



The State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 2, 2010

The Honorable Susan Almy, Chairman  
House Ways and Means Committee  
Legislative Office Building, Room 202  
Concord, NH 03301

**Re: HB 1534 relative to the issuance of air permits and certain fees relative to air permits**

Dear Chairman Almy and Members of the Committee:

The Department of Environmental Services (DES) is pleased to testify in support of House Bill 1534, which primarily clarifies DES's authority to issue general permits for certain source categories of air pollutants and to establish a permit-by-notification with respect to certain source categories. In addition, the bill is intended to provide further explanation of the fees that regulated entities may be required to pay to cover the cost of implementing the air permit program.

DES currently issues the following types of air permits: temporary permits (*i.e.*, construction permits), operating permits (state and Title V) and general permits (a single permit which covers multiple similar small sources). DES would like to modify and expand this approach by establishing a permit-by-notification for certain types of minor sources that by their nature may relocate operations periodically or for minor sources that require a low level of technical review. Requiring such sources to obtain site-specific air permits can create significant administrative burdens on both the facility owners and DES with no commensurate environmental benefit. The permit-by-notification process would allow DES to track and monitor these sources for emissions inventories, planning purposes and compliance status in a streamlined manner.

A permit-by-notification program would establish a mechanism for regulating these types of sources to ensure compliance with applicable state and federal air regulations through a more streamlined approach. Under this program, a source would register its equipment and notify DES of its location in the state (and of any changes in location). This type of program would help to streamline DES's efforts to regulate emissions from these sources and to reduce the administrative burden.

This legislation also clarifies the Department's authority to charge fees for regulated sources. Currently, the law authorizes the Commissioner to require the payment of fees to cover the reasonable costs of reviewing and acting upon the application for a permit and of implementing or enforcing the terms and conditions of a permit. The revised legislation clarifies that "application for a permit" includes applications for authorizations required or applicability determinations. In addition, when the Department has amended its fee rules in the past, the

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-1370 • Fax: (603) 271-1381 • TDD Access: Relay NH 1-800-735-2964

Office of Legislative Services (OLS) has questioned the Department's authority to require an annual emission-based fee. In response to these questions the Attorney General has taken the position that the existing language allows the Department to recover not only permit application review costs, but also the costs of overseeing implementation or enforcement of the permit. Since these latter responsibilities are ongoing, annual emission-based fees are needed to recover those costs from year to year. In response to the concerns raised by OLS, the revised legislation specifies that the Department may require payment of an annual emission-based fee to recover the costs of "implementing or enforcing the permit" and clarifies the criteria that the Department will use to set the fee.

Currently, permitted sources are subject to an annual emissions-based fee. As discussed above, the proposed legislation clarifies the Department's ability to grant a facility authorization to install and operate a regulated device under a permit-by-notification program. For sources that qualify for the permit-by-notification program, the Department would require a one-time registration fee in lieu of the annual emissions-based fee.

Thank you for the opportunity to provide testimony. Should you have further questions or need additional information please feel free to contact Robert R. Scott, Director, Air Resources Division (271-1088, [robert.scott@des.nh.gov](mailto:robert.scott@des.nh.gov)) or Michele Roberge, Permitting and Environmental Health Bureau Administrator (271-6793, [michele.roberge@des.nh.gov](mailto:michele.roberge@des.nh.gov)).

Sincerely,



Thomas S. Burack  
Commissioner

cc: Representative Naida Kaen, sponsor