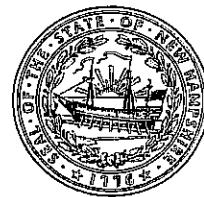




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 14, 2009

The Honorable Jacalyn L. Cilley, Chairman
Senate Executive Departments and Administration Committee
Legislative Office Building Room 101
Concord, New Hampshire 03301

Re: HB 129, an act establishing a committee to study the incorporation of electronic filing procedures under the administrative procedures act

Dear Senator Cilley:

Thank you for the opportunity to comment on HB 129, relative to establishing a committee to study the incorporation of electronic filing procedures under the administrative procedures act. The Department of Environmental Services (DES) supports this bill.

DES has close to 200 individual rule chapters or parts, each of which must be periodically readopted and many of which are amended between readoption cycles. Each filing in a regular (8-year) rulemaking proceeding requires, at a minimum, requesting a fiscal impact statement from the Legislative Budget Assistant (LBA), filing two copies of a rulemaking notice and two copies of the initial proposal with the Office of Legislative Services Division of Administrative Rules (OLS DAR), filing two copies of a final proposal package with the OLS DAR (package must include a cover sheet, copies of statutory authority, the fixed text of the final proposed rules, and the annotated text of the final proposed rules, and may include incorporation by reference statements and an amended fiscal impact statement), filing an adoption letter and two copies of adopted rules, and filing a certification letter and standard request form with the certified rule. Depending on the length of the rules, this can add up to quite a bit of paper. For example, in the recent readoption of the Hazardous Waste Rules (11 chapters, Env-Hw 100-1100), the initial proposals totaled 221 pages, the fixed text final proposals totaled 211 pages, and the annotated final proposals totaled 210 pages. Even with most of the pages being double-sided copies, DES filed nearly 1,000 sheets of paper in that one rulemaking proceeding.

DES has modified its internal procedures to use only electronic copies wherever possible, and the LBA currently allows fiscal impact statement requests to be filed by fax. Further, the OLS DAR already requests electronic copies of the initial proposal and final proposal (fixed text) on which to make comments for review by the agency and Joint Legislative Committee on Administrative Rules (JLCAR). The OLS DAR also requests electronic copies of all adopted rules to facilitate preparation of the text to be certified by the agency. It would be but a short step to allow agencies to file all (or most) rule-related documents electronically -- and it would be consistent with RSA 294-E, the Uniform Electronic Transactions Act, and the numerous executive orders directing a reduction in agency spending.

Thank you again for the opportunity to comment in support of this bill. If you have any questions, please call Gretchen Hamel, Legal Unit Administrator, at 271-3137, or me at 271-3449.

Sincerely,

Thomas S. Burack
Commissioner

cc: Representative Pilotte
Representative Patten