

**MAINE**

**GUIDANCE DOCUMENT**  
**FOR**  
**DEVELOPMENT ON OR NEAR LANDFILL COVER**  
**SYSTEMS**

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**BUREAU OF REMEDIATION & WASTE MANAGEMENT**



Approved: \_\_\_\_\_

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# **DEVELOPMENT ON OR NEAR LANDFILL COVER SYSTEMS**

## **GUIDANCE DOCUMENT**

### **I. Introduction**

State of Maine Solid Waste Management Regulations, Chapter 401 Section 5.B (5)(a), prohibit the establishment or construction of any structures or buildings on top of or within 100 feet of the solid waste boundary of a closed landfill. Reasons for the prohibition include preventing the compromise of cover system integrity and performance, protecting public health and safety, and limiting potential adverse environmental impacts including those to drinking water supplies, groundwater, surface water, and ambient air.

The prohibition is a conservative measure and the Department recognizes that there are circumstances where certain development projects present a public benefit while at the same time posing limited risks. Recent and past proposals and inquiries have included athletic fields, wind power turbines, and general public recreation uses. The intent of this guidance document is to outline the conditions where a development proposal may be considered, the procedures for evaluating proposals, the objectives for designing structures on or within 100 feet of the solid waste boundary, and the associated monitoring and maintenance of the structures.

### **II. Applicability**

This guidance is intended to apply only to development proposals at municipal solid waste, construction and demolition debris, or wood waste landfills closed with earthen covers under the Department's Closure and Remediation Program. The site must not have a history of significant adverse environmental impacts related to leachate or gas migration. In instances where insufficient data is available to make a demonstration that significant adverse environmental impacts do not exist, an environmental assessment may be required. This guidance is not intended to apply to commercial or industrial landfills, landfills subject to RCRA-Subtitle C requirements, Superfund sites, or landfills licensed under Chapter 401 of the State of Maine Solid Waste Management Regulations.

### **III. Alternatives Assessment**

An alternatives assessment must be completed in support of any proposed development on or within 100 feet of the solid waste boundary. The alternatives assessment must include a

description of the proposal, an evaluation of suitable alternative locations or options available for the project, a demonstration of the associated public benefit, and an evaluation of potential risks or drawbacks associated with the proposal. An assessment of the success or failure of similar projects, if available, should be included.

The Department's criteria for making a positive decision based on an alternatives assessment will include finding that there is a tangible public benefit, that there is no reasonable alternative, and that the public health risks associated with the proposal are low.

#### **IV. Design Requirements**

Upon receiving a positive finding based on the alternatives assessment, a detailed design for the project should be prepared. The design must avoid disturbance of the cover system barrier layer, or if not feasible must minimize and mitigate any disturbance. If the project is designed for public access, safety concerns, including the control of landfill gas, must be addressed by the design. The effects of settlement and stability on structures must be evaluated and appropriate design measures implemented. Positive drainage from the cover system must be maintained at all times.

#### **V. Maintenance Requirements**

Inspection and maintenance requirements as they relate to the integrity of the cover system and safety features must be developed. The Department may determine that monitoring and reporting requirements are necessary. Any significant modification or alteration to the project in the future will require Department review and approval. Any questions in this regard should be addressed to the Department's Project Manager.

The developer must demonstrate the financial and technical ability to construct, maintain, monitor, and properly abandon the project, including appropriate site restoration. If the developer is different than the municipal owner of the landfill, responsibility and liability for the project, both short-term and long-term, must be clearly delineated.

#### **VI. Post-Use Restoration Requirements**

At the completion of the service life of the alternative use facility, or at the cessation of use for any other reason, the developer will be responsible for restoring the site to its pre-developed condition. This may include re-construction of impacted portions of the cover system and re-

vegetation, removal of structures and/or equipment, and proper abandonment of monitoring or safety features. In some instances the developer may be required to continue site monitoring beyond the time of site restoration.

## **VII. DEP Review Process**

1. Request and review this Guidance Document.
2. Complete an alternatives assessment and outline conceptual project design and submit both to the Department, requesting a preliminary review and/or site meeting.
3. If agreed to in concept by the Department, complete any required additional site assessment work. If the additional site assessment work confirms the conceptual model will work, then complete the final planning and design for the project. Submit a complete design, including plans and specifications and an inspection and maintenance plan, to the Department for review and concurrence.
4. The Department will issue a written findings concurring with the plan, concurring but with needed changes, or not agreeing with the plan. In some instances certain State and local permits may be required and it is the developer's responsibility to comply with them. Upon Department written agreement, the developer may proceed with the project, subject to any of the changes required by the Department in the Department's written concurrence.

## **VIII. Disclaimer**

This guidance document provides an approach that is generally acceptable to DEP for obtaining approval for development projects on or near landfills closed under DEP's Municipal Landfill Closure and Remediation Program. These guidelines are not rules and are not intended to have the force of law. This guidance does not create or affect any legal rights of any individual, all of which are determined by applicable statutes and law.