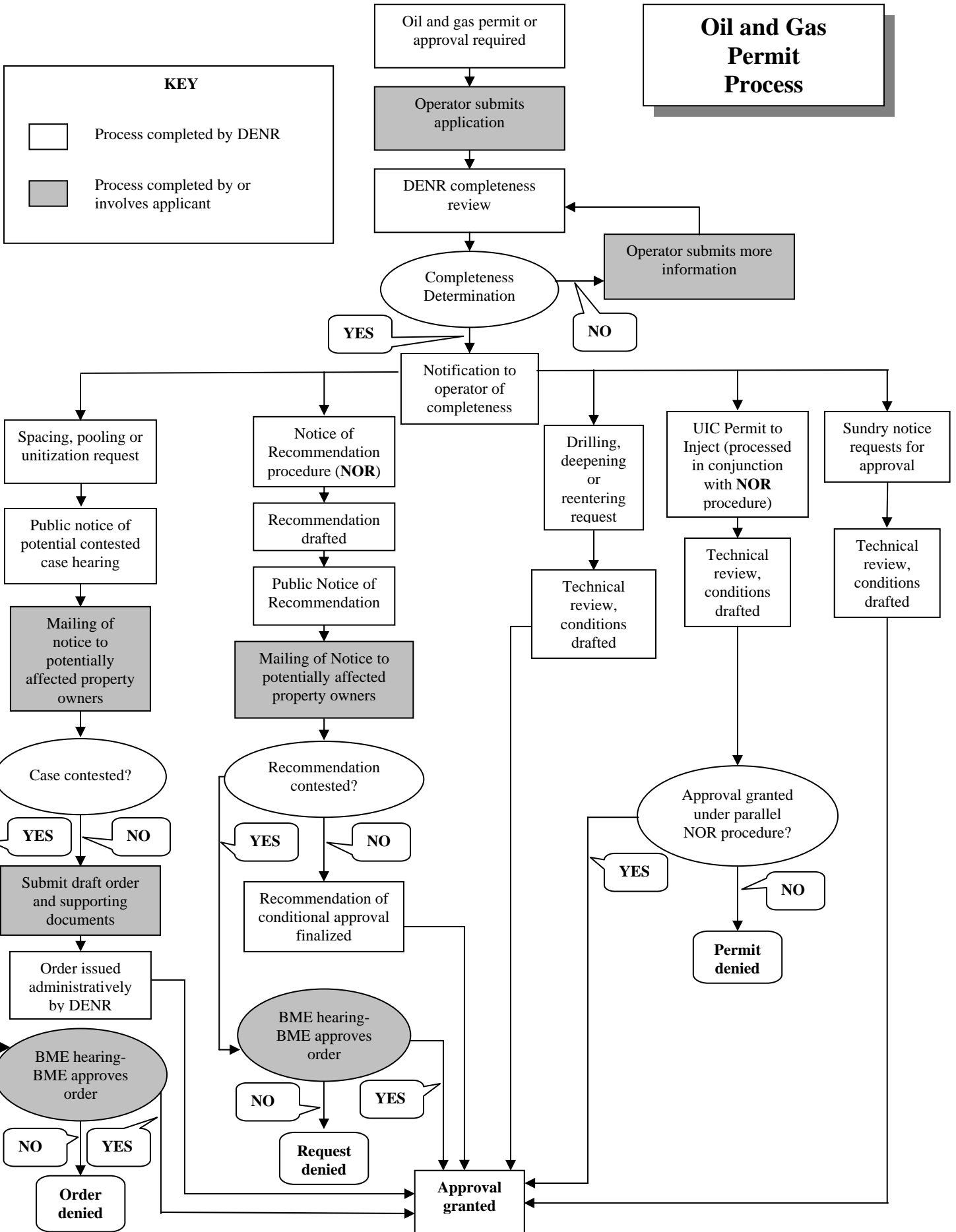
**Underground injection control (UIC) Class II Permits to Inject:** In conjunction with submitting a petition to initiate the Notice of Recommendation procedure (see "Potential contested case hearings" above), a permit to inject is required for any injection of fluid associated with oil and gas production into, above, or through underground sources of drinking water. For more information on permits to inject contact the Ground Water Quality 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 Mike Lees ([Michael.Lees@state.sd.us](mailto:Michael.Lees@state.sd.us)), Lucy Dahl ([Lucy.Dahl@state.sd.us](mailto:Lucy.Dahl@state.sd.us)), or Jeff Klenner ([Jeff.Klenner@state.sd.us](mailto: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 other information. For information regarding UIC permits to inject or other UIC requests, contact Brian Walsh ([Brian.Walsh@state.sd.us](mailto:Brian.Walsh@state.sd.us)) of the Ground Water Quality Program at (605)773-3296.

# Oil and Gas Permit Process



**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 South Dakota Codified Law 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?**

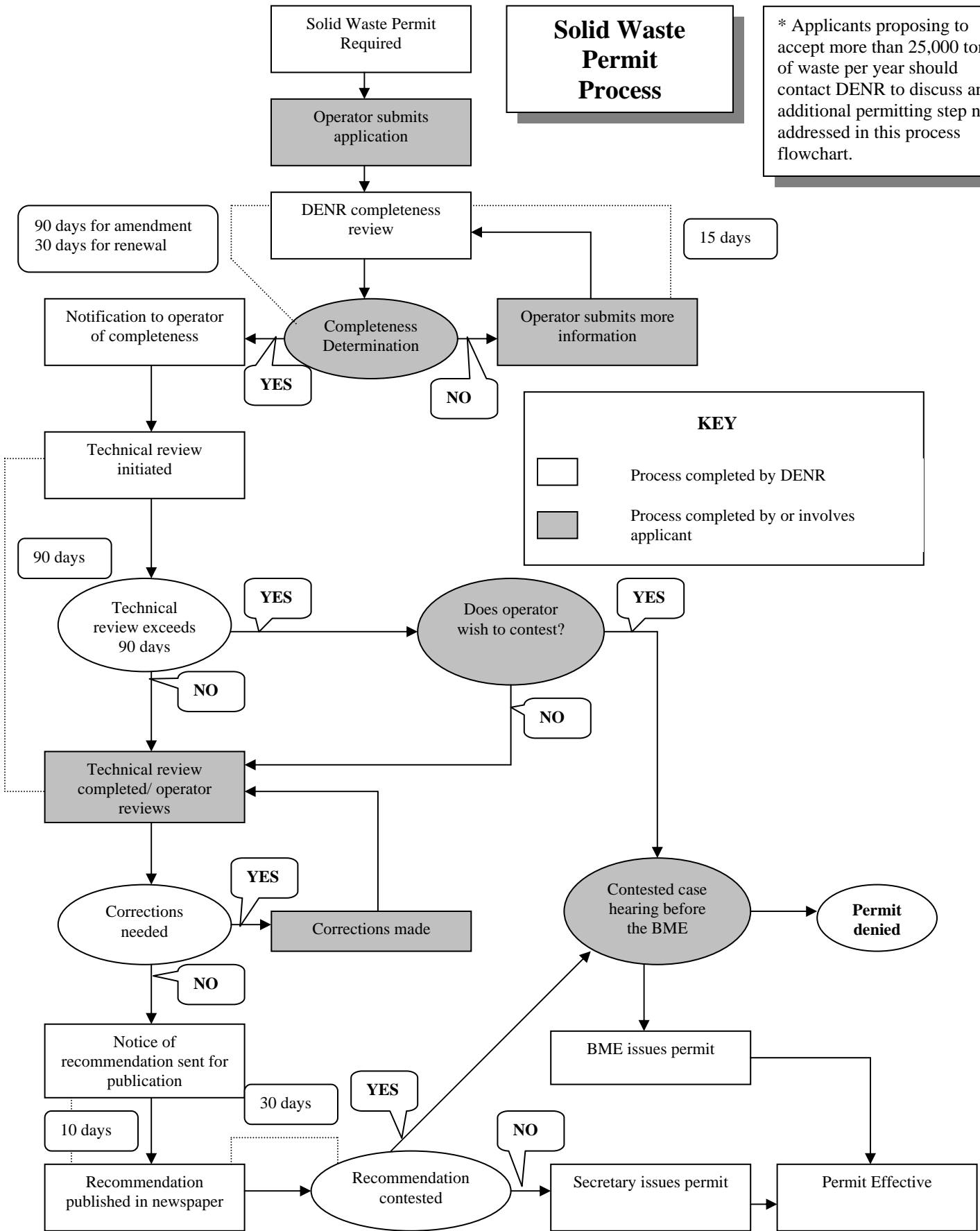
The permitting process requires that you send the department an application. The department reviews the application to determine whether the facility will comply with the statutes and administrative rules. The department makes a recommendation on the permit and publishes it in a local newspaper for a 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 Jim Wendte (Jim.Wendte@state.sd.us) or any of the staff in the Waste Management Program at (605) 773-3153.

# Solid Waste Permit Process

\* Applicants proposing to accept more than 25,000 tons of waste per year should contact DENR to discuss an additional permitting step not addressed in this process flowchart.



**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 require water rights permits and are subject to the doctrine of prior appropriation, except certain domestic uses of 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. 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.

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 the website listed at the top of the page. 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) control flooding or modify water courses, 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:

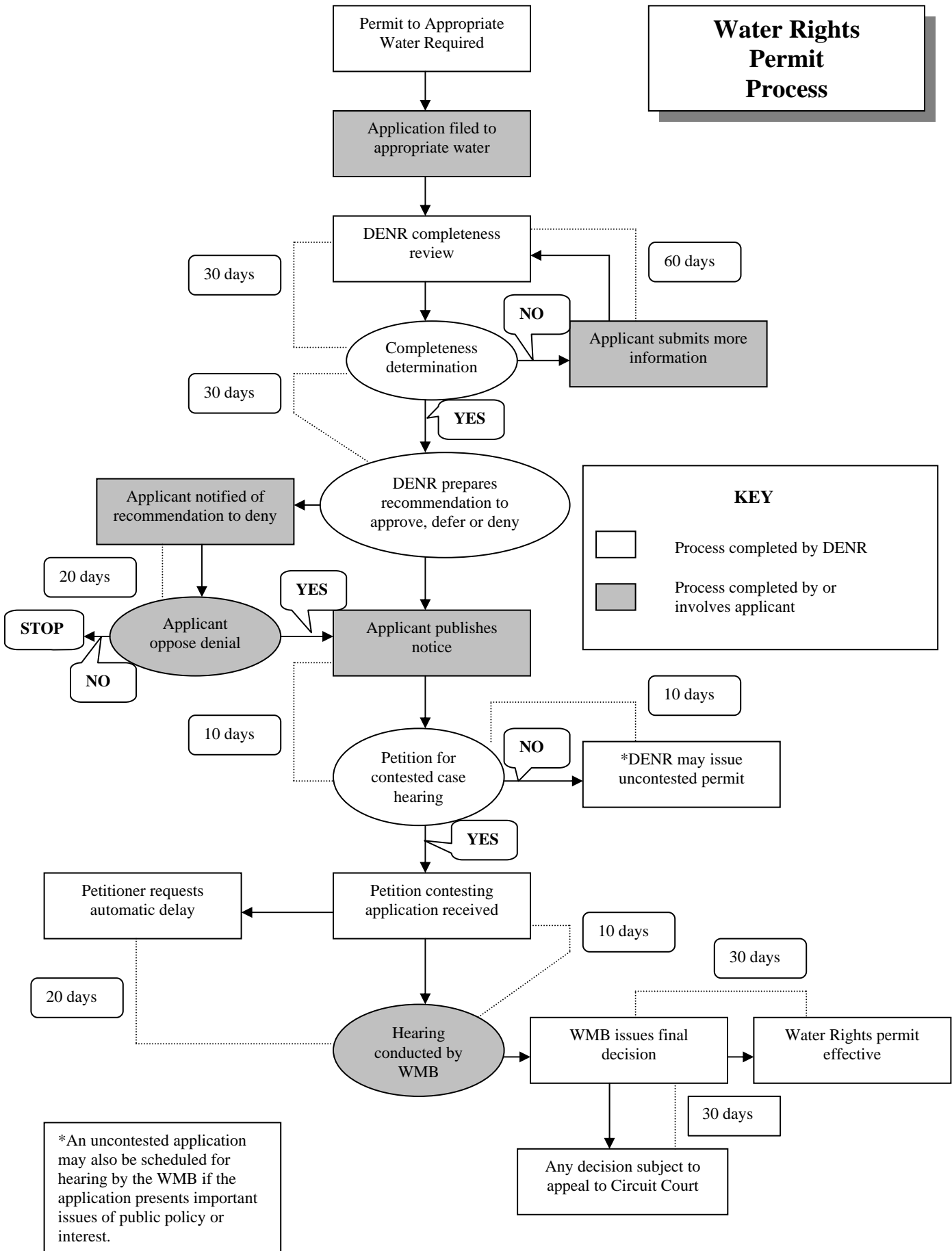
- 1) there is a reasonable probability that unappropriated water is available;
- 2) the proposed diversion can be developed without unlawful impairment of existing rights;
- 3) the proposed use is a beneficial use; and
- 4) the proposed use is in the public's interest.

**How do I get an application?**

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



# Water Rights Permit Process



## V. Environmental Regulations

### Asbestos

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

#### **Why are asbestos regulations important?**

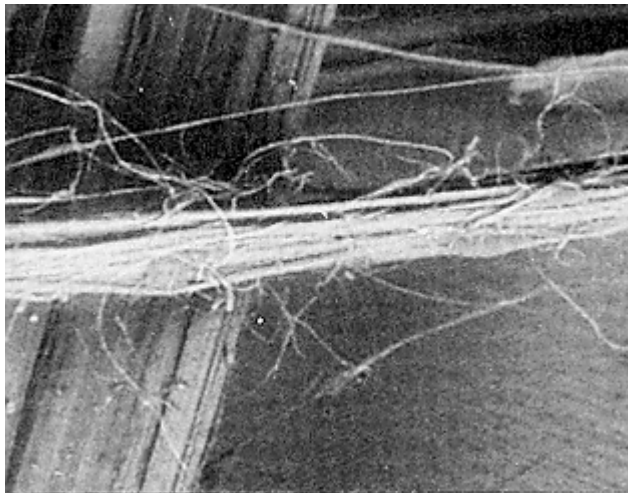
EPA estimates that asbestos fibers contribute to 7,500 deaths per year in the United States. Most uses of asbestos have been banned since asbestos was found to cause lung cancer and other respiratory diseases in humans. However, it is estimated that 30 million tons of asbestos were used in thousands 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.

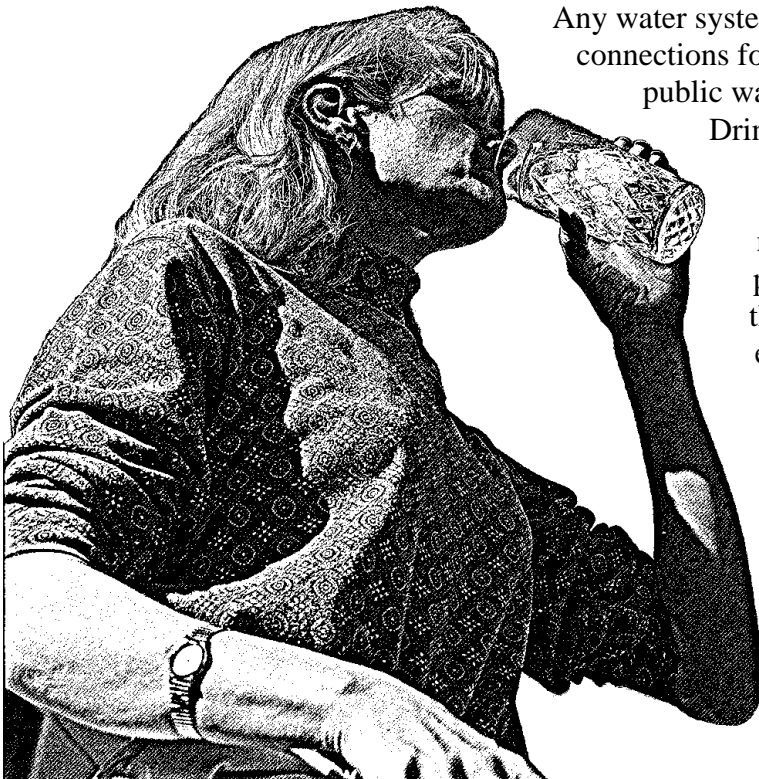
### **Why are drinking water regulations important?**

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.

### **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 two-page 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.

**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 or injured more than 1,000 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 has to report?**

Any business that has a hazardous material on site may be required to comply with one or more provisions. The requirements are related to the amount of a specific material stored by a quantity called a Threshold Planning Quantity. There are several types of thresholds. The first type is based on the acute toxicity of the substance and ranges from ten pounds to several thousand pounds. Chemicals with this type of threshold are called Extremely Hazardous Substances.

Hazardous materials such as petroleum products, solvents, and most compressed gases, are subject to the second type of threshold. These materials must be reported if the amount located on site exceeds 10,000 pounds at any one time during the calendar year. In addition, retail gas stations with underground tanks may be able to use alternate thresholds of 75,000 gallons for gasoline and 100,000 gallons for diesel fuel.

Certain facilities must also comply with the Toxic Release Inventory by submitting an annual Form R or Form A to EPA and to the state. These facilities must have ten or more employees or a total of 20,000 hours worked by all employees, and use more than 10,000 - 25,000 pounds of one of about 650 listed chemicals during a calendar year. This provision originally applied only to manufacturing facilities with standard industrial classification codes of 2000 to 3999. However, beginning with the 1998 reporting-year, EPA expanded it to cover additional industry groups. These new groups include metal and coal mining, electric power generation, petroleum bulk stations and terminals, chemical distributors, solvent distillers, and certain hazardous waste facilities. Reports are due by July 1 and cover the preceding calendar year.

SARA Title III also requires a business or individual to report releases of substances with a federally designated Reportable Quantity if the release exceeds that amount in any 24-hour period. These quantities range from one pound to several thousand pounds. EPA has compiled a list of these substances and the lists mentioned above into the "Lists of Lists."

**Where do I get more information about SARA Title III?**

The department has a toll-free number (800) 433-2288 to help businesses get the information they need to comply with SARA Title III. The program contact is Trish Kindt (Trish.Kindt@state.sd.us).

**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 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.

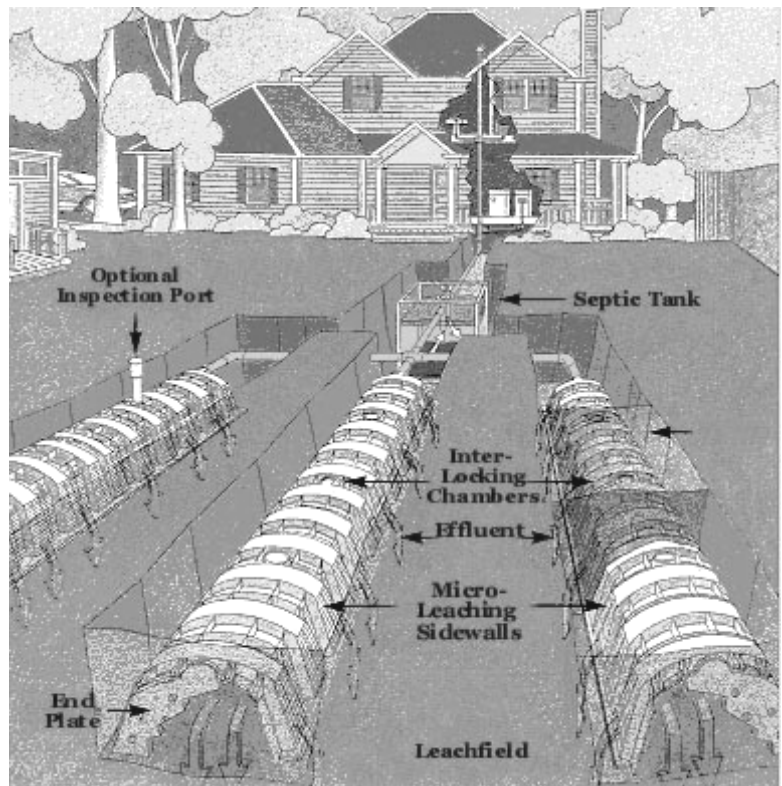
**When should I contact the department if I am working with individual and small on-site wastewater systems?**

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 Scott Hipple (Scott.Hipple@state.sd.us) in the Feedlot Permit Program at (605) 773-3351.



## **Spill Reporting**

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

### **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) 74:34.

### **When should I report a release or spill?**

If there has been a discharge (release or spill) of greater than 25 gallons of a regulated substance (i.e. substances listed in ARSD 74:34:01:03, including but not limited to gasoline, solvents and pesticides), it must be reported. It must also be reported if the spill or release is less than 25 gallons but is either a federally reportable substance (found in EPA's 'List of Lists') or may have the potential to contaminate waters of the state. DENR recommends that any spill be reported to both the National Response Center and DENR, if you are uncertain. DENR will check the federal lists, and if necessary, assist you in filing any federally required spill reports. Staff will also assist you by providing guidance and direction on the cleanup of the spill or release.

The spill or release can be reported at the phone number listed below during business hours or by contacting (605) 773-3231 during nonbusiness hours. The after hour phone number is answered by South Dakota State Radio, who will then contact the appropriate individuals in the department.

### **Where do I get more information?**

If you have any questions concerning the reporting of releases or spills, please contact Kim McIntosh (Kim.McIntosh@state.sd.us), Rick Lancaster (Rick.Lancaster@state.sd.us) or Kelsey Newling (Kelsey.Newling@state.sd.us) at (605) 773-3296 in Pierre.

**National Response Center** (800) 424-8802

#### **South Dakota Response Center**

DENR (605) 773-3296

After hours (605) 773-3231



**Please note that some petroleum releases from some tank systems may be eligible for reimbursement through the Petroleum Release Compensation Fund. The Petroleum Release Compensation Fund can be reached at (605)773-3769.**

### **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, 99, 100, and 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 74:56:01, 02 and 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 register 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.



### **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 Doug Miller (Doug.Miller@state.sd.us), Groundwater Quality Program, (605) 773-3296.



## **Underground Injection Wells**

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

### **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 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 any questions concerning the underground injection well control program, please contact Brian Walsh (Brian.Walsh@state.sd.us), Tom Brandner (Tom.Brandner@state.sd.us) or Ryan Fitzpatrick (Ryan.Fitzpatrick@state.sd.us) at (605) 773-3296, in Pierre.

## **Water and Wastewater Operator Certification**

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

### **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 74:21:01-02, 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.



### **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, 33, 34, and 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 dump or 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 John Miller (John.Miller@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.



## NOTES

## Appendix A

### DEPARTMENT DIRECTORY (a guide for businesses)

Subject	Contact	Phone
Air quality small business ombudsman .....	Vacant .....	1-800-438-3367
Air toxics .....	Marlys Heidt .....	773-3151
Aquifer maps .....	Tim Cowman – <b>Vermillion</b> .....	677-5227
Asbestos.....	Chad Babcock.....	773-3153
Asphalt plants & rock crushers.....	Mike Erickson.....	1-800-848-8203
Biosolids.....	Kyle Doerr .....	773-3351
Brownfields .....	Kim McIntosh.....	773-3296
Consolidated funding .....	Mike Perkovich.....	773-4216
Dam safety .....	Tim Schaal.....	773-3352
Drinking water quality.....	Mark Mayer .....	773-3754
Engineering plans		
Above & underground storage tanks .....	Doug Miller .....	773-3296
Dams.....	Tim Schaal.....	773-3352
Feedlots.....	Kent Woodmansey .....	773-3351
Mining facilities & pollution controls .....	Mike Cepak or Eric Holm.....	773-4201
On-site wastewater or septic systems .....	Kent Woodmansey .....	773-3351
Solid waste facilities.....	Jim Wendte.....	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 .....	Al Spangler.....	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 – <b>Vermillion</b> .....	677-5227
Ground water levels & aquifers.....	Adam Mathiowetz .....	773-3352
Ground water quality monitoring .....	Tom Marshall – <b>Vermillion</b> .....	677-5227
Hazardous waste.....	Carrie Jacobson.....	773-3153
Irrigation questionnaire .....	Genny McMath.....	773-3352
Lakes		
Levels & outlets.....	Aaron Tieman .....	773-3352
Water quality .....	Rich Hanson .....	773-4254
New water system planning.....	Erin Dreis.....	394-6780
Nonpoint source pollution .....	Barry McLaury .....	773-4254
Oil & gas geologic data .....	Darren Johnson – <b>Vermillion</b> .....	677-5227
On-site wastewater – septic tanks.....	Scott Hipple .....	773-3351

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

Subject	Contact	Phone
Operator assistance .....	Al Spangler .....	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 .....	Mike Cepak.....	394-2229
Mining .....	Mike Cepak.....	773-4201
NPDES/surface water discharge.....	Al Spangler.....	773-3351
Oil & gas.....	Lucy Dahl .....	773-4201
One stop industrial permitting .....	Kent Woodmansey .....	773-3351
Pesticide Discharges .....	Kyle Doerr .....	773-3351
Solid waste.....	Jim Wendte .....	773-3153
Water rights .....	Eric Gronlund .....	773-3352
Water rights – temporary .....	Genny McMath.....	773-3352
Petroleum cleanup reimbursement .....	Alan Bakeberg .....	773-3769
Pretreatment.....	Tina McFarling .....	773-3351
Project financing.....	Andy Bruels or Mike Perkovich.....	773-4216
Recycling.....	Nick Emme .....	1-800-438-3367
Sand & gravel mining.....	Thomas Cline.....	773-4201
SARA Title III chemical reporting.....	Trish Kindt.....	773-3296
Solid waste grant/loan funding .....	Drew Huisken or Andy Bruels .....	773-4216
Source water .....	Brian Walsh .....	773-3296
Spills .....	Kim McIntosh, Rick Lancaster .....	773-3296
.....	or Kelsey Newling.....	after hours 773-3231
State revolving funds.....	David Ruhnke or Mike Perkovich.....	773-4216
State water plan .....	Andy Bruels.....	773-4216
Storage tanks .....	Doug Miller .....	773-3296
Storm water .....	Katie Luce.....	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).....	Rich Hanson .....	773-4254
Underground injection control .....	Brian Walsh .....	773-3296
Well construction, driller licensing, & plugging .....	Adam Mathiowetz or Whitney Kilts.....	773-3352
Wellhead protection.....	Brian Walsh .....	773-3296