

Maine Department of Environmental Protection

Applying for approval to construct recreational facilities near a closed landfill

Any person proposing to construct recreational facilities or other structures on a closed landfill must obtain a license from the Department. See Maine Revised Statutes, Title 38, section 1306, subsection 1 [“It is unlawful for any person to establish, construct, alter or operate any waste facility without a permit issued by the department.”]

In order to issue the license, the Department must grant a variance from its landfill closure rules. Department rules, in chapter 401(5)(B)(5)(a), prohibit the establishment of structures within 100 feet of the solid waste boundary of the landfill. Applicants seeking approval to vary from this prohibition must present clear and convincing evidence that the proposed recreational facility installation “is distinctive in some way that allows for compliance with State laws and the purpose and intent of the rules.”

The Department provides approval through two separate processes based on the licensing history of the landfill. If the landfill had a license to operate from the Department, the Department will approve the variance allowing recreational field construction through a Solid Waste Project Minor Revision. If the landfill operated without a license and closed under a Department closure order, the Department will approve the recreational field construction through a Closure Modification. Please contact Department Landfill Closure and Remediation Program Staff to determine which procedure is appropriate for your facility. Staff will forward the appropriate form upon review. The current application fee and processing time are the same for each process and can be found here: <http://www.maine.gov/dep/feeschedule.pdf>

To apply for the required permit and variance, follow the instructions below:

1. Fill out the department APPLICATION FOR APPROVAL OF A SOLID WASTE MINOR REVISION or, in the case of closed landfills which operated without a license, fill out the Department APPLICATION FOR AN APPROVAL OF A CLOSURE MODIFICATION.
2. Prepare the following supporting information.
 - a) **Project description:** Provide a description of the landfill (including its size in acres, the year it was closed and covered, and its general topography), the landfill cover system and proposed recreational facility complex.
 - b) **Site plan.** Provide a site plan showing the landfill property boundary, solid waste boundary, monitoring wells, buildings, roadways, fence lines and other pertinent features of the project site.
 - c) **Recreational Facility design.** Provide plans and reports:
 - Describing and illustrating how the recreational facilities will not interfere with the landfill cover or drainage systems;

- Detailing the utilities that will be installed to support connection of the recreational facilities to utilities such as electrical and water supplies; and
 - Describing the actions that will be taken to prepare the site for installation and operation of the recreational facilities, including temporary and permanent access roads, construction laydown areas, fencing, and permanent parking.
- d) **Landfill gas control.** Provide information demonstrating that the project will not create an unreasonable risk of exposure to landfill gas (LFG). The information to be provided should include:

- A description of the existing LFG control system and assessment of its current effectiveness;
- An assessment of the potential impacts of the proposed recreational facilities on the LFG control system and a description of the steps that will be taken to preserve the integrity of the system, including any proposed alterations to the system;
- A plan showing the existing LFG gas control features and any changes to the LFG control system; and
- A description of the safeguards that will be taken to prevent LFG buildup in utility conduits or any other structures associated with the recreational facilities project.

If the landfill does not have an engineered LFG management system, provide an evaluation of the potential for LFG migration resulting from the construction and operation of the recreational facilities. Describe the safeguards that will be taken to prevent LFG migration resulting from the construction and operation of the recreational facilities.

- e) **Settlement and stability assessment.** Provide information demonstrating that the integrity and performance of the landfill cover system, including drainage and LFG systems, will be maintained under recreational facility system loading and predicted settlement. The information to be provided should include:
- A description of the existing waste mass, existing cover system topography and existing settlement;
 - An assessment of the potential for differential settlement induced by the proposed recreational facility;,
 - An assessment of the stability of any proposed structures on the landfill cover system and description of any reinforcement measures required to install and maintain the structures;
 - An assessment of the quantity and thickness of any fill required to level the landfill surface (must maintain a minimum grade of 3% to prevent water ponding on the cover system);
 - A description of the equipment required to construct the project.

- f) **Stormwater control.** Provide a plan showing existing stormwater control features and any proposed changes to the landfill stormwater management system. Describe the existing stormwater management system and any steps that will be taken to ensure the system has the capacity to handle any predicted increase in runoff from the recreational facility installation.
- g) **Erosion control plan.** Provide an erosion and sedimentation control plan for construction and operation of the project. The plan must be prepared in accordance with the *Maine Erosion and Sediment Control BMPs* (Maine Department of Environmental Protection, March 2003).
- h) **Inspection and maintenance.** Provide a monitoring and maintenance plan outlining the steps that will be taken to inspect and maintain the landfill cover system and appurtenant systems after the recreational facilities are installed. The inspection and maintenance program shall include periodic grade checks and provisions for additional topsoil application as necessary to maintain the 3% minimum grades and repair any settling issues.

Watering of the vegetation on the landfill cap must be kept to a minimum.

- i) **Technical ability.** Provide evidence demonstrating that the applicant and its consultants have the technical ability to design and install the recreational facilities.
 - j) **Schedule.** Provide a project schedule.
 - k) **Removal of the recreational fields.** Provide a statement from the town accepting responsibility to remove the fields and return the cover back to its original condition if the town elects to abandon the fields.
3. Send the application with all supporting information and a check for the application fee made payable to "Treasurer, State of Maine" to: DEP-BRWM, 17 SHS, Augusta ME 04333-0017. Check with department staff for the fee amount. The application fee schedule is adjusted annually.

Although not required by department rules, we also recommend that PUBLIC NOTICE of the proposed recreational facility installation be published once in a newspaper circulated in the municipality where the landfill is located. A form for this is attached.

The notice should appear in the newspaper on or about the date the application is filed with the DEP. A copy of the PUBLIC NOTICE should also be sent to the owners of abutting property at about the same time the notice is published in the newspaper.

Please contact Brian Beneski in the Landfill Monitoring and Maintenance Program (207-287-4858) if you have questions at any point during the application preparation and review process.

THIS FORM IS FOR USE IN NOTIFYING ABUTTING PROPERTY OWNERS AND
PUBLISHING NOTICE IN THE LOCAL NEWSPAPER.

NOTICE OF APPLICATION TO INSTALL RECREATIONAL FIELDS

Please take notice that the (*Town, City*) of _____ has applied to the Maine Department of Environmental Protection (DEP) for approval to install recreational fields/facilities on the closed municipal landfill on _____.
(landfill street address)

To receive approval, the municipality must demonstrate that installation of the recreational fields will be compatible with the landfill cover system, not create a nuisance, nor constitute a hazard to public health or welfare.

The application and supporting documents are available for inspection during normal working hours at the municipal office and at the DEP regional office,

(insert regional office address and phone #)

Interested parties are invited to submit written comments. To ensure consideration, comments must be received in writing within 30 days of publication of this notice. Address correspondence to:

Brian Beneski, DEP-BRWM, 17 SHS, Augusta ME 04333
email to brian.beneski@maine.gov
ph (207) 287-4858