

## Public Notification, Comment Periods & Appeals

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The applicant for a CFO Approval and IDEM are required to do certain things to inform and involve the public. This section describes the requirements for notifying the public that an application has been submitted; it describes how public comments can be submitted during the application review; it describes how the public is informed of the final decision; and explains how the final decision may be appealed.

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### CFO Approval Notification

#### Who needs to be notified? (See 327 IAC 19-8-7 and IC 13-18-10-2(b))

An owner/operator applying for a new CFO approval or an existing CFO seeking approval to construct additional confinement structures and/or manure storage structures must make a reasonable effort to notify by mail:

1. Each land owner and occupant of land adjoining the property on which the CFO is, or will be, located.
2. Each owner and occupant of land within one-half mile of the proposed or existing waste storage structures.
3. The office of the commissioners of the county in which the CFO is or will be located.

This written notification must be completed by the owner/operator not more than 10 working days **after** submitting the application. A "Notification of Application Submittal" form is included with the application. Owners/operators must use this form or develop their own. IDEM must approve any form developed by the applicant prior to use. The form must provide:

1. The date when the application was mailed or delivered to IDEM.
2. A brief description of the subject of the application (describe what structures you are requesting approval for including new structures or existing structures that are not already approved as part of the CFO).
3. The projected dates comments will be accepted by IDEM (33 days following the date of mailing the notice).

IDEM will notify the following parties once an application is received:

1. The applicant
2. County Health Department for the affected county(ies)
3. Mayors of any affected city(ies)
4. Town council presidents of affected town(s)

*Note: The intent of 327 IAC 19-8-7 is to provide the public with 33 days to review and comment on the application after receiving notice of the date that it was submitted to IDEM. The rule language uses the phrases "after submitting an application" and "the date on which the application was submitted to the department" [emphasis added] clearly signaling the expectation that the notice comes after the application was already submitted. IDEM may require an applicant to redo the notice if its content or timing does not meet the requirements of this rule or if its content is misleading.*

**What notification documents must be included with the application?**

The application includes two additional forms that must be completed and submitted:

- An affidavit stating that the owner/operator will provide the initial notice to the adjoining landowners and occupants, landowners and occupants of land within one-half mile of the confinement barns and manure storage structures and to the commissioners of the affected county.
- A copy of the form used to notify the above list of persons.

**What will happen during the application review process?**

IDEM staff who are reviewing the applications will conduct an immediate completeness review. If deficiencies in the application are noted, a letter will be mailed within 30 days. When the notice of application deficiencies are mailed, the review is placed on hold until the applicant provides the requested information.

Permit staff will also schedule a site visit to observe the proposed site and to inspect the existing operation if one exists. These visits are scheduled during the review period.

**How can the public comment on an application?** (See 327 IAC 19-8-7(b))

IDEM will accept written public comments for at least 33 days following the date of the applicant mailing to the notified parties. Because some applicants submit an incomplete application while they are still preparing the application in order to start the review process and public comment period, IDEM's practice is to accept comments for at least 33 days after receiving a substantially complete application so that the public has the opportunity to review all aspects of the application. Generally, IDEM does not reject public comments at any point in the process, and will consider any new information up to the point that the decision is issued..

During this period, any interested parties may submit written comments to:

Indiana Department of Environmental Management  
Confined Feeding Permits Section  
100 N. Senate Avenue  
IGCN 1101  
Indianapolis, IN 46204-2251

IDEM evaluates comments as they relate to the application's compliance with all applicable requirements. IDEM approves or denies the application based on fulfillment of the rule requirements. While environmental concerns may have an effect on an application, IDEM may not consider traffic, property values, or local zoning when considering an application.

**When will a public meeting be held regarding an application?**

(See 327 IAC 19-8-7(c))

IDEM may hold a public information meeting at a convenient location near the proposed farm or existing farm in appropriate cases where environmental concerns relevant to applicable rules or laws are raised.

**How will the public learn of the decision on the application?**

The approval or denial of the application will be mailed by certified mail to the applicant. All parties notified by the applicant or who commented on the application will receive a copy of the approval or denial by normal mail.

**Do approval amendments and renewals include a public notice process?**

Renewals do not include a public notification process unless it includes renewal of a construction approval and construction was not started at least 30 days before the expiration date of the construction approval (see *Can a construction approval be renewed?* on page 9). IDEM will notify adjoining landowners and County Commissioners when approving amendments to approvals and construction approval renewals that are subject to public notice requirements.

**How is an IDEM decision appealed?** (See 327 IAC 19-1-3)

The IDEM decision to approve, deny, revoke, amend, require an approval or impose additional requirements is appealable under the Administrative Orders and Procedures Act, IC 4-21.5. An appeal is initiated by filing a written petition for administrative review with the Office of Environmental Adjudication (OEA) within 18 days after the mailing date of the decision. The OEA is a separate agency from IDEM and is responsible for appeal decisions. An environmental law judge in the OEA will rule on the appeal.

The petition must identify the approval or decision for which a person seeks review including:

1. The farm identification number.
2. The name of the person or company to whom the approval or denial was issued.
3. The reasons justifying the request and issues proposed for consideration for a hearing.

More detailed appeal instructions accompany all IDEM approvals and decisions.