

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DRM 16-508

RULEMAKING

**New Hampshire Code of Administrative Rules
Part Puc 800, Underground Utility Damage Prevention Program Rules**

ORDER OF NOTICE

On August 19, 2016, the Commission voted pursuant to RSA 541-A to initiate a formal rulemaking for N.H. Code Admin. Rules Part 800, Underground Utility Damage Prevention Program, otherwise known as Dig Safe. The Commission's initial proposal represents a readoption of the existing Puc 800 rules with amendments.

The Puc 800 rules contain the procedures and standards to be followed by operators and excavators when preparing for and conducting excavating activities in and around underground facilities. The rules define the duties of operators and excavators, outline procedures for locating and marking underground facilities, and the notification and investigation of complaints, including enforcement. The rules also implement procedures for education and training. The proposed amendments to these rules include certain language changes and updates that clarify and modify terms and improvements based on technological advances to improve the notification and communication procedures and achieve greater improvements in safety. Upon completion of the formal rulemaking process, the proposed amended rules will replace the current version of Puc 800.

A notice of rulemaking as required by RSA 541-A:6 (Notice), was filed with the Office of Legislative Services on September 6, 2016 and has been sent to all persons who have made a

timely request for advance notice of these rulemaking proceedings. The Notice establishes a public hearing to be held at the Commission on October 6, 2016 at 10:00 a.m. and a deadline for the submission of written comments on October 14, 2016. The Notice as published in the New Hampshire Rulemaking Register is appended hereto. Pursuant to N.H. Code Admin. Rules Puc 203.12, this Order of Notice will also be published on the Commission's website.

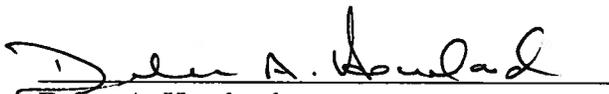
The Initial Proposal for readoption with amendments of the Puc 800 rules may be viewed on the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2016/16-508.html>, or copies may be obtained from the Commission as set forth in the Notice.

Based upon the foregoing, it is hereby

ORDERED, that a Public Hearing, pursuant to RSA 541-A:11, be held before the Commission located at 21 South Fruit Street, Suite 10, Concord, New Hampshire, on October 6, 2016, at 10:00 a.m., and that the deadline for submission of materials in writing or by e-mail shall be October 14, 2016, as set forth in the Notice; and it is

FURTHER ORDERED, that, pursuant to N.H. Code Admin. Rules Puc 203.12, the Executive Director shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice on the Commission's website no later than September 27, 2016.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 2016.


Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Notice Number 2016-162

Rule Number Puc 800

Public Utilities Commission 21 South Fruit Street, Suite 10 Concord, NH 03301	2. RSA Authority:	<u>RSA 374:50; 365:8, XII</u>
	3. Federal Authority:	_____
	4. Type of Action:	
	Adoption	_____
	Amendment	_____
	Repeal	_____
	Readoption	_____
	Readoption w/amendment	<u> X</u>

5. Short Title: Puc 800 – Underground Utility Damage Prevention Program

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

The Commission intends to readopt with amendments its Puc 800 rules. Puc 800 sets forth the procedures and standards to be used by the Commission in implementing the Underground Utility Damage Prevention Program, otherwise known as “Dig Safe,” which protects the public, operators, and excavators from physical harm, property damages, and interrupted service resulting from damage to underground facilities. These rules also establish procedures and requirements relative to: minimum requirements for the operation of the system, including notification procedures; the investigation of complaints including enforcement; emergency situations for which notice of excavation is not required; and minimum standards of marking the tolerance zone. The existing rules are scheduled to expire on November 8, 2016, but are subject to extension pursuant to RSA 541-A:14-a.

Amendments to the existing rules include minor word changes and updates throughout; adding, clarifying and modifying terms in the definition section; updating location-specific information requirements; updating telephone information; updating reporting requirements and timeframes for reporting; updating notification requirements; and adding excavator specific instructions.

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

These rules affect persons or entities performing excavation activities and those who own underground utility facilities. This also includes persons or entities that perform excavations on private property, public ways, rights-of-way, easements, public streets, or any other public place.

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

Rule	Statute
Puc 801.01	RSA 374:50; RSA 374:55,VII
Puc 801.02	RSA 374:50
Puc 802.01	RSA 374:50; RSA 374:48,VIII
Puc 802.02	RSA 374:50; RSA 374:48,I
Puc 802.03	RSA 374:50
Puc 802.04	RSA 374:50
Puc 802.05	RSA 374:50; RSA 374:48,III
Puc 802.06	RSA 374:50; RSA 374:48,IV
Puc 802.07	RSA 374:50
Puc 802.08	RSA 374:50
Puc 802.09	RSA 374:50; RSA 288:1; RSA 288:2
Puc 802.10	RSA 374:50
Puc 802.11	RSA 374:50
Puc 802.12	RSA 374:50; RSA 374:48,IV-a; RSA 362:2, II; RSA 362:7, III(c)
Puc 802.13	RSA 374:50; RSA 374:48,V
Puc 802.14	RSA 374:50; RSA 374:51,IV
Puc 802.15	RSA 374:50; RSA 374:48,I
Puc 802.16	RSA 374:50
Puc 802.17	RSA 374:50; RSA 374:48,VII
Puc 803.01	RSA 374:50, I; RSA 374:49, RSA 374:52
Puc 803.02	RSA 374:50,I
Puc 804.01	RSA 374:50
Puc 804.02	RSA 374:50; RSA 374:49; RSA 374:52
Puc 804.03	RSA 374:50
Puc 805.01	RSA 374:50, I; RSA 374:51
Puc 805.02	RSA 374:50
Puc 805.03	RSA 374:50; III; RSA 374:51,I
Puc 805.04	RSA 374:50; RSA 374:51,VII
Puc 805.05	RSA 374:50; RSA 374:54
Puc 806.01	RSA 374:50; RSA 374:53
Puc 806.02	RSA 374:50; RSA 374:53
Puc 806.03	RSA 374:50; RSA 374:53
Puc 806.04	RSA 374:50,III
Puc 806.05	RSA 374:50; RSA 374:53
Puc 807.01	RSA 374:50,II
Puc 807.02	RSA 374:50; RSA 374:55,VII
Puc 807.03	RSA 374:50; RSA 374:55
Puc 807.04	RSA 374:50; RSA 374:55,VII
Puc 807.05	RSA 374:50; RSA 374:55
Puc 807.06	RSA 374:50; RSA 374:55,VII
Puc 807.07	RSA 374:50; RSA 374:55

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

Name: **David K. Wiesner, Esq.** Title: **Staff Attorney**
 Address: **Public Utilities Commission** Phone #: **603-271-6030**
21 South Fruit Street, Suite 10 Fax#: **603-271-4033**
Concord, NH 03301 E-mail: **David.Wiesner@puc.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: **October 14, 2016**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **October 6, 2016 at 10:00 a.m.**
 Place: **N.H. Public Utilities Commission**
21 South Fruit Street, Suite 10
Concord, NH 03301

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

FIS # 16:172, dated August 26, 2016

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

There is no cost attributable to either the proposed or existing rules as any cost or benefit is attributable to RSA 374:48-56 and not the rules.

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

There is no federal mandate for all underground facilities, but there are requirements for gas pipeline operators. 49 U.S.C. 60101-60137, Federal Pipeline Safety Statutes serve as a federal structure for the program and provide details on federal grant programs which may be available to the state. 49 CFR Part 196, effective January 1, 2016, establishes criteria for state programs.

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

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

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.