

19.15.36.9 APPLICATION PROCESS AND NOTICE REQUIREMENTS FOR NEW SURFACE WASTE MANAGEMENT FACILITIES, MAJOR MODIFICATIONS OR RENEWALS AND ISSUANCE OF A FINAL DECISION:

A. Submittal of application. The applicant shall submit three copies (two paper copies and one electronic copy) of the application to the division's Santa Fe office for consideration of approval. Upon receipt of an application for a new surface waste management facility, or a renewal or major modification of an existing permit, the division shall post a notice on the division's website that lists the type of facility, type of application, county or municipality where the facility is located and name of the applicant, and provides information on where the application can be viewed and whom to contact to be placed on a mailing list for notice regarding a proposed decision.

B. Division review: Within 90 days after the receipt of an application, the division shall review the application and determine if the application is approvable, approval with conditions or not approvable.

(1) Upon completion of the division's review, if the division determines the application is approvable, the division shall, within 30 days following such determination, prepare a proposed decision, which may include conditions, and mail notice of the proposed approval, together with a copy of the proposed decision, by certified mail, return receipt requested, to the applicant. The division shall post the proposed decision on the division's website.

(2) Upon completion of the division's review, if the division determines the application is not approvable, the division shall, within 60 days of such determination, mail a deficiency letter by certified mail, return receipt requested, to the applicant. The deficiency letter shall identify and address all of the division's concerns regarding the application in specific detail allowing the applicant the opportunity to correct the deficiencies by submitting a revised application.

(3) If the division issues a deficiency letter, the applicant shall have 60 days from the division's issuance of the deficiency letter to submit a revised application. The applicant may request, in writing, additional time to submit a revised application. The division shall grant additional time for good cause. The applicant may notify the division that it will not submit a revised application. Within 10 days of receipt of the notification the division shall deny the application without prejudice. If the applicant fails to timely submit a revised application or notify the division that it will not submit a revised application, the division shall deny the application without prejudice within 10 days after the 60 day time limit for the applicant to respond to the deficiency letter has expired.

(4) If the applicant timely submits a revised application, within 90 days of the receipt of the revised application the division shall review the revised application and determine if the revised application is approvable, approvable with conditions or not approvable. The division shall mail notice of denial or the proposed approval with or without conditions, together with a copy of the decision to deny or the proposed decision to approve with or without conditions, by certified mail, return receipt requested, to the applicant. A denial letter shall identify and address all of the division's reasons for denial of the revised application. The division shall post the decision to deny the application or the proposed decision to approve the application with or without conditions on the division's website.

(5) The process provided in Subsection B of 19.15.36.9 NMAC is not intended to limit informal informational exchanges during the application review period or prior to submission of an application. The process also does not prohibit an applicant from withdrawing an application and submitting a new application under Subsection A of 19.15.36.9 NMAC.

C. Upon receipt of a proposed decision to approve an application with or without conditions, the applicant shall provide a division-approved notice of the proposed approval by

(1) giving written notice, by certified mail, return receipt requested, of the division's proposed decision to approve the application with or without conditions to the surface owners within one half mile of the surface waste facility;

(2) publishing in a newspaper of general circulation in the county or counties where the surface waste management facility is or will be located;

(3) mailing notice by first class mail or e-mail to persons, as identified to the applicant by the division, who have requested notification of applications generally, or of the particular application, and who have provided a legible return address or e-mail address; and

(4) mailing notice by first class or e-mail to affected local, state, federal or tribal governmental agencies, as determined and identified to the applicant by the division.

D. This notice issued pursuant to Subsection C of 19.15.36.9 NMAC shall include:

(1) the applicant's name and address;

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(2) the surface waste management facility's location, including a street address if available, and sufficient information to locate the surface waste management facility with reference to surrounding roads and landmarks;

(3) a brief description including the type of facility (i.e. landfarm, landfill, treating plant, etc.) of the proposed surface waste management facility;

(4) the depth to, and TDS concentration of, the ground water in the shallowest aquifer beneath the surface waste management facility site;

(5) a statement that the division's proposed decision to approve the application with or without conditions is available on the division's website, or, upon request, from the division clerk, including the division clerk's name, address and telephone number;

(6) a division-approved description of alternatives, exceptions or waivers that may be under consideration in accordance with Subsection [G] F of 19.15.36.18 NMAC or 19.15.36.19 NMAC; and

(7) a statement of the procedures for requesting a hearing on the application pursuant to 19.15.4 NMAC.

E. The applicant shall mail notice that is required to be mailed on or before publication of the notice that is published in a newspaper of general circulation in the county or counties where the surface waste management facility is or will be located.

F. The applicant shall provide the division with proof that the public notice requirements of Subsections C and D of 19.15.36.9 NMAC have been met prior to the division scheduling a hearing pursuant to 19.15.36.10 NMAC or issuing the permit.

G. If after the applicant provides notice as required herein, no requests for hearing are timely filed with the division as provided by 19.15.36.10 NMAC, or any such requests for hearing are filed by persons the division determines lack standing, and the division does not otherwise schedule a hearing pursuant to 19.15.36.10 NMAC, the division's proposed decision to approve the application with or without conditions shall become final and the division shall issue the permit upon the applicant providing financial assurance as provided in 19.15.36.10 NMAC.