

19.15.36.20 TRANSITIONAL PROVISIONS: Existing permitted facilities. Surface waste management facilities in operation prior to the effective date of 19.15.36 NMAC pursuant to division permits or orders may continue to operate in accordance with such permits or orders, subject to the following provisions.

A. Existing surface waste management facilities shall comply with the financial assurance, operational, monitoring, waste acceptance and closure and post closure requirements provided in 19.15.36 NMAC, except as otherwise specifically provided in the applicable permit or order, or in a specific waiver, exception or agreement that the division has granted in writing to the particular surface waste management facility.

B. The division shall not require financial assurance for a commercial facility permitted prior to the effective date of 19.15.36 NMAC that exceeds \$250,000 until such time as

(1) the division reviews the commercial facility's permit pursuant to Paragraph (3) of Subsection A of 19.15.36.12 NMAC, at which time the division may require the operator to submit a closure and post closure plan; which shall include a responsible third party contractor's cost estimate to complete closure and post closure of the surface waste management facility pursuant to the requirements of Subsections A through F of 19.15.36.18 NMAC;

(a) if the division determines that such estimate does not reflect a reasonable and probable closure and post closure cost, the division shall determine the estimated closure and post closure cost and shall provide its determination of estimated closure and post closure cost to the operator;

(b) if the operator disagrees with the division's determination of estimated closure and post closure cost, the operator may request a hearing, which shall be conducted according to 19.15.4 NMAC; or

(2) the commercial facility applies for a major modification.

~~[B.]~~ **C.** Major modification of an existing surface waste management facility and a new landfarm cells constructed at an existing surface waste management facility shall comply with the requirements provided in 19.15.36 NMAC.

~~[C.]~~ **C.** ~~The division shall process an application for a surface waste management facility permit filed prior to May 18, 2006 in accordance with 19.15.9.711 NMAC, and an application filed after May 18, 2006 in accordance with 19.15.36 NMAC.]~~