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FISCAL IMPACT REPORT

ORIGINAL DATE 3/06/2007

SPONSOR HCPAC LAST UPDATED 3/08/2007 HB CS/1197/a HBIC

SHORT TITLE Small Business Regulatory Relief SB _____

ANALYST Schuss

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
General Services Department (GSD)

SUMMARY

Synopsis of HBIC Amendment

The amendment proposed by the House Business and Industry Committee clarifies the submission of rules. The amended bill will state that *all rules shall be submitted both electronically and by paper copy.*

Synopsis of Original Bill

The House Consumer and Public Affairs Committee Substitute for House Bill 1197 grants small business regulatory relief and requires notice for proposed rule changes that may have an adverse effect on small business.

HB 1197 amends the Small Business Regulatory Relief Act to require an agency:

- to provide a copy of a proposed rule that may have an adverse effect on small business to the Small Business Regulatory Advisory Commission 60 days prior to the scheduled adoption of the proposed rule;
- to notify the Small Business Regulatory Advisory Commission directly of public hearings on the proposed rule change at the same time notice is given to the public.
- to submit all rules electronically

SIGNIFICANT ISSUES

According to GSD, pursuant to the State Rules Act, the effective date of a rule is the date of publication in the New Mexico Register. The time requirements for notice to the commission in HB 1197 are dependent upon the “adoption” of the rule. The term “adoption” is unclear and could cause confusion in determining when notice is due to the commission.

ADMINISTRATIVE IMPLICATIONS

The Oil Conservation Division (OCD) will need to revise its rulemaking process. By statute, it must provide at least 10 days notice prior to a rulemaking hearing, except in emergencies. See NMSA 1978, Section 70-2-23. OCD notice rules currently provide for notice of rulemaking no less than 20 days prior to hearing.

TECHNICAL ISSUES

EMNRD stated the following technical issue in the original bill:

HB 1197 provides for a notice period prior to “the scheduled adoption” of the rule. Rules are often “adopted” by a rulemaking body either at or some time after a public hearing or public comment period. (The rules then become “effective” some time later, usually upon publication in the New Mexico Register or on a later date specified in the rule.) If “the scheduled adoption” is construed as the date the rulemaking body is expected to act on the proposed rule, the intent of HB 1197 could be circumvented by providing the required notice a few days before (or even after) the public hearing or comment period expires, and delaying action by the rulemaking body until after the sixty day notice period. If the intent is to provide notice to the commission in time for the commission to provide input on the proposed rule, the notice period should run before the hearing or before expiration of the public comment period.

BS/mt