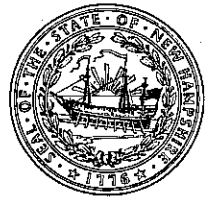




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

May 19, 2009

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

Re: HB 297, an act relative to relative to the adoption of agency forms and other rules under the administrative procedures act

Dear Senator Cilley:

Thank you for the opportunity to comment on HB 297, relative to the adoption of agency forms and other rules under the administrative procedures act. The Department of Environmental Services (DES) supports this bill as amended by the House.

The bill as amended by the House clearly defines what constitutes a "form" that also is a rule, which in and of itself should bring clarity to this area. The amended bill then creates several options for agencies to adopt such forms as well as a more streamlined process to revise such forms. These provisions are expected to provide greater clarity to state agencies and to the public, and to make the process of revising forms more efficient.

The amended bill also clarifies which procedural rules are exempt from the automatic expiration provisions of RSA 541-A:17, I. The provisions of RSA 541-A:17, II that require procedural rules to be readopted when the underlying authority -- or the procedures themselves -- have changed will remain in place. The purpose of the exemption is to allow agencies to focus its resources on updating and readopting substantive rules, rather than readopting rules for which no changes are needed.

Finally, the amended bill adjusts the process for expedited repeal of a rule that was adopted in 2004, to replace the requirement for newspaper publication with a requirement for publication in the Rulemaking Register. The cost of newspaper publication has increased over the years, and has not been shown to be more effective in alerting the public to proposed rule changes than the Rulemaking Register.

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

Sincerely,

Michael A. Burack, Ass't Comm.
for Thomas S. Burack
Commissioner

cc: Representative Patten
Representative Pilotte