



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 14, 2011

The Honorable Sharon M. Carson, Chairman
Senate Executive Departments and Administration Committee
State House, Room 100
Concord, New Hampshire 03301

Re: HB 43, relative to the adoption of forms under the administrative procedures act

Dear Senator Carson and members of the Committee:

Thank you for the opportunity to testify on HB 43, relative to the adoption of forms under the administrative procedures act. The Department of Environmental Services supports this bill.

In the 2009 legislative session, the General Court enacted Chapter 232 to amend RSA 541-A, the Administrative Procedure Act, relative to rulemaking. In part, the amendments clarified when a "form" was a rule (and when it was not), established a more efficient way to adopt or amend forms, and exempted forms from expiring. We believed at the time, and continue to believe, that clarification of forms vis-à-vis rules was needed.

Unfortunately, the amendments relative to the adoption and expiration of forms have been applied in a way that has been confusing and caused additional work, both to the Office of Legislative Services and to agencies. Repealing the exemption of forms from the normal expiration of rules would address this unintended consequence of the original legislation.

Thank you again for the opportunity to comment on this bill. If you have any questions, please call me at 271-2958 or Gretchen Hamel of my staff at 271-3137.

Sincerely,

Thomas S. Burack
Commissioner

cc: Representative Pilotte
Representative Sad
Representative Millham
Representative B. Patten