

20.9.3.8 Permit Application Requirements--Community Impact Assessment

D. Any person seeking an initial permit for a landfill or a transformation facility, or for a permit modification of a landfill resulting in a lateral or vertical expansion, excluding an on-site scrap tire monofill, shall first submit to the secretary the information that is necessary for the secretary to determine if the proposed site is in a vulnerable area. If the secretary determines that the site or the proposed site is in a vulnerable area, and the applicant is proposing to site the facility, or expand the facility, in an area that has not been designated for the proposed use as the result of a land-use zoning process conducted by the local government that requires a quasi-judicial public hearing, with the opportunity for public participation, the applicant shall follow the following procedures.

(1) Prior to filing the application, the applicant shall give notice to the public of its proposed plans, and of the procedures allowing residents to file comments on the proposal with the department. This notice shall contain the following.

(a) For a proposed new facility, the name and location of the proposed facility, a description of the proposed facility, a description of any transportation routes to be used to and from the proposed facility and expected hours of operation, contact information stating where a person may obtain further information from the applicant, contact information for the environment department solid waste bureau, and procedures for filing comments on the proposal with the department. The notice shall be approved by the department prior to publication. The notice shall also give notice of a community meeting for the purpose of informing the surrounding community of the plans for the proposed facility, and for taking comments and questions. The meeting shall not be held less than 30 days following publication of the notice.

(b) For a proposed permit modification of a landfill resulting in a lateral or vertical expansion, the name and location of the facility, a description of the proposed modification, a description in any changes in operation resulting from the modification, contact information stating where a person may obtain further information from the applicant, contact information for the environment department solid waste bureau, and procedures for filing comments with the department. The notice shall be approved by the department prior to publication. The notice shall also give notice of a community meeting for the purpose of informing the surrounding community of the plans for the proposed facility. The community meeting shall not be held less than 30 days following publication of the notice.

(2) Community residents shall have 60 days following the community meeting to submit comments to the department. If the secretary determines that there is significant community opposition to the proposed landfill; transformation facility; or permit modification resulting in a lateral or vertical expansion, excluding on-site scrap tire monofill, then the secretary shall require that the applicant prepare a community impact assessment. If a community impact assessment is required, the applicant shall give notice of a scoping meeting, pre-assessment meeting and opportunity for comment on the resulting community impact assessment. The applicant can either provide combined notice or separate notices of each event. At the scoping meeting, the public shall be given the opportunity to identify specific concerns regarding the proposed facility or modification, and the applicant will advise the public that the issues listed below will be addressed in a community impact assessment. The public will be asked if additional issues should be included in the scope of the assessment, if existing issues need additional consideration, and if the community impact assessment should be produced in a language in addition to English. The secretary may order that the assessment be produced in a language in addition to English based on, but not limited to expressions of interest at the scoping meeting. After the applicant incorporates public input from the scoping meeting, the applicant shall hold a pre-assessment meeting to describe the final scope of the study to

the public. The public shall be given opportunities to make comments and raise questions at this meeting. Before completion of the community impact assessment, a draft assessment shall be issued and made available to the public for comment. The public shall be allowed to submit comments on the assessment to the applicant for a period of 30 days following the issuance of the draft assessment. The applicant shall consider the comments and modify the community impact assessment as appropriate. The applicant shall file the community impact assessment, all written comments, and the applicant's resolution of the comments with its application. The community impact assessment shall contain an executive summary that is in English and, if appropriate, in any other predominant language of the community, and in plain language so it can be understood by the residents of the community. At a minimum the community impact assessment will address, to the extent New Mexico residents are affected, the following issues in the four mile radius around the proposed facility or existing facility that is proposing a horizontal or vertical expansion:

- (a) description of:
 - (i) purpose and need for the project;
 - (ii) site location and description;
 - (iii) land use;
 - (iv) known existing and documented proposed regulated facilities within the vulnerable area;
 - (v) other existing development and documented planned development in the vulnerable area;
 - (vi) historic and cultural resources;
 - (vii) visual and scenic resources; and
 - (viii) climatology, meteorology, and air quality, including odors and dust;
- (b) socioeconomic profile and environmental justice:
 - (i) population, demographic profile, education, age and language; and
 - (ii) occupational profile and household income;
- (c) noise;
- (d) litter;
- (e) transportation;
 - (i) local roads and highways;
 - (ii) railroads;
 - (iii) other transportation issues;
 - (iv) access to facility;
 - (v) air quality, including odors and dust;
 - (vi) noise; and
 - (viii) traffic;
- (f) public and occupational health and safety issues;
- (g) positive and negative socioeconomic impacts:
 - (i) local employment;
 - (ii) community services;
 - (iii) revenue to local funds;
 - (iv) property values;
 - (v) property taxes;
 - (vi) cost effective disposal of community solid waste; and
 - (vii) other quality of life concerns raised at public meetings;
- (h) cumulative and individual impacts of the proposed facility, other existing development and other planned development submitted to a local government within the vulnerable area, to:
 - (i) land use in the area;

- (ii) historical and cultural resources;
- (iii) visual and scenic resources;
- (iv) air quality, including odors and dust;
- (v) socioeconomics and environmental justice, including population, demographic profile, education, age, language, occupational profile and household income;
- (vi) transportation;
- (vii) unavoidable adverse environmental impacts; and
- (viii) analysis of short-term, intermediate term and long term effects of the proposed facility;
- (i) summary of reasonable mitigation measures proposed to address the facility's contribution to any expected adverse impacts; these measures may include but are not limited to:

- (i) historical and cultural resources impact mitigation measures; (ii) visual and scenic resource impact mitigation measures;
- (ii) visual and scenic resource impact mitigation measures;
- (iii) air quality impact mitigation measures, including for odors and dust;
- (iv) socioeconomic and environmental justice impacts mitigation measures;
- (v) noise impact mitigation measures;
- (vi) transportation impact mitigation measures; and
- (vii) public and occupational health impacts mitigation measures; and
- (j) consultation, coordination and public involvement:
 - (i) agencies and local governments consulted;
 - (ii) public involvement;
 - (iii) responsive summary; and
 - (iv) comments.

E. If the proposed landfill, transformation facility or landfill modification resulting in a lateral or vertical expansion is proposed in a vulnerable area, or is not sited in an area that has been designated for the proposed use as the result of a land-use zoning process conducted by the local government that requires a quasi-judicial public hearing, with the opportunity of public participation, the applicant shall demonstrate that, within the state of New Mexico, granting the permit or permit modification will not result in a disproportionate effect on the health and environment of a particular socioeconomic group in the vulnerable area.

F. If the proposed initial landfill or transformation facility permit, or landfill modification resulting in a lateral or vertical expansion is not in a vulnerable area, or is sited in an area that has been designated for the proposed use as the result of a land-use zoning process conducted by the local government that requires a quasi-judicial public hearing, with the opportunity for public participation, the applicant is not required to prepare a community impact assessment.

G. Each permit application filed with the secretary shall include proof that the applicant has provided notice of the filing of the application and any community impact assessment scoping meetings, pre-assessment meetings or other notifications required by 20.9.2 - 20.9.10 NMAC, and unless otherwise specified by 20.9.2 - 20.9.10 NMAC, to the public and other affected individuals and entities. The notice shall:

(1) be provided by certified mail to the owners of record, as shown by the most recent property tax schedule, and tax exempt entities of record, of all properties:

- (a) within one hundred feet of the property on which the facility is located or proposed to be located if the facility is or will be in a class A or class H county or a municipality with a population of more than two thousand five hundred (2,500) persons; or

(b) within one-half mile of the property on which the facility is located or proposed to be located if the facility is or will be in a class B county or municipality with a population of 2,500 or less;

(2) be provided by certified mail to all municipalities and counties in which the facility is or will be located and to the governing body of any county, municipality, Indian tribe or pueblo when the boundary of the territory of the county, municipality, Indian tribe or pueblo is within ten miles of the property on which the facility is proposed to be constructed, operated or closed;

(3) be provided to all parties and interested participants of record for a permit modification or renewal;

(4) be published once in a newspaper of general circulation in each county where the facility is proposed to be constructed, operated or closed; this notice shall appear in either the classified or legal advertisements section of the newspaper and at one other place in the newspaper calculated to give the general public the most effective notice; notice also shall be provided to residents of each community that is or will be affected significantly by the existing or proposed solid waste facility at least once in one or more other media in a manner that effectively reaches a substantial number of members of each community, and where printed shall be printed in both English and Spanish;

(5) be posted in at least eight publicly accessible and conspicuous places, including the proposed or existing entrance to the property on which the facility is or is proposed to be located; and

(6) include the following:

(a) name, address, and telephone number of the applicant and contact person;

(b) the anticipated start-up date of the facility or modification, and planned hours of operation;

(c) a description of the facility, including the general process, location, size, quantity, rate, and type of waste to be handled and a description of any proposed modification;

(d) the anticipated origin of the waste; and

(e) a statement that comments regarding the application should be provided to the applicant and the department.

H. Notices shall be submitted to the department for approval prior to publication, service and posting. The applicant shall submit a certificate from an American translators association certified translator showing that English versions have been accurately translated into Spanish.