

Notice Number _____

Rule Number En 700

1. Agency

Edit. Delete or cite to specific RSA provisions granting rulemaking authority, such as RSA 12-P:5, IV.

RSA Authority:

RSA 362, et. seq.;
RSA371:1, et. seq.;
RSA 12-P:5, IV

Department of Energy
21 S. Fruit St., Ste. 10
Concord, NH 03301

3. Federal Authority: _____

4. Type of Action:

Adoption X

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: **Rules for Sewer Utilities**

6. (a) Summary of what the rule says and of any provisions that are being repealed:

En 700 governs the service provided by regulated utilities, the quality of service, billing, customer relations, safety, accidents, and inspection and is being adopted.

Unclear. As an adoption of a new chapter, it appears as if En 700 were totally new. But see the FIS. Due to the transfer of authority from PUC to the Department in 2021, the summary is incomplete by not addressing the degree to which the Chapter En 700 rules appear to be based on and differ from the Chapter Puc 700 rules on sewer utilities. See for example the Department's Item #6(a) summary for Chapter En 500 on gas service in the 5-11-23 *Rulemaking Register* and how En 500 was based on Puc 500 but also differed from it.

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

The rules affect regulated sewer utilities of the state.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Specific State Statute the Rule Implements
En 701.01 – En 702.13	RSA 12-P:5, IV; 362, et seq.
En 703.01 – En 703.03	RSA 12-P:5, IV; 370:1-8; 374:3
En 704.01 – En 704.03	RSA 12-P:5, IV; 370:2
En 705.01 – En 705.02	RSA 12-P:5, IV; 374:3, 48-56
En 706.01 – En 706.04	RSA 12-P:5, IV; 374:4, 13
En 707.01 – En 707.04	RSA 12-P:5, IV; 374:3, 4, 37-39
En 708.01	RSA 12-P:5, IV; 374:3, 4, 15, 39
En 708.02	RSA 12-P:5, IV; 370:2-5; 374:4, 15
En 708.03	RSA 12-P:5, IV; 374:4, 13, 15
En 708.04 – En 708.05	RSA 12-P:5, IV; 374:4, 15

Edit. Here and below. Insert "RSA" where a different RSA chapter is cited in each row. It is easier to read.

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 #: **603-271-2443**

Fax#: **NA**

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

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, October 18, 2023**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, October 4, 2023 at 10:00 am**
Place: **New Hampshire Public Utilities Commission
Hearing Room B
21 South Franklin Street
Concord, NH**

Edit. "En 760" should be "En 700." The LBA should be contacted to fix this typo.

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

FIS # 23:204, dated 08/18/2023

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

The proposed rules are new, however the proposed new En 760 adopt various provisions of the existing Puc 700 rules without any difference in costs.

Edit. Although the En 700 rules are being adopted, they are not, strictly speaking, "new" in terms of state regulation, as the FIS also indicates that they adopt various provisions of Puc 700. Compare with the FIS for En 500 in NN 2023-113 in the 5-11-23 *Rulemaking Register*. See if LBA can clarify.

Impact on state funds:

A. To State general or State special funds:

None.

B. To State citizens and property:

None.

C. To independently owned utilities:

None.

Edit. The Part 1, Article 28-a Statement does not appear to be correct. Based on the FIS, the rules in En 700, due to the transfer of authority in 2021 from PUC to the Department, seem to be modifications of the responsibilities in the Puc 700 rules which regulate sewer utilities.

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

The proposed rules do not modify an existing program or responsibility, and do not assign any responsibility to any political subdivision and therefore is not proposed in violation of Part I, Article 28-a.

APPENDIX II-C (Continued)

INSTRUCTIONS FOR THE RULEMAKING NOTICE FORM

NOTE:

Completion of this notice is required pursuant to RSA 541-A:6, I for publication by the Administrative Rules office in the New Hampshire Rulemaking Register pursuant to RSA 541-A:9, I(a). Other notice may also be required to be sent by the agency to other persons pursuant to RSA 541-A:6, III and RSA 541-A:39. See Section 2.6 of Chapter 3 of the Drafting and Procedure Manual for Administrative Rules (Manual) about these other notices.

The first unnumbered item to the left of the form is labeled "Notice Number" and shall be left blank. The number of each notice will be assigned by the Administrative Rules office.

The second unnumbered item to the right of the form is the rule number of the proposed rule(s) in the codification scheme described in Part 1 of Chapter 4 in the Manual. The number shall be correctly identified, such as Agr 501.03(e) and not Agr 501.03 if only paragraph (e) is being filed. A summary may be used, such as "Agr 502, various sections," if there is not enough space to list all the rules.

Item 1 is the name and address of the agency with rulemaking authority. This is the individual or group named in the RSA passage delegating authority, which is cited in Item 2. However, where an individual rulemaker is involved, such as a Commissioner, Division Director, or Bureau Chief, the name of the office may be used, such as "Department of," "Division of," or "Bureau of."

Item 2 shall be a citation to the specific statutory passage indicating RSA chapter, section, and paragraph delegating the agency rulemaking authority, for example: RSA 309-A:2, III, not RSA 309-A.

Item 3 shall cite the Federal authority, if applicable.

Item 4 shall be checked to indicate the type(s) of rulemaking action proposed. Four types are listed, as described below. **NOTE: The text of each rule filed must encompass at least a full rules section pursuant to RSA 541-A:10, I, as amended by 2020, 37:72, effective 9/27/20:**

(a) "Adoption" means that a new section, part, or chapter is being inserted or an expired one is being reinstated. The term only applies to the insertion of whole sections, parts, and chapters, but does not apply to insertions of text less than an entire section.

(b) "Repeal" means to eliminate an entire section or sections of an existing rule with no rule in its place or with a rule on a different subject area instead.

(c) "Readoption" means that an existing rule is being adopted again without change.

(d) "Readoption with amendment" means that a section or a larger unit of an existing rule is being changed, and the entire text of that section, or larger unit, of the existing rule is being included for purposes of readoption.

Item 5 is a "short title", and shall be a brief description of the subject matter in key words and not merely repeat the rule number affected. The rule's "short title" is a quick way of identifying what the rule is about.

APPENDIX II-C (Continued)

INSTRUCTIONS - Page 2

Item 6 is the summary and analysis required by RSA 541-A:6, I(f) and (g) and the identification required by RSA 541-A:3-a, which shall include at least the following:

- (a) A summary of what the rule says and of any amendments, clarifying any ambiguity due to multiple rulemaking actions in one proposal;
- (b) A brief description of groups affected; and
- (c) The specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

The agency shall number the paragraphs in its analysis of Items 6(a), 6(b), and 6(c) to correspond to the above.

It shall also be clear from the context in the summary and analysis in Item 6(a) what the consequences would be if the rule were not adopted.

See Section 2.4 of Chapter 3 in the Manual. Item 6(c) is not the rulemaking authority under Item 2 or Item 3. Item 6(c) contains the specific section(s) or provisions of the RSA or federal statute or regulation, that the rule is meant to implement. For example, authority to adopt rules pursuant to RSA 541-A on license procedures could be in one RSA section, but a provision requiring that a person obtain a license (implemented by rules on license procedures) might be in a different section. The citation under Item 2 would be the same as in Item 6(c) only if the RSA rulemaking authority and the specific RSA provision being implemented are in the same RSA section or provision.

A list of cross-references will be necessary in Item 6(c) if different portions of the rule relate to different sections or provisions of state or federal statutes or regulations. Pursuant to RSA 541-A:3-a, III:

General references to the name or title of a state or federal statute or regulation shall not suffice for the purposes of this section. To the extent that specific provisions of the proposed rule are designed to implement different sections or provisions of state or federal statutes or regulations, the agency shall reference the state or federal statutes or regulation with the provision of the proposed rule that is intended to implement that statute or regulation.

Item 6(c) may be submitted as an attached cross-reference table on a separate sheet if necessary. The same information must be submitted as an appendix to the rules. See Section 2.5 of Chapter 3 in the Manual.

Item 7 shall identify the name, title, address, telephone and fax numbers, and e-mail address, of a person in the agency who can supply copies of the proposed rule and answer questions about it including requests to accommodate persons with disabilities in the rulemaking process.

Item 8 shall be the deadline for submission of materials in writing or, if practicable for the agency, in electronic format (such as fax, e-mail, or on diskette). Pursuant to RSA 541-A:11, I, this deadline shall be at least 5 business days after the public hearing(s), but if the rule is proposed by a group, such as a board or commission, that agency may specify a shorter period in the notice provided that the deadline is not earlier than the scheduled conclusion of the public hearing(s). Specify the electronic format, if any, that is practicable for your agency.

APPENDIX II-C (Continued)

INSTRUCTIONS - Page 3

Item 9 shall be the date, time, and place of the agency's public hearing(s) required by RSA 541-A:11, I. Pursuant to RSA 541-A:6, I, the agency shall give at least 20 days' notice of the hearing. The notice period shall begin on the day after the date of publication in the Rulemaking Register. Therefore the date of the first hearing shall be no earlier than 3 weeks after the online publication date of the Rulemaking Register containing the notice, which is Thursday, or earlier if Thursday is a holiday.

Item 10 shall consist of the fiscal impact statement prepared by the Legislative Budget Assistant. When it receives the fiscal impact statement, the agency shall either retype this as part of the notice form and shall not amend it, or submit the original document as received from the Legislative Budget Assistant, provided the agency keeps a photocopy for its own records.

Item 11 shall contain a statement which the agency shall prepare. Pursuant to RSA 541-A:6, I(j), it is the statement that the proposed rule does not violate Part I, Article 28-a of the N.H. Constitution. It shall contain the agency's concise rationale, in compliance with Section 2.4 of Chapter 3 in the Manual, why it does not.