

STATE OF NEW HAMPSHIRE

COMMISSIONER
Jared S. Chicoine

DEPUTY COMMISSIONER
Christopher J. Ellms, Jr.



DEPARTMENT OF ENERGY
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-3670

FAX No. 271-1526

Website:
www.energy.nh.gov

April 3, 2023

Michael Morrell, Acting Director
Administrative Rules Division
Office of Legislative Services
State House Annex, Room 219
25 Capitol Street
Concord, NH 03301-6312

**Re: En 1400 – Rules for Pipeline Public Utilities
Department of Energy Rulemaking Notice**

Dear Mr. Morrell:

We are herewith submitting the following documents for filing with your office regarding the above-referenced matter:

- (1) Appendix II-C, Rulemaking Notice Form;
- (2) Fiscal Impact Statement – FIS 23:086;
- (3) En 1400 Rules - Initial Proposal (PDF and Word versions);
- (4) Cross-Reference Table of Applicable Statutes (Appendix A to Initial Proposal);
and,
- (5) Incorporation by Reference Information (Appendix B to Initial Proposal).

Please include the Rulemaking Notice Form in the next available Rulemaking Register. This submission is being made electronically only, consistent with current policy.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jared S. Chicoine".

Jared S. Chicoine
Commissioner

Enclosures

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number En 1400

<p>1. Agency Name & Address:</p> <p>Department of Energy 21 S. Fruit St., Ste. 10 Concord, NH 03301</p>	<p>2. RSA Authority: RSA 12-P:5, V; RSA 374:13; RSA 374:15</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
--	---

5. Short Title: **En 1400 Rules for Pipeline Public Utilities**

6. (a) Summary of what the rule says and of any proposed amendments:

The new En 1400 rules regarding pipeline public utilities reports, which are proposed by the Department of Energy (Department), are the same as existing Puc 1400 rules, with the En 1400 rules effectuating the transfer of the entirety of these regulatory responsibilities regarding certain reporting from the Public Utilities Commission (PUC) to the Department.

The new En 1400 rules mirror the existing Puc 1400 rules without other modification and, more specifically, apply to reporting by pipeline utilities regarding gas, crude petroleum, refined petroleum products, or combinations of petroleum products in the State.

6. (b) Brief description of the groups affected:

The En 1400 rules generally apply to any public utility that owns or operates any gas pipeline, including pumping stations, storage depots, and other facilities, for the transportation, distribution, or sale of gas, crude petroleum, refined petroleum products, or combinations of petroleum products.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement: **RSA 12-P:5, IV; 374:3, and RSA 374:15**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Andrew J. Harmon, Esq.**

Title: **Hearings Examiner**

Address: **21 S. Fruit St., Ste. 10
Concord, NH 03301**

Phone #: **271-2443**

Fax#:

E-mail: **andrew.j.harmon@energy.nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

APPENDIX II-C (Continued)

RULEMAKING NOTICE FORM - Page 2

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified:

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 2, 2023 at 9:00 a.m.**

Place: **New Hampshire Public Utilities Commission
Hearing Room B
21 South Street
Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 23:086, dated March 24, 2023

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision of the State of New Hampshire, and therefore do not violate Part I, Article 28-a of the N.H. Constitution by necessitating additional local expenditures by a political subdivision.

Fiscal Impact Statement for Department of Energy rules governing Puc 1400 Rules for Pipeline Utilities. [En 1400]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed En 1400 rules to the existing PUC 1400 rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed En 1400 rules will replace the existing Puc 1400 without change as these responsibilities are transferring from the Public Utilities Commission to the Department of Energy.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Adopt En 1400 to read as follows:

CHAPTER En 1400 RULES FOR PIPELINE PUBLIC UTILITIES

PART En 1401 DEFINITIONS

En 1401.01 "Pipeline public utility," "pipeline utility" or "utility" means any "public utility" as defined in RSA 362:2.

En 1401.02 "Department" shall mean the New Hampshire department of energy.

PART En 1402 REPORTING REQUIREMENTS

En 1402.01 Reports to Department.

(a) If deemed necessary by the department to evaluate the safe operation of gas pipelines and to fulfill its authority under RSA 374:3, each utility and any owner or operator of a pipeline facility regulated by the Federal Energy Regulatory Commission shall provide the department, upon its request, the results of any tests and summaries of any records required under state or federal law. Such tests and summaries may include but not be limited to operating pressures, welding procedures, construction procedures, incident reporting, and accident reporting, and other practices that relate to the safe operation of pipelines.

(b) Each utility and any owner or operator of a pipeline facility regulated by the Federal Energy Regulatory Commission shall file reports with the commission on such forms as the department shall specify as provided in En 1403.

(c) Copies of forms shall be furnished by the department upon request.

PART 1403 FORMS TO BE FILED

En 1403.01 F-22 Information Sheet.

(a) Each utility shall file Form F-22:

(1) Annually; and

(2) Whenever any changes occur to the information included in a utility's current Form F-22 filing.

(b) Each utility shall include on Form F-22 the following:

(1) Name of utility;

(2) Officer's or individual's name, address and e-mail address to receive annual report form (EN Form F-16);

(3) Officer's or individual's name, address and e-mail address to receive the utility assessment invoice;

(4) The names and titles of the principal officers of the company; and

(5) The name, title and signature of the individual who supervised the completion of the form, with date of signature.

En 1403.02 Annual Reporting.

(a) Any owner or operator of a pipeline facility regulated by the Federal Energy Regulatory Commission shall, with respect to any such pipeline facility located or to be located in New Hampshire, file with the department:

- (1) Concurrently upon its filing annually, on or before April 30 of each year, a copy of the signed original of the applicable Federal Energy Regulatory Commission annual report form (Form Number 2 or 2A) pertaining to such facility; and
- (2) Concurrently upon its filing with the Federal Energy Regulatory Commission, a copy of any application for a certification of public convenience and necessity under the Natural Gas Act, 15 U.S.C. § 717f(c), with respect to any pipeline facility proposed to be located in New Hampshire.

Appendix A

En 1401	RSA 12-P:5, IV
En 1402	RSA 12-P:5, IV; 374:15
En 1403.01	RSA 12-P:5, IV; 374:15
En 1403.02	RSA 12-P:5, IV; 374:15

Appendix B

DOCUMENTS INCORPORATED BY REFERENCE

FEDERAL STANDARDS AND FORMS

- *Federal Energy Regulatory Commission Forms:*

Form Number 2 – Major Natural Gas Pipeline Annual Report (En 1403.02(a)(1))

Form Number 2A – Non-Major Natural Gas Pipeline Annual Report (En 1403.02(a)(1))

Available for downloading at no charge at: <http://www.ferc.gov/docs-filing/forms.asp>