

Bill as
Introduced

HB 73 - AS INTRODUCED

2021 SESSION

21-0045
08/11

HOUSE BILL **73**

AN ACT relative to public notice requirements for certain permits issued by the
department of environmental services.

SPONSORS: Rep. Aron, Sull. 7; Rep. Pearl, Merr. 26; Rep. Potucek, Rock. 6

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill requires public notice using electronic means for certain permits issued by the
department of environmental services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to public notice requirements for certain permits issued by the department of environmental services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Department of Environmental Services, Solid Waste Division; Rulemaking; Notice
2 Requirements. Amend RSA 149-M:7, III to read as follows:

3 III. Administration of a permit system, including the terms, conditions, and time frames
4 under which the department shall issue, modify, suspend, revoke, deny, approve, or transfer permits
5 required by this chapter, **and means of noticing the public about such permits including, but**
6 **not limited to, using electronic means via notice on the department's Internet website, and**
7 **communicating permitting information with affected municipalities.**

8 2 Department of Environmental Services; Solid Waste Division; Permit Required; Electronic
9 Notice Required. Amend RSA 149-M:9, VIII to read as follows:

10 VIII. The department shall act upon each permit application within the time periods
11 specified in rules adopted under RSA 149-M:7. For permits requiring a public hearing under rules
12 adopted under RSA 149-M:7, once the department determines that an application is complete, in no
13 case, without prior written agreement regarding an extension with the applicant, shall the
14 department take longer than 180 days to issue or deny the permit. For permits that do not require a
15 public hearing under rules adopted under RSA 149-M:7, once the department determines that the
16 application is complete, in no case, without the prior written agreement regarding an extension with
17 the applicant, shall the department take longer than 120 days to issue or deny the permit. Prior to
18 such action, the department shall provide notice of the application by publication in at least one
19 newspaper of general circulation in the community **and on the department's Internet website,**
20 **and an opportunity for hearing to interested persons.** The applicant shall notify abutters of the
21 public hearing in writing by certified mail, return receipt requested. The requirement of public
22 notice and hearing shall apply at the discretion of the department to facilities or activities that will
23 have an insignificant effect on environmental quality as defined by rule under RSA 149-M:7.

24 3 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 17
HB 73 - FINAL VERSION

2021 SESSION

21-0045
08/11

HOUSE BILL

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CHAPTER 17
HB 73 - FINAL VERSION

21-0045
08/11

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

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23 have an insignificant effect on environmental quality as defined by rule under RSA 149-M:7.

17:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 06, 2021

Effective Date: July 05, 2021

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Kevin Avard, Chair
Sen Bob Giuda, Vice Chair
Sen James Gray, Member
Sen David Watters, Member
Sen Rebecca Perkins Kwoka, Member

Date: March 22, 2021

HEARINGS

Monday	03/29/2021	
(Day)	(Date)	
Energy and Natural Resources	REMOTE 000	1:00 p.m.
(Name of Committee)	(Place)	(Time)
1:00 p.m. HB 256	adding members from Londonderry to the commission to investigate and analyze the environmental and public health impacts relating to releases of perfluorinated chemicals into the air, soil, and groundwater in Merrimack, Bedford, and Litchfield.	
1:15 p.m. HB 73	relative to public notice requirements for certain permits issued by the department of environmental services.	
1:30 p.m. HB 99	relative to seasonal platforms on public waters of the state.	
1:45 p.m. HB 115	relative to wake surfing.	
2:00 p.m. HB 344	relative to temporary docks.	

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/96273287258>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: US: +13126266799,,96273287258# or +19292056099,,96273287258#
4. Webinar ID: **962 7328 7258**
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCiBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 256

Rep. Rung
Rep. Healey

Rep. Thomas

Rep. Mullen

Rep. Mooney

HB 73

Rep. Aron

Rep. Pearl

Rep. Potucek

HB 99

Rep. J. MacDonald
Rep. Deshaies

Rep. Marsh

Rep. Crawford

Sen. Bradley

HB 115

Rep. Suzanne Smith
Rep. Wuelper

Rep. J. MacDonald
Sen. Ward

Rep. Gunski
Rep. Gottling

Rep. Fellows
Rep. Deshaies

HB 344

Rep. Suzanne Smith

Rep. Renzullo

Rep. McConkey

Griffin Roberge 271-3042

Kevin A. Avard
Chairman

Senate Energy and Natural Resources Committee

Griffin Roberge 271-3042

HB 73, relative to public notice requirements for certain permits issued by the department of environmental services.

Hearing Date: March 29, 2021.

Time Opened: 1:16 p.m.

Time Closed: 1:25 p.m.

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka.

Members of the Committee Absent: None.

Bill Analysis: This bill requires public notice using electronic means for certain permits issued by the department of environmental services.

Sponsors:

Rep. Aron

Rep. Pearl

Rep. Potucek

Who supports the bill: Representative Judy Aron, Sullivan - District 7; Richard DeMark; Nicole Fordey; Lucinda Hope; Representative Deb Stevens, Hillsborough - District 34; Elaine Thomas.

Who opposes the bill: Robin Vogt.

Who is neutral on the bill: None.

Summary of testimony presented in support:

*Representative Judy Aron – provided written testimony
Sullivan – District 7*

- HB 73 is a reintroduction of HB 1507 (2020). HB 1507 was tabled in the Senate and died there because of the suspension of legislative activity due to the COVID-19 pandemic.
- HB 73 requires public notice using electronic means for certain permits issued by the NH Department of Environmental Services (NHDES). Section 1 amends RSA 149-M:7, III and requires NHDES to notice the public about solid waste permits using electronic means via NHDES's Internet website or by communicating permitting information with affected municipalities. Section 2 amends RSA 149-M:9, VIII to require public hearing notices for solid waste permit applications be placed on the NHDES' Internet website.
- HB 73 was a request from constituents in Acworth. Based on information from those constituents, notices generally appear on NHDES' calendar every day for one month. However, in one instance, notice for a Title V air pollution permit went up for one day. A constituent contacted NHDES and was told that NHDES is not required to make web-based postings.
- NHDES voluntarily posts permitting notices on its website, but there is not a consistent practice spelled out within NHDES statute or administrative rule. Current statute requires NHDES to issue notice in a newspaper of general circulation in the community, while administrative rule in Env-A 622.02 (c) requires public notice to be published by either NHDES or the applicant once in a newspaper of general daily statewide circulation and once in a newspaper of general circulation in the area in which the source is located. There is no consideration of electronic notification.

- The current notification requirements do not reflect how the public accesses much of its information. HB 73 provides a wider opportunity for public participation in significant permitting decisions with potentially long-term impacts on host communities.
- Senator Gray referenced HB 73. Lines 18-19 requires NHDES to issue notice in at least one newspaper of general circulation in the community and on NHDES' Internet website. Previous revisions to public notice requirements in other areas of statute have required postings on a website and having the option to post in newspapers of general circulation. He asked if Representative Aron had considered such an approach in HB 73.
 - Representative Aron said the recommended changes in HB 73 came from NHDES. HB 73 uses the language from HB 1507 (2020) that successfully passed the House.
- Senator Avard asked if there was any opposition to HB 73.
 - Representative Aron said there was no opposition to HB 73.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Michael Wimsatt

Director, Solid Waste Division, NHDES

- While most of the public uses the Internet to access public notices, some members of the public receive their information from newspapers. Using the Internet exclusively for public notices would be easier for NHDES but doing so may miss important constituencies that may wish to take part in a public hearing. NHDES is willing to issue electronic public notices, as well as newspaper public notices.
- Director Wimsatt noted that the costs for newspaper public notices are borne by the applicant.
- Senator Gray said his question was focused on consistency across state statutes. Generally, town notices are posted on the town website. He asked Director Wimsatt to comment.
 - Director Wimsatt said any policy changes would be subject to the NH General Court. Solid waste permits tend to have the most impact in the local communities surrounding the facility. NHDES knows some members of the public become aware of public hearings through newspapers. Director Wimsatt could not comment on other statutory changes on public notice requirements, but NHDES will follow whatever the NH General Court establishes for public notice requirements.

GJR

Date Hearing Report completed: March 29, 2021.

Speakers

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill HB73 on 2021-03-29

Support: 6 Oppose: 1 Neutral: 0 Total to Testify: 1

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Aron, Judy	judy.aron@leg.state.nh.us	603-843-5908	An Elected Official	Myself	Support	Yes	3/28/2021 6:55 PM
Stevens, Representative Deb	debstevens4ward7@gmail.com	603.820.0866	An Elected Official	My 10K constituents	Support	No	3/29/2021 12:04 AM
Thomas, Elaine	Not Given	Not Given	An Elected Official	Myself	Support	No	3/29/2021 9:03 AM
Fordey, Nicole	nikkif610@gmail.com	Not Given	A Member of the Public	Myself	Support	No	3/27/2021 1:11 PM
Vogt, Robin	Not Given	Not Given	A Member of the Public	Myself	Oppose	No	3/28/2021 10:03 AM
Hope, Lucinda	lmhope46@gmail.com	Not Given	A Member of the Public	Myself	Support	No	3/27/2021 4:57 PM
DeMark, Richard	demarknh114@gmail.com	603.520.5582	A Member of the Public	Myself	Support	No	3/28/2021 11:38 AM

Testimony

Griffin Roberge

From: Judy Aron
Sent: Sunday, March 28, 2021 7:15 PM
To: Griffin Roberge; Kevin Avard; Bob Giuda; James Gray; Rebecca Perkins Kwoka; David Watters; Griffin Roberge
Subject: OTP HB73 - Testimony for Senate Energy and Natural Resources

03/29/2021

Testimony - HB73 - relative to public notice requirements for certain permits issued by the Department of Environmental Services.

Dear Senate Energy and Natural Resources Committee,

I am the sponsor of this bill which will update our current statute having to do with noticing requirements by the Department of Environmental Service to include electronic noticing with regard to giving the public timely information about solid waste management permits. This provides a wider opportunity for public participation in significant permitting decisions with potentially long-term impacts on host communities. The intent of this bill is to improve public notice requirements by adding language to require electronic posting. Most people do not read the newspapers these days, but they do pay attention to websites and can access them from their electronic devices.

This bill was a request from constituents in Acworth. Last year this very same language passed the House and was tabled in the Senate due to the Covid processing of bills. I hope that you will pass it this time around.

My constituents informed me that generally notices appear on the DES calendar every day for one month. However, in one instance in the past, notice for a major and potentially controversial Title V air pollution permit went up for one day. When one of my my constituents asked about that he was told by DES staff that the agency is not required to make the web-based postings. Current law and rulemaking apparently covers legal notice in a newspaper of general circulation and a hard copy posting at DES, but does not take into consideration electronic means of notification.

Apparently, at this time, the minimum requirements in DES rules do not reflect the change in how the public accesses information (as per rules cited in Env-A 622.02. (c))

It is time to update the statutes to include the way in which people are getting their information. I have worked with DES on this language and they are fine with it.

I believe that currently DES does voluntarily post permitting notices on its website, but there is not, as far as I know, a consistent practice spelled out within agency procedures, rules or statute. With this addition to statute there will be. This will be to the benefit of NH citizens.

I am asking that you please support this bill with an OTP recommendation.

Thank you,

Rep. Judy Aron
NH State Representative
Sullivan County District 7
(Acworth, Goshen, Langdon, Lempster, Washington)
Environment and Agriculture Committee, Vice-Chair
Transportation, Member
266 Forest Road, South Acworth, NH 03607
603-843-5908

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # <i>HB73</i>

Hearing Date: 03/29/2021

Executive Session Date: 03/29/2021

Motion of: OTP Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Giuda

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Monday, March 29, 2021

THE COMMITTEE ON Energy and Natural Resources

to which was referred **HB 73**

AN ACT

relative to public notice requirements for certain permits issued by the department of environmental services.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Bob Giuda
For the Committee

This bill updates RSA 149-M:7, III and requires that means of noticing the public about solid waste permits include using electronic means via the NH Department of Environmental Services' website and communicating permitting information with affecting municipalities. The bill also amends RSA 149-M:9, VIII to require that public hearing notices regarding solid waste permits must be posted on the department's website along with posting in local newspapers. This bill will ensure a greater opportunity for public participation in permitting decisions that can impact local communities.

Griffin Roberge 271-3042

FOR THE CONSENT CALENDAR

ENERGY AND NATURAL RESOURCES

HB 73, relative to public notice requirements for certain permits issued by the department of environmental services.

Ought to Pass, Vote 5-0.

Senator Bob Giuda for the committee.

This bill updates RSA 149-M:7, III and requires that means of noticing the public about solid waste permits include using electronic means via the NH Department of Environmental Services' website and communicating permitting information with affecting municipalities. The bill also amends RSA 149-M:9, VIII to require that public hearing notices regarding solid waste permits must be posted on the department's website along with posting in local newspapers. This bill will ensure a greater opportunity for public participation in permitting decisions that can impact local communities.

Docket of HB73

Docket Abbreviations

Bill Title: relative to public notice requirements for certain permits issued by the department of environmental services.

Official Docket of HB73.:

Date	Body	Description
1/4/2021	H	Introduced (in recess of) 01/06/2021 and referred to Environment and Agriculture HJ 2 P. 34
1/20/2021	H	Public Hearing: 01/27/2021 03:15 pm Members of the public may attend using the following links: To join the webinar: https://www.zoom.us/j/92887623403 / Executive session on pending legislation may be held throughout the day (time permitting) from the time the committee is initially convened.
2/10/2021	H	Committee Report: Ought to Pass (Vote 18-0; CC) HC 12 P. 4
2/24/2021	H	Ought to Pass: MA VV 02/24/2021 HJ 3 P. 7
3/4/2021	S	Introduced 03/04/2021 and Referred to Energy and Natural Resources; SJ 7
3/23/2021	S	Remote Hearing: 03/29/2021, 01:15 pm; Links to join the hearing can be found in the Senate Calendar; SC 17
3/30/2021	S	Committee Report: Ought to Pass, 04/08/2021; Vote 5-0; CC; SC 18
4/8/2021	S	Ought to Pass: RC 23Y-1N, MA; OT3rdg; 04/08/2021; SJ 11
4/29/2021	S	Enrolled RC 24Y-0N , MA, (In recess of 04/22/2021); SJ 13
4/29/2021	H	Enrolled (in recess of) 04/09/2021 HJ 7 P. 101
5/10/2021	H	Signed by Governor Sununu 05/06/2021; Chapter 17; Eff: 07/05/2021

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 73

Senate Committee: ENR

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: (Legislative Aides)

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: (Legislative Aides)

All amendments considered in committee (including those not adopted):

N/A - amendment # _____ - amendment # _____

_____ - amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: (Clerk's Office)

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ - amendment # _____

_____ - amendment # _____ - amendment # _____

Post Floor Action: (if applicable) (Clerk's Office)

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

_____ Enrolled Bill Amendment(s)

_____ Governor's Veto Message

All available versions of the bill: (Clerk's Office)

_____ as amended by the senate _____ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Committee Aide

Date

Senate Clerk's Office AK