

**POLICY TITLE: CONSTRUCTION OF BUILDINGS ON OR WITHIN 400M OF A
LANDFILL**

BRANCH/DIVISION: Environmental Approvals / Environmental Stewardship

Date Revised: December 14, 2016

POLICY OBJECTIVE

To establish Manitoba Sustainable Development (SD) policy that provides consistent direction to staff and the public with respect to construction of buildings on or within 400m of an active or abandoned landfill. Existing buildings located within the 400 m boundary will not receive a variance after the fact. This approval is specific to sites seeking approval in conjunction with a new subdivision or new construction. This policy only applies to Section 45 of the Waste Management Facilities Regulation 37/2016.

POLICY STATEMENT

To ensure consistent approval across the province for construction of a building on or within 400m of a landfill and to provide public information that promotes awareness of land use development.

DEFINITIONS

Building – means a structure used for residential or business purposes, other than a building used in the operation or maintenance of a waste management facility.

Landfill – means a facility at which solid waste is disposed of by placing it on or in land, but does not include a remote seasonal waste facility.

For the purpose of this document, an abandoned landfill includes a parcel of land that is or has been used for disposal of solid or industrial waste for which a permit has not or was not obtained.

BACKGROUND

Landfill gas has the potential for long term impacts which may result in potential human health or ecological effects as well as risk associated with the explosive properties of methane and other landfill gases. To determine the risks, the number and placement of boreholes (testholes) or test pits, and monitoring wells required for the assessment will depend on the physical characteristics of the site and the nature of the potential contaminants.

The 400 m measurement will begin at the property line of the landfill.

PROCEDURE

Considerations for Approval

If a proponent wishes to develop a property within 400 m of an existing active or abandoned landfill, the proponent (developer) is responsible for assessing the potential for landfill gas generation, determining the presence of landfill gas as well as identifying other contaminants and incorporating mitigative measures into the development plan. Exceptions may be granted if the proponent for the development is prepared to install appropriate gas control measures as recommended by a qualified third party professional. Other requests for a variance may be considered at the discretion of the Director.

Therefore, the proponent must provide a request for a variance of the 400 m setback in writing to the Director of SD. This shall include but not be limited to:

1. A cover letter from the proponent requesting the variance;
2. A map of the site for development indicating the setback distances; and
3. An engineering report completed by a qualified third party professional to ensure the results comply with the procedures published by CCME or a recognized standards organization. The report shall include, but not be limited to:
 - a) confirmation that there is no waste under the proposed building site by drilling or excavating;
 - b) conducting a risk assessment including hazard identification, exposure assessment of the risks to human health and/or the environment posed by the contaminants present on a property. This includes an analysis of the potential pathways for contaminants to affect potential receptors;
 - c) interpretation of the landfill gas monitoring data collected by a qualified professional to determine the potential impacts from the subsurface migration of landfill gas or other contaminants; and
 - d) providing a recommendation to SD characterizing the risks and any measures needed to mitigate present gas.

If methane gas levels are less than 10,000 ppm (20% LEL) in the subsurface an evaluation on a site specific basis may be considered for the development. A variance will not be authorized if methane gas levels are above 10,000 ppm (20% LEL) in the subsurface outside the property boundary of the landfill. However, a remedial action plan by a qualified third party professional may be considered if the documentation can demonstrate the site is safe for development.

Director Approval

One hard copy and one electronic copy of the required information are to be submitted to the Director of SD. The request will be reviewed for completeness and the proponent will be advised of any deficiencies. The submission shall not be further reviewed until the deficient information is submitted and complete.

Once complete, an in depth review will take place and a letter with the decision will be sent to the proponent.