

Amendment to HB 215-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Public Benefit Requirement; Substantial Public Benefit. RSA 149-M:11, III is repealed and  
4 reenacted to read as follows:

5 III. Prior to completing its full technical review of an application, the department shall  
6 determine whether a proposed solid waste facility provides a substantial public benefit through an  
7 initial review process. Only if the department determines that a substantial public benefit exists  
8 shall the application proceed for further review. The department shall issue its determination of  
9 whether the proposed facility provides a substantial public benefit prior to completing a full  
10 technical review of the application. If the department determines that the facility does provide a  
11 substantial public benefit, the department shall notify the applicant in writing, and shall proceed  
12 with technical review. If the department determines that the proposed facility does not provide a  
13 substantial public benefit, it shall issue a written denial of the application. To make this  
14 determination, the department shall consider:

15 (a) The short-and long-term need for a solid waste facility of the proposed type, size, and  
16 location to provide capacity to accommodate solid waste generated within the borders of New  
17 Hampshire, which capacity need shall be identified as provided in paragraph V.

18 (b) The ability of the proposed facility to assist the state in achieving the implementation  
19 of the hierarchy and goals under RSA 149-M:2 and RSA 149-M:3.

20 (c) The ability of the proposed facility to assist in achieving the goals of the state solid  
21 waste management plan, and one or more solid waste management plans submitted to and approved  
22 by the department under RSA 149-M:24 and RSA 149-M:25.

23 (d) For proposed privately-owned landfill facilities only, the ability of the proposed  
24 facility to provide a net public benefit. A net public benefit exists if potential benefits for a proposed  
25 project are determined to be greater than the potential harms. Net public benefit shall be  
26 determined as provided in paragraph VI.

27 2 New Paragraph; Determination of Net Public Benefit. Amend RSA 149-M:11 by inserting  
28 after paragraph XI, the following new paragraph:

29 XII. Net public benefit of a proposed privately-owned landfill facility shall be determined as  
30 follows:

**Amendment to HB 215-FN**  
**- Page 2 -**

1           (a) An assessment shall be conducted on behalf of the host community and/or other  
2 abutting municipalities by an independent third party contractor and the costs for such assessment  
3 shall be borne by the applicant. The applicant shall submit a list of no fewer than three independent  
4 third party contractors to the department. The department shall review the qualifications of the  
5 contractors and provided that it finds them qualified, shall work in consultation with the host  
6 community and the applicant to select a mutually agreeable contractor. If the department  
7 determines that one or more of the submitted contractors is not qualified, it shall require the  
8 applicant to identify additional contractors. If a mutually agreeable third party has not been  
9 identified within 60 days, the commissioner shall choose from the submitted list.

10           (b) The required assessment shall include both potential harms and potential benefits  
11 associated with the proposed facility. Potential harms shall include any potentially harmful impacts  
12 on human health, property values, tourism, outdoor recreation, and wildlife. Such impacts may  
13 include noise, odor, traffic, greenhouse gas, and other emissions emanating from the facility and  
14 emissions from transport of solid waste-related material and by-products to and from the proposed  
15 facility. Potential benefits shall include, in addition to capacity need as described in subparagraph  
16 III(a), potential economic benefits to the local area and potential infrastructure improvements  
17 associated with the proposed project, and other factors as identified by the contractor.

18           (c) The department shall review the third-party assessment to determine whether the  
19 proposed facility provides a net public benefit. To assist in review of the third-party assessment, the  
20 department shall consult, as needed, with the department of transportation to evaluate impacts on  
21 local traffic and infrastructure; the department of business and economic affairs to evaluate impacts  
22 on the local economy; and the department of natural and cultural resources to evaluate impacts on  
23 tourism and local natural and cultural resources.

24           3 New Subparagraphs; Satisfaction of Capacity Need. Amend RSA 149-M:11, V by inserting  
25 after subparagraph (d) the following new subparagraphs:

26           (e) For an applicant seeking to expand an existing and fully permitted RCRA Subtitle D  
27 landfill, the department shall find that the expansion will satisfy the state's capacity need if, during  
28 the years for which the permit shall be granted, the state will face a capacity shortfall for at least  
29 one-half of those years.

30           (f) For an applicant seeking to develop a new landfill at a site where none currently  
31 exists, the department shall find that the new project will satisfy the state's capacity need if, during  
32 the years for which the permit shall be granted, the state will face a capacity shortfall for at least  
33 one-half of those years. However, the department shall not allow the new landfill to begin accepting  
34 waste until the first year in which a shortfall is expected to exist.

35           4 Public Benefit Requirement. Amend RSA 149-M:11, VIII to read as follows:

36           VIII. Each applicant for a solid waste permit under this chapter shall have the burden of  
37 demonstrating that a proposed solid waste facility provides a public benefit by showing how the

Amendment to HB 215-FN

- Page 3 -

1 proposed facility satisfies the criteria listed under paragraph III. Such demonstration shall be  
2 included as part of each application for a solid waste permit. ***The public benefit of a proposed***  
3 ***operation or project shall be limited solely to an evaluation of that project and may not be***  
4 ***mitigated or enhanced in relation to any other related project.***

5       5 Effective Date. This act shall take effect 60 days after its passage.