



Rule Readoption with Substantial Changes Stakeholder Meeting N.J.A.C. 14:2 – The Underground Facility Protection Act

June 28, 2021

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Presiding Officer:

J.B. Cuartas

Director, Division of Reliability and Security
New Jersey Board of Public Utilities



Background

- The Board of Public Utilities (Board) is proposing to readopt its rules governing the One-Call Damage Prevention System, the Board-designated One-Call System operator, underground facility operators, excavators, and responsible contractors, found at N.J.A.C. 14:2, with substantial changes.
- The New Jersey Legislature, recognizing the potential hazards posed by underground facilities and that damage to underground facilities caused by excavation or the discharge of explosives poses a significant risk to public safety, enacted the Underground Facility Protection Act (UFPA), N.J.S.A. 48:2-73 et seq.



Background

- The rules expire on February 11, 2022.
- After several informal stakeholder meetings, this is the first meeting of the formal rulemaking process to collect comments and feedback from interested parties.
- The draft of the rules has been posted in the New Jersey Federal Register.
- Written comments may also be submitted



Written Comments

- The Board will be accepting written comments on this matter until **5pm E.S.T. on July 27, 2021**.
- Please submit your written comments in PDF or Word format to board.secretary@bpu.nj.gov or see meeting notice for e-filing instructions.
- The subject line should include: “I/M/O THE PROPOSED RE-ADOPTION WITH SUBSTANTIAL CHANGES OF N.J.A.C. 14:2 – ONE CALL RULES Docket No. EX20090613” along with the name of the commenter and the company or organization.
- While electronic comments are preferred, written comments may also be mailed to the Board Secretary, Aida Camacho, at the Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, P.O. Box 350, Trenton, NJ 08625-0350.



Public Comments

- All comments received during this meeting will be added to the official record on this docket.
- If you did not pre-register to speak at this meeting but wish to speak please notify staff by using the Q&A function on Zoom
- Please try and limit your comments to the specific matter at hand.
- Please remain respectful of all other speakers.



Thank You!



§ 14:2-1.1 Scope and applicability

Current (No Change a-c)

- (a) This chapter implements the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.
- (b) This chapter governs the following, as these terms are defined at N.J.A.C. 14:2-1.2:
 - 1. The Board-designated One-Call System Operator;
 - 2. Underground facility operators;
 - 3. Excavators; and
 - 4. Responsible contractors.
- (c) This chapter establishes the one-call damage prevention system (also called the One-Call System). The One-Call System receives information from excavators that plan to perform excavation or demolition, and relays that information to those persons that own, operate, or control the operation of underground facilities, and have registered with the One-Call System operator. This chapter is intended to ensure that underground facilities are marked to enable excavators to avoid damaging underground facilities.



§ 14:2-1.1 Scope and applicability

Draft

(d) This chapter applies to a homeowner as follows:

1. [Because] a homeowner that owns only residential underground facilities, including, but not limited to, an underground sprinkler system or an underground structure for lighting, is excluded from the definition of "underground facility operator," such a homeowner is not subject to the requirements for underground facility operators at N.J.A.C. 14:2-4; and

2. (No change.)

(e) (No change.)

Current

(d) This chapter applies to a homeowner as follows:

1. Because a homeowner that owns only residential underground facilities, including, but not limited to, an underground sprinkler system or an underground structure for lighting, is excluded from the definition of "underground facility operator," such a homeowner is not subject to the requirements for underground facility operators at N.J.A.C. 14:2-4; and

2. Any homeowner that performs excavation or demolition is acting as an excavator and therefore shall comply with all requirements of this chapter that apply to excavators, including the requirement at N.J.A.C. 14:2-3.1 for notice to the One-Call center prior to excavation or demolition.

(e) This chapter does not affect or apply to the requirements for identification of utility equipment under N.J.A.C. 14:3-2.5



§ 14:2-1.2 Definitions (unchanged)

Current

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1.

"Act" means the Underground Facility Protection Act.

"Business day" means any day other than Saturday, Sunday, or a State recognized holiday.

"Damage" means any impact or contact with an underground facility, its appurtenances or its protective coating or any weakening of the support for the facility or protective housing, including, but not limited to, a break, leak, dent, gouge, groove, or other damage to the facility, its lines, or their coating or cathodic protection.

"Emergency" means:

1. Any condition constituting a clear and present danger to life, health or property caused by the escape of any material or substance transported by means of an underground facility, or by the interruption of a vital communication or public service that requires immediate action to prevent or mitigate loss or potential loss of the communication or public service; or

2. Any condition on or affecting a transportation right-of-way or transportation facility that creates a risk to the public of potential injury or property damage.



§ 14:2-1.2 Definitions

Draft

"Excavate" or "excavating" or "excavation" or "demolition" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosive, and includes but is not limited to drilling, grading, boring, milling to a depth greater than six inches, trenching, tunneling, scraping, tree and root removal, cable or pipe plowing, fence post or pile driving, and wrecking, razing, rending, or removing any structure or mass material, but does not include routine residential property or right-of-way maintenance or landscaping activities performed with non-mechanized equipment, excavation within the flexible or rigid pavement box within the right-of-way, or the tilling of soil for agricultural purposes to a depth of 18 inches or less;

Current

["Excavate" or "excavation" or "demolition" means any operation in which earth, rock or other material in the ground is moved, removed or otherwise displaced by means of any tools, equipment or explosive, and includes, but is not limited to, drilling, grading, boring, milling to a depth greater than six inches, trenching, tunneling, scraping, tree and root removal, cable or pipe plowing, fence post or pile driving and wrecking, razing, rending or removing any structure or mass material. This term includes utility pole removal, but does not include:

1. Routine maintenance of residential property or of a residential right-of-way, performed with non-mechanized equipment;
2. Routine use of a hand tool on a residential property or a residential right-of-way, to remove earth for the repair of a sprinkler system or to locate a property boundary marker, which does not remove earth to a depth of more than six inches;
3. Excavation or demolition that remains entirely within the flexible or rigid pavement box within a right-of-way, such that it does not disturb any material except for the pavement;
4. Tilling of soil for agricultural purposes to a depth of 18 inches or less, on land that has received or is eligible to receive a farmland assessment under the New Jersey Farmland Assessment Act, N.J.S.A. 54:4-23.1 et seq.; or
5. Routine landscaping activities with mechanized equipment that are intended to cut only vegetation, including lawn edging and dethatching.]



§ 14:2-1.2 Definitions

"Excavator" means any person performing excavation or demolition, including a homeowner or person performing excavation or demolition on a residential property on behalf of a homeowner.

"Hand digging" means any excavation involving non-mechanized tools or equipment, including, but not limited to, digging with shovels, picks, probe bars and manual post-hole diggers.

"LiDAR" means an optical sensing technology used to determine the position, velocity, or other characteristics of distant objects by analysis of pulsed laser light reflected from their surfaces.

"Mark" means any line, arrow, curve, whiskers, flag, stake, or other symbol, placed or made as part of a markout.

"Markout" means letters, symbols and marks, as defined in this section, placed on the ground or other surface in order to show the location and characteristics of an underground facility.



§ 14:2-1.2 Definitions (unchanged)

"Mechanized equipment" means equipment powered by a motor, engine, or hydraulic, pneumatic or electrical device, including, but not limited to, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, and other equipment used for plowing-in cable or pipe, but does not include tools manipulated solely by human power.

"Nominal" means, in relation to the size of a pipe or other underground facility, a stake, or other object, the commonly used name of the size of the object, rather than the actual size of the object. For example, since dimensional lumber is named based on its size before drying and planing, the nominal or common-named sizes of dimensional lumber are usually expressed in terms of the nearest inch, regardless of the actual size of the lumber. Thus, a board that is two by four inches in nominal size is closer to 1 1/2 inches by 3 1/2 inches in actual size.

"One-Call Damage Prevention System" or "system" means the communication system established pursuant to N.J.S.A. 48:2-76.



§ 14:2-1.2 Definitions

"One-Call incident" means any of the following, if it involves an underground facility and results from excavation or demolition:

1. The death of a person;
2. A serious disabling or incapacitating injuries to one or more persons, including employees or contractors of an excavator or underground facility operator;
3. The evacuation of a building that normally is occupied by more than 25 people;
4. The evacuation of a school, hospital, public transit station, or similar public building;
5. Damage to the property [~~of others~~] estimated at more than \$ [~~5,000~~] **50,000**;
6. Damage to the property of the underground facility operator, which materially affects electric, gas, water or wastewater service to the public;
7. A major disruption of traffic, business, media operations, transportation, or any other vital communication or public service;
8. A significant environmental impact;
9. An event that attracts the presence of media personnel at the event, or that attracts telephone or other contact from media personnel at the time of the event; or
10. Any other occurrence similar to those at 1 through 9 above, which has a significant impact on community or public safety functions.



§ 14:2-1.2 Definitions (unchanged)

"One-Call System operator" or "System operator" means the person, as defined at N.J.A.C. 14:3-1.1, that the Board has designated to operate the One-Call Damage Prevention System. The System operator's duties are detailed in a tariff, approved by the Board.

"Person" means any individual, firm, joint venture, partnership, corporation, association, State, county, municipality, public agency or authority, bi-state or interstate agency or authority, public utility, cooperation association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Probe bar" means a rigid bar that is pushed through the earth in order to determine the exact location of underground facilities.

"Rented equipment" means mechanized equipment which is rented complete with its operator for use in an excavation or demolition.

"Rented equipment operator" means a person that performs excavation or demolition using rented equipment.

"Responsible contractor" means a person that takes responsibility for ensuring that excavation or demolition that is performed by a rented equipment operator complies with this chapter.

"Routine" means an activity which is conducted on a cyclical basis, such as annually or seasonally, which is unlikely to result in damage to an underground facility.

"Routine maintenance of residential property or of a right-of-way" means an activity which:

1. Is repeated on a cyclical basis, such as annually or seasonally;
2. Is conducted on a residential property or a right-of-way;
3. Is conducted with a hand tool and without the use of mechanized equipment, as defined in this section; and
4. Is unlikely to result in damage to any underground facility.



§ 14:2-1.2 Definitions

Draft

"Operator" means a person owning or operating, or controlling the operation of, an underground facility, but shall not include a homeowner who owns only residential underground facilities, such as an underground lawn sprinkler system or an underground structure for a residential low-voltage lighting system;

Current

"Underground facility operator" or "operator" means a person that owns or operates, or controls the operation of, an underground facility, except that this term does not include a homeowner who owns only residential underground facilities, such as an underground lawn sprinkler system or an underground structure for a residential low-voltage lighting system.



§ 14:2-1.2 Definitions

“Service line” means a distribution line that transports commodity from a common source of supply to an individual customer, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the meter or at the connection to a customer’s piping, whichever is further downstream.

"Site" means the specific place where excavation or demolition is performed or is to be performed and shall be identified by street address referenced to the nearest intersecting street and sub-division name, if applicable, as well as by lot and block number, if available, and by kilometer or mile marker for railways. The boundaries of a site are determined by the excavator that will be doing the excavation or demolition.

"State department or agency" means any department, public authority, public agency, public commission, or other political subdivision of the State, including any county, municipality or political subdivision thereof.

"Underground facility" means any public or private personal property:

1. Which is buried, placed below ground, or submerged on a right-of-way, easement, public street, other public place or private property; and
2. Which is being used, or will be used:
 - i. For the conveyance of water, forced sewage, telecommunications, cable television, electricity, oil, petroleum products, gas, optical signals, or traffic control; or
 - ii. For the transportation of a hazardous liquid regulated pursuant to 49 U.S.C. § 60101 et seq. This term does not include storm drains or gravity sewers. For the purpose of this definition, "personal property" means a single conduit, or multiple conduits of the same facility type within a rigid envelope such as a concrete envelope. This envelope shall be considered one facility for the purposes of these rules, except as otherwise specifically provided.

"Whiskers" means a small sheaf of plastic fibers, bent double and fastened together at the bent end, used to create a marker that may be used in place of paint under N.J.A.C. 14:2-5.2(c).



SUBCHAPTER 2. ONE-CALL SYSTEM OPERATOR

Draft

§ 14:2-2.1 Duties of **One Call** Damage Prevention System operator

(a) The System operator shall operate a one-call center that is open 24 hours per day, seven days per week, and serves the entire State. The telephone number for the One-Call center shall be **811 or 1-800-272-1000 for out of state callers** [~~or 811~~].

Current

§ 14:2-2.1 Duties of System operator (a) The System operator shall operate a one-call center that is open 24 hours per day, seven days per week, and serves the entire State. The telephone number for the One-Call center shall be 1-800-272-1000 or 811.



§ 14:2-2.1(b)-(d) (No change.)

(b) The System operator shall staff the one-call center with representatives that will do all of the following:

1. Receive and record the notice of intent to excavate provided under N.J.A.C. 14:2-3.1;
2. Assign a confirmation number to each notice of intent to engage in an excavation;
3. Inform the excavator or responsible contractor of the confirmation number;
4. For each notice of intent, maintain a register showing the name, address, and telephone number of the excavator or responsible contractor, the site to which the notice pertains, and the assigned confirmation number;
5. Promptly transmit to the appropriate underground facility operator(s) the information received from an excavator or responsible contractor regarding intended excavation or demolition;
6. Maintain a record of each notice of intent, for seven years from the date of the System operator's receipt of the notice; and
7. Provide to the excavator or responsible contractor the names of the underground facility operators who will be notified by the One-Call center of the intended excavation.

(c) The System operator shall provide a form to excavators for the purpose of reporting a condition or configuration which has the potential to pose a danger to health and safety, in accordance with N.J.A.C. 14:2-3.4

(d). Once this form is completed, the System operator shall send the completed form to the appropriate underground facility operator, in conformance with the System operator's tariff.



§ 14:2-2.2 Designation and term of One Call Damage Prevention System Operator

Draft

(a)(No change.)

(b)The term of the System operator shall be five years, but the Board may rescind, **extend or modify** this designation if it determines, [~~after hearing,~~] that [~~the designee is not operating the system~~] **a modification is required for the operation of the system** in conformance with N.J.S.A. 48:2-73 et seq., this chapter and its Board-approved tariff.

Current

(a) The Board shall designate a System operator who shall operate the One-Call Damage Prevention System in accordance with a tariff approved by the Board.

(b) The term of the System operator shall be five years, but the Board may rescind this designation if it determines, after hearing, that the designee is not operating the system in conformance with N.J.S.A. 48:2-73 et seq., this chapter and its Board-approved tariff.



§ 14:2-2.2 Designation and term of One Call Damage Prevention System Operator

Draft

(c) [~~In the fifth year of a System operator's term, t~~]The Board shall advertise the System operator position in the New Jersey Register and in newspapers of general circulation and comply with all applicable rules of the New Jersey Department of the Treasury.

(d) The Board shall accept applications and shall designate a person as the System operator for a [new five year] term, **consistent with NJ Treasury guidelines**. In choosing a System operator, the Board shall select the applicant that will best operate the system to achieve the purposes of the Underground Facility Protection Act, in accordance with N.J.S.A. 52:34-12 and N.J.A.C. 17:12.

(e) (No change.)

Current

(c) In the fifth year of a System operator's term, the Board shall advertise the System operator position in the New Jersey Register and in newspapers of general circulation and comply with all applicable rules of the New Jersey Department of the Treasury.

(d) The Board shall accept applications and shall designate a person as the System operator for a new five year term. In choosing a System operator, the Board shall select the applicant that will best operate the system to achieve the purposes of the Underground Facility Protection Act, in accordance with N.J.S.A. 52:34-12 and N.J.A.C. 17:12.

(e) The Board shall announce its choice of System operator for the next term at least three months prior to the expiration of the existing term.



SUBCHAPTER 3. EXCAVATORS AND RESPONSIBLE CONTRACTORS

§ 14:2-3.1 Notice of intent to excavate - timing

Draft

(a) A person shall not perform excavation or demolition, as defined at N.J.A.C. 14:2-1.2, unless the person performing the excavation or demolition, or a responsible contractor, has provided notice of the excavation or demolition to the One-Call center by dialing 811 **in New Jersey [øf], out of state**, 1-800-272-1000, or by electronic notice as directed by the One-Call System operator in accordance with its Board-approved tariff. Requests provided electronically or through any procedure other than that directed for use by the One-Call System operator shall not constitute notice in compliance with this section.

(b) (No change.)

Current

(a) A person shall not perform excavation or demolition, as defined at N.J.A.C. 14:2-1.2, unless the person performing the excavation or demolition, or a responsible contractor, has provided notice of the excavation or demolition to the One-Call center by dialing 811 or 1-800- 272-1000, or by electronic notice as directed by the One-Call System operator in accordance with its Board-approved tariff. Requests provided electronically or through any procedure other than that directed for use by the One-Call System operator shall not constitute notice in compliance with this section.

(b)An excavator or responsible contractor, as defined at N.J.A.C. 14:2-1.2, shall notify the OneCall center of the intent to engage in any excavation or demolition not less than three business days before beginning the excavation or demolition, and not more than 10 business days prior to beginning the excavation or demolition, except if the excavation or demolition is necessary because of an emergency, as defined at N.J.A.C. 14:2-1.2. An excavator that performs emergency excavation or demolition shall comply with the notice requirements at N.J.A.C. 14:2- 3.6.



§ 14:2-3.1 Notice of intent to excavate - timing

Draft

(c) Notice provided in accordance with (a) above, for an excavation or demolition that is commenced within 10 business days after the notice, shall remain valid for 45 business days from the notification, provided that the excavator maintains **the [any]** markout that is made by an underground facilities operator. Any excavation or demolition continuing after the 45 business days shall require a new notification that meets the requirements of (a) above.

(d) (No change.)

Current

(c) Notice provided in accordance with (a) above, for an excavation or demolition that is commenced within 10 business days after the notice, shall remain valid for 45 business days from the notification, provided that the excavator maintains any markout that is made by an underground facilities operator. Any excavation or demolition continuing after the 45 business days shall require a new notification that meets the requirements of (a) above.

(d) If the excavation or demolition is not commenced within 10 business days after notice is provided to the One-Call center in accordance with (a) above:

1. The notice shall no longer be valid;
2. The excavator shall not perform any excavation or demolition on the site until the excavator or responsible contractor submits a new notification to the One-Call center; and
3. The new notification shall comply with (a) above in all respects; that is, the excavator shall notify the One-Call center at least three business days before, but no more than 10 business days before, beginning the excavation or demolition.



§ 14:2-3.1 Notice of intent to excavate - timing

Draft

(e) Emergency notifications shall only be valid for the duration of the emergency.

([e]f) By providing notice to the One-Call center, an excavator or responsible contractor assumes responsibility and liability for ensuring that the excavation or demolition is performed in accordance with this chapter and other applicable law.

([f]g) An excavation that is undertaken in order to repair or replace the vent or filler pipe of an underground heating oil tank or a heating system shall not be subject to the three-business-day advance notice requirement at N.J.A.C. 14:2-3.1(a), provided it meets all of the requirements at **([f]g)** 1 through 3 below. Instead, such an excavation may be started immediately after notice to the One-Call center.

1.-3. (No change.)

Current

(e) By providing notice to the One-Call center, an excavator or responsible contractor assumes responsibility and liability for ensuring that the excavation or demolition is performed in accordance with this chapter and other applicable law.

(f) An excavation that is undertaken in order to repair or replace the vent or filler pipe of an underground heating oil tank or a heating system shall not be subject to the three-business-day advance notice requirement at N.J.A.C. 14:2-3.1(a), provided it meets all of the requirements at (f)1 through 3 below. Instead, such an excavation may be started immediately after notice to the One-Call center.

1. The excavation is undertaken in response to a service call by a customer;
2. The excavation or demolition uses only non-mechanized equipment; and
3. The excavation begins after October 1 and ends before April 30 of the following year.



§ 14:2-3.1 Notice of intent to excavate - timing

Draft

([g]h) A routine excavation that is undertaken for pest management purposes on residential property shall be subject to the three-business day advance notice requirement under (a) above, the first time the excavation is performed. However, the excavation may be performed a second and subsequent times without notice to the One-Call center, provided that all of the following requirements are met:

Current

(g) A routine excavation that is undertaken for pest management purposes on residential property shall be subject to the three-business day advance notice requirement under (a) above, the first time the excavation is performed. However, the excavation may be performed a second and subsequent times without notice to the One-Call center, provided that all of the following requirements are met: 1. The excavation is performed every time by the same excavator that provided notice to the One-Call center; 2. The excavation shall be the same type of work, shall be within the extent of work and within the depth field set forth in the original notice to the One-Call center; 3. The excavation meets the definition of "routine"; and 4. The excavation is performed solely for pest management purposes.



§ 14:2-3.2 Notice of intent to excavate – contents, perimeter marking

(a) (No change.)

(a) An excavator or responsible contractor shall provide notice of a planned excavation or demolition to the One-Call center by telephone (dial 811 or 1-800-272-1000), or by electronic notice as directed by the One-Call System Operator in accordance with its Board-approved tariff. Requests provided electronically or through any procedure other than that directed for use by the One-Call System operator shall not constitute notice in compliance with this section.



Draft

§ 14:2-3.2 Notice of intent to excavate – contents, perimeter marking

(b) An excavator or responsible contractor shall provide all of the following in its notice to the One-Call center:

1. The name and telephone number of the person notifying the One-Call center, **including an on-site emergency contact phone number;**

2. ~~[All of t]~~ The following information regarding the excavator, any rented equipment operators that will be used, and the responsible contractor, if any:

i. ~~[The n]~~ Name and address;

ii.-iii. (No change.)

Current

(b) An excavator or responsible contractor shall provide all of the following in its notice to the One-Call center:

1. The name and telephone number of the person notifying the One-Call center;
2. All of the following information regarding the excavator, any rented equipment operators that will be used, and the responsible contractor, if any:
 - i. The name and address;
 - ii. Office telephone numbers and e-mail addresses; and
 - iii. The field telephone number and, if available, field e-mail or text message addresses and/or facsimile numbers;



§ 14:2-3.2 Notice of intent to excavate – contents, perimeter marking

(b) 3.-5. (No change.)

3. The name, address and telephone number, and e-mail address if available, of the person for whom the excavation or demolition is to be performed;
4. The starting time and date of the planned excavation or demolition;
5. A description of the intended excavation or demolition, including the approximate depth of the excavation or demolition; and



§ 14:2-3.2 Notice of intent to excavate – contents, perimeter marking

Draft

6. A description of the site, sufficient to enable the underground facility operator to accurately determine the location and boundaries of the site. The excavator shall utilize as many of the following methods as are necessary to ensure that the underground facility operator can accurately identify the site:

- i. The street address of the site;
- ii. On large parcels of land where white paint is used, GPS coordinates, in decimal degrees;**
- [#]iii.** The block and lot of the site; and/or
- [##]iv.** A description of any white perimeter markings the excavator has made in accordance with (c) below.

Current

6. A description of the site, sufficient to enable the underground facility operator to accurately determine the location and boundaries of the site. The excavator shall utilize as many of the following methods as are necessary to ensure that the underground facility operator can accurately identify the site:

- i. The street address of the site;
- ii. The block and lot of the site; and/or
- iii. A description of any white perimeter markings the excavator has made in accordance with (c) below.



§ 14:2-3.2 Notice of intent to excavate – contents, perimeter marking

(c)-(e) (No change.)

(c) Where appropriate to clearly identify the site of a planned excavation or demolition, an excavator or responsible contractor may choose to mark the perimeter of the site in white, prior to notifying the One-Call center. White perimeter marking is encouraged in order to minimize unnecessary marking and locating by the underground facility operators, for example to indicate small sites, nonlinear excavations, and spot excavations such as a soil borings, mailboxes, sign posts, or tree plantings.

(d) The excavator or responsible contractor shall determine the size and shape of the site based on the planned excavation or demolition. In order to avoid unnecessary markouts, the site shall be the minimum size necessary to safely accommodate the planned excavation or demolition.

(e) If an excavator chooses to mark the site perimeters under (c) above, the excavator shall: 1. Use white paint or other appropriate white marking materials such as white flags or stakes; 2. Mark the site boundaries in a manner that is reasonably calculated to enable an underground facility operator to determine the site boundaries with sufficient accuracy so that the operator can comply with the markout provisions at N.J.A.C. 14:2-5; 3. Ensure that the white perimeter markings do not interfere with traffic or pedestrian control; and 4. If multiple excavation or demolition sites are marked in one area, each site shall be numbered, and the excavator shall provide the numbers to the One-Call center.



§ 14:2-3.3 Excavators – onsite requirements

Draft

(a) An excavator or responsible contractor shall:

~~1. [Not operate any mechanized equipment within two feet horizontally of the outside wall of any underground facility marked in accordance with this chapter, unless the underground facility has been first located by hand digging. Mechanized equipment shall be used with proper care and under adequate supervision to avoid damage to the underground facility;~~

~~—2.] Plan the excavation or demolition with reasonable care so as to avoid damage to, and minimize interference with, underground facilities;~~

~~2[3]. Use reasonable care during excavation or demolition to avoid damage to or interference with underground facilities, including protecting each underground facility from freezing, traffic, and/or other loads or hazard in accordance with (b) below; and~~

3. Not operate any mechanized equipment within two feet horizontally of the outside wall of any underground facility marked in accordance with this chapter, unless the underground facility has been first located by hand digging. Mechanized equipment shall be used with proper care and under adequate supervision to avoid damage to the underground facility;



§ 14:2-3.3(a) Excavators - onsite requirements

Draft

4. After commencement of excavation or demolition, protect and preserve the marking, staking or other designation of an underground facility until the marking, staking or other designation is no longer necessary for safe excavation or demolition[-];
- 5. Provide identification to board staff upon request; and**
- 6. Provide a copy of the one call notification to board staff upon request.**



§ 14:2-3.3 Excavators - onsite requirements

Draft

(b) At all times throughout the course of an excavation or demolition, an excavator shall also provide adequate physical support of all underground facilities on the site, as follows:

1. An excavator shall comply with all reasonable support specifications that the underground facility operator provides pursuant to N.J.A.C. 14:2-4.2([d]f);

2.-3. (No change.)

4. The underground facility operator may, by mutual agreement with the excavator, choose to [itself] provide the physical support.

Current

(b) At all times throughout the course of an excavation or demolition, an excavator shall also provide adequate physical support of all underground facilities on the site, as follows:

1. An excavator shall comply with all reasonable support specifications that the underground facility operator provides pursuant to N.J.A.C. 14:2-4.2(d);

2. If the underground facility operator does not provide support specifications under (b)1 above, the excavator shall provide support in accordance with generally accepted engineering practice. The support shall be at least equivalent to the support to the underground facility prior to the excavation;

3. The excavator shall maintain the physical support during excavation, backfilling and, if necessary, after backfilling is completed; and

4. The underground facility operator may, by mutual agreement with the excavator, choose to itself provide the physical support.



§ 14:2-3.3 (c) (No change.)

(c) If a representative of an underground facility operator determines that an excavator is not adequately protecting or supporting the facility, resulting in an unsafe condition or situation relating to the excavation or demolition, the representative may require the excavator to suspend the excavation or demolition until the problem is corrected. The representative may impose this requirement verbally only if the representative believes that an emergency exists, and shall provide a written confirmation of the verbal directive to suspend work as soon as feasible thereafter. In all other situations, the representative shall provide the directive to suspend the excavation or demolition in writing.



§ 14:2-3.4 Responsible contractors

No change



§ 14:2-3.5 Excavation or demolition in response to an emergency

(a)-(f) (No change.)

- (a) If an excavator undertakes an excavation or demolition in response to an emergency that does not permit compliance by the excavator with the notification requirements of N.J.A.C. 14:2-3.1, the excavator shall comply with this section.
- (b) An excavator that is subject to this section shall notify the One-Call center of an emergency excavation or demolition as soon as reasonably possible without causing a delay in addressing the emergency, and shall include in the notice a description of the nature of the emergency.
- (c) In a case where the excavator must perform excavation or demolition in order to address the emergency, the notice to the One-Call center shall also include a brief explanation of the circumstances that prevented the excavator from providing notice in accordance with N.J.A.C. 14:2-3.1.
- (d) An excavator that performs excavation or demolition in response to an emergency shall take all reasonable precautions to protect any underground facilities that may be located at the site of the excavation or demolition.
- (e) If an excavation is undertaken in order to repair or replace the vent or filler pipe of an underground heating oil tank or a heating system, the excavation may be started immediately after notice has been given to the One-Call center, provided the excavation meets all of the requirements at (e)1 through 3 below: 1. The excavation is undertaken in response to a service call by a customer; 2. The excavation or demolition uses only non-mechanized equipment; and 3. The excavation begins after October 1 and ends before April 30 of the following year. (f) An excavation performed in accordance with (e) above shall meet all other requirements of this section and this chapter.



§ 14:2-3.5 Excavation or demolition in response to an emergency

Draft Added

(g) Emergency notifications shall only be valid for the duration of the emergency, in accordance with 14:2-3.1(b).



§ 14:2-3.6 Excavators – incident and damage reporting (a)-(c) (No change.)

- (a) If an excavator causes or discovers any damage, as defined at N.J.A.C. 14:2-1.2, to a line or pipe carrying natural gas, liquid petroleum or any other hazardous liquid, the excavator shall immediately call 911, and shall immediately thereafter report the damage to the appropriate representative of the underground facility operator. If the excavator cannot reach the underground facility operator, the excavator shall report the damage to the One-Call center at 811 or 1-800-272-1000.
- (b) If an excavator causes or discovers any damage to an underground facility that carries anything other than natural gas, liquid petroleum or another hazardous liquid, the excavator shall immediately report the damage to the appropriate representative of the underground facility operator. Immediately thereafter, the excavator shall report the damage to the One-Call center at 1-800-272-1000 or 811.
- (c) All requirements in this section apply regardless of whether the damage results in an emergency, accident, or a dangerous condition.



§ 14:2-3.6 Excavators – incident and damage reporting

(d) If, during excavation or demolition, an excavator causes or discovers any of the following, the excavator may complete and submit to the One-Call center a dangerous condition reporting form:

1. An underground facility that is, in the excavator's judgment, buried at a depth that is insufficient for safety;
or
2. Any [other] condition or configuration relating to an underground facility, which, in the excavator's judgment, has the potential to pose a danger to health and safety, and which is not covered under (a) or (b) above.



**§ 14:2-3.6 Excavators –
incident and damage reporting
(e) (No change.)**

(e) The form described under (d) above shall be provided by the System operator in accordance with N.J.A.C. 14:2-2.1(c).



SUBCHAPTER 4. UNDERGROUND FACILITY OPERATORS

§ 14:2-4.1 Applicability (a) (No change.)

(a) This subchapter applies to underground facility operators, as defined at N.J.A.C. 14:2-1.2, except as specified in this section.



§ 14:2-4.1 Applicability (b)

Draft

(b) An operator of an underground non-metallic water pipe or non-metallic water distribution facility that was installed prior to November 18, 1994 is exempt from the requirement at N.J.A.C. 14:2-4.2(a)2 to mark out the facility, but shall, within three business days of the notice to the One-Call center, cooperate with excavators in reasonable efforts **including a site meeting** to determine the location of the facility. **This includes, but is not limited to: location of the meter and curb shutoff, closest building penetration to the water meter, location of service connection to the main, diameter of the facility, composition of the facility, company service records and any additional company records that may assist the excavator in locating the lines.**

Current

(b) An operator of an underground non-metallic water pipe or non-metallic water distribution facility that was installed prior to November 18, 1994 is exempt from the requirement at N.J.A.C. 14:2-4.2(a)2 to mark out the facility, but shall, within three business days of the notice to the One-Call center, cooperate with excavators in reasonable efforts to determine the location of the facility.



§ 14:2-4.1 Applicability

(c) (No change.)

(c) An underground facility operator that is a State department or agency is exempt from the requirement at N.J.A.C. 14:2-4.2(a)2 to mark out its facilities in accordance with N.J.A.C. 14:2-4.2(a)2 if all of the following criteria are met:

1. The excavation or demolition is conducted on property or a right-of-way owned or controlled by the State department or agency;
2. The only underground facilities of the State department or agency at the site are traffic signals and lights, or street and highway lights; and their associated electrical feeds, control lines and traffic sensing loops;
3. The excavation or demolition requires a permit from the State department or agency;
4. The required permit is conditioned upon the excavator notifying the One-Call center in accordance with N.J.A.C. 14:2-4.2(a)2;
5. During the permitting process, the State department or agency provides the excavator with plans showing the position and number of its underground facilities on the site; and
6. The State department or agency agrees to cooperate on a continuing basis with the excavator in reasonable efforts to determine the location of its underground facilities, including notifying the excavator of any changes in the position or number of underground facilities after the initial issuance of plans to the excavator.



§ 14:2-4.1 Applicability

(d) (No change.)

(d) If a State department or agency chooses to comply with (c) above rather than to mark out its underground facilities in accordance with N.J.A.C. 14:2-4.2(a)2, an excavator shall not be liable for any damage to the State department or agency's underground facilities, provided that the excavator has:

1. Complied with this chapter;
2. Complied with all applicable requirements of the permit described at (c)3 above; and
3. Used reasonable care while excavating.



§ 14:2-4.1 Applicability

(e) (No change.)

(e) An underground facility operator that is exempt from markout requirements in accordance with (b) or (c) above shall comply with all other requirements in this chapter.



§ 14:2-4.2 Underground facility operators - basic requirements

(a) (No change.)

(a) An underground facility operator shall ensure that it is fully equipped and available to receive from the One-Call center the information required under N.J.A.C. 14:2-3.2 regarding a planned excavation or demolition.



§ 14:2-4.2 Underground facility operators – basic requirements

Draft (Added)

Statute Reference

(b) If an underground facility operator fails to participate in and comply with the requirements of the One-Call Damage Prevention System in violation of N.J.S.A. 48:2-80 and an underground facility of such operator is damaged by an excavator or responsible contractor by reason of the excavator or responsible contractor's failure to notify the operator because the facility was not a member of the One Call Damage Prevention System, such operator shall have no right of recovery from the excavator or responsible contractor of any costs associated with the damage to its lines.

§ 48:2-80. Underground facility operator, responsibilities; underground facility markings

a. Except as provided in sections 6 and 9 [C.48:2-78 and C.48:2-81] of this act, the operator of an underground facility shall: (1) Participate in and comply with the requirements of the One-Call Damage Prevention System established pursuant to section 4 [C.48:2-76] of this act; and



§ 14:2-4.2 Underground facility operators – basic requirements

Draft

([b]d) Within three business days after receiving information from the System Operator regarding a planned excavation or demolition, an underground facility operator shall **provide an electronic positive response** to the System Operator **and** do either of the following:

1. If the underground facility operator owns, operates or controls **the operation of** any underground facilities on the site, the underground facility operator shall mark out the site as required under N.J.A.C. 14:2-5, except if a facility is exempt from markout requirements under N.J.A.C. 14:2-4.1(b) or (c). If an underground facility operator does not own or operate a facility, but controls it, the operator is responsible for compliance with this paragraph; or

2. If the underground facility operator does not own, operate or control **the operation of**, any underground facilities on the site, the underground facility operator shall [make a reasonable effort to] notify the excavator of that fact.

Current

(b) Within three business days after receiving information from the One-Call center regarding a planned excavation or demolition, an underground facility operator shall do either of the following:

1. If the underground facility operator owns, operates or controls any underground facilities on the site, the underground facility operator shall mark out the site as required under N.J.A.C. 14:2-5, except if a facility is exempt from markout requirements under N.J.A.C. 14:2-4.1(b) or (c). If an underground facility operator does not own or operate a facility, but controls it, the operator is responsible for compliance with this paragraph; or
2. If the underground facility operator does not own, operate or control any underground facilities on the site, the underground facility operator shall make a reasonable effort to notify the excavator of that fact.



§ 14:2-4.2 (d) added

Draft

(c) Any underground facilities operator that fails to mark, locate, or otherwise provide the position and number of its underground facilities which may be affected by a planned excavation or demolition, shall be liable for any costs, labor, parts, equipment and personnel downtime, incurred by an excavator damaging a facility owned, operated or controlled by the underground facility operator.

Statute Reference

§ 48:2-80. Underground facility operator, responsibilities; underground facility markings

d. Any underground facilities operator that fails to mark, locate, or otherwise provide the position and number of its underground facilities which may be affected by a planned excavation or demolition, in accordance with the provisions of paragraph (2) of subsection a. of this section, shall be liable for any costs, labor, parts, equipment and personnel downtime, incurred by an excavator damaging a facility owned, operated or controlled by the underground facility operator. An excavator that damages an underground facility in violation of the provisions of the "Underground Facility Protection Act," P.L. 1994, c. 118 (C. 48:2-73 et seq.) shall be liable for any costs, labor, parts, equipment and personnel downtime, incurred by the underground facilities operator that owns or controls the damaged underground facility. Any dispute arising from the provisions of this subsection, where the claim is less than \$ 25,000, shall be subject to an alternative dispute resolution process as established within the Office of Dispute Settlement in the Office of the Public Defender. Nothing in this act shall be construed to discourage parties from pursuing alternative dispute resolution processes for an amount greater than \$ 25,000. The parties may by mutual agreement designate another alternative dispute resolution association for all matters.



Draft

§ 14:2-4.2 Underground facility operators – basic requirements

([~~e~~e]) For the purposes of (b) above, an underground facility operator shall be deemed to control **the operation of** all portions of an underground facility carrying metered service, which are not located on the customer's side of the meter, regardless of who owns the property. For example, if a residential electric customer owns an underground electric line, which provides electricity from the street to the customer's electric meter in an area served by overhead electric lines, the electric utility shall be deemed to control that underground electric line.

Current

(c) For the purposes of (b) above, an underground facility operator shall be deemed to control all portions of an underground facility carrying metered service, which are not located on the customer's side of the meter, regardless of who owns the property. For example, if a residential electric customer owns an underground electric line, which provides electricity from the street to the customer's electric meter in an area served by overhead electric lines, the electric utility shall be deemed to control that underground electric line.



§ 14:2-4.2 Underground facility operators – basic requirements

([d]f) An underground facility operator shall provide to the excavator specifications for supporting any underground facility on the site which requires physical support during excavation or demolition, including the type, strength and arrangement of the support. In accordance with N.J.A.C. 14:2-3.3(e) 4, if the parties mutually agree, the underground facility operator shall provide such support.

(d) An underground facility operator shall provide to the excavator specifications for supporting any underground facility on the site which requires physical support during excavation or demolition, including the type, strength and arrangement of the support. In accordance with N.J.A.C. 14:2-3.3(e)4, if the parties mutually agree, the underground facility operator shall provide such support.



§ 14:2-4.2 Underground facility operators – basic requirements

Draft

([e]g) If an underground facility operator receives a request from the One-Call center for an emergency markout, the underground facility operator shall:

1. Immediately dispatch appropriate personnel to the site in accordance with the emergency provisions at N.J.A.C. 14:2-4.4, **including notifying the onsite emergency contact**; or
2. (No change.)

Current

(e) If an underground facility operator receives a request from the One-Call center for an emergency markout, the underground facility operator shall:

1. Immediately dispatch appropriate personnel to the site in accordance with the emergency provisions at N.J.A.C. 14:2-4.4; or
2. If the underground facility operator does not own, operate or control any underground facilities on the site, the operator shall immediately notify the excavator of that fact. If the underground facility operator cannot confirm that the excavator is aware that the underground facility operator does not own, operate or control any underground facilities on the site, the operator shall immediately dispatch appropriate personnel to the site.



§ 14:2-4.2 Underground facility operators – basic requirements

Draft

(~~[f]~~**h**) The requirements at (e) above shall apply to all underground facility operators that receive a request from the One-Call center for an emergency markout, regardless of whether the underground facility operator's facilities are involved in the emergency or not.

Current

(f) The requirements at (e) above shall apply to all underground facility operators that receive a request from the One-Call center for an emergency markout, regardless of whether the underground facility operator's facilities are involved in the emergency or not.



§ 14:2-4.3 Underground facility operators – markout records

(a)-(b) (No change.)

(a) An underground facility operator shall make a record of each markout that it performs. The underground facility operator shall maintain these records for seven years, and shall make them available to the Board or Board staff upon request.

(b) Each markout record shall include, at a minimum, all of the following:

1. The location of the markout, identified by street address(es) or lot and block number(s), and any other information necessary to enable a person to easily locate the site;
2. The names of all persons who performed the markout, including the names of any contractors;
3. The time and date the markout was performed;
4. The type of markout, as described at N.J.A.C. 14:2-5.3; for example, centerline markout, centerline offset markout, outside dimension markout and/or outside dimension offset markout; and
5. Whether stakes, whiskers and/or flags were used in the markout in addition to paint.



§ 14:2-4.3 Underground facility operators – markout records

Draft

Current

(c) In addition to the markout record required under (a) above, an underground facility operator **shall** ~~[may choose to]~~ make and maintain a visual record of the markout using photography and ~~[or]~~ other visual documentation. ~~[If the underground facility operator chooses to make a photographic record, the record should]~~ **shall**:

1. Be made in color;
2. Show the entire markout;
3. Show landmarks in the vicinity of the markout in sufficient detail to enable a person to easily establish the location of the markout;
4. Be emblazoned with an automatic date or time stamp at the time the record is made; **and**
- 5. Include the name of company personnel who made the photographic record.**

(d) An underground facility operator shall submit any records required under this section to the Board upon request, on paper or electronically, **in its bi-weekly hits report or** as directed by the Board or Board staff.

(c) In addition to the markout record required under (a) above, an underground facility operator may choose to make and maintain a visual record of the markout using photography or other visual documentation. If the underground facility operator chooses to make a photographic record, the record should:

1. Be made in color;
2. Show the entire markout;
3. Show landmarks in the vicinity of the markout in sufficient detail to enable a person to easily establish the location of the markout; and
4. Be emblazoned with an automatic date or time stamp at the time the record is made.

(d) An underground facility operator shall submit any records required under this section to the Board upon request, on paper or electronically, as directed by the Board or Board staff.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(a) An underground facility operator shall ensure that employees who are qualified to accept and respond to reports of accidents, damage and emergencies **involving [that involve its]** underground facilities, are available at all times of day and night throughout the year. Each underground facility operator shall provide the Board with the names and titles of these qualified response personnel, as part of every report required under (h) below.

Current

(a) An underground facility operator shall ensure that employees who are qualified to accept and respond to reports of accidents, damage and emergencies that involve its underground facilities, are available at all times of day and night throughout the year. Each underground facility operator shall provide the Board with the names and titles of these qualified response personnel, as part of every report required under (h) below.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(b) When an underground facility operator receives a report of an emergency, the underground facility operator shall do both of the following immediately, [~~and in all cases within two hours~~] after learning of the emergency:

1. Dispatch appropriate personnel to the site to assist in locating and protecting underground facilities, **as well as calling the emergency onsite contact to provide an estimated time of arrival**; and
2. (No change.)

Current

(b) When an underground facility operator receives a report of an emergency, the underground facility operator shall do both of the following immediately, and in all cases within two hours after learning of the emergency:

1. Dispatch appropriate personnel to the site to assist in locating and protecting underground facilities; and
2. Take any other action necessary to assist in minimizing danger and/or damage.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

(c) (No change.)

(c) Each underground facility operator shall report any One-Call incident, as defined at N.J.A.C. 14:2-1.2, to the Board in accordance with the reporting procedures for reportable accidents found in the Board's rules for all utilities at N.J.A.C. 14:3-6.4. Should there be any inconsistency between the reporting procedures at N.J.A.C. 14:3-6.4 and those of this subchapter, the more stringent requirement shall govern



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(d) Whenever an underground facility operator is notified of a One-Call incident, the operator shall immediately, and in no event later than one hour after notice of the incident, contact the Board's Division of Reliability and Security [~~at (973) 648-2066, or at (800) 817-6715 outside of business hours,~~] and **via email** shall [~~verbally~~] provide the location and a brief description of the incident.

Current

(d) Whenever an underground facility operator is notified of a One-Call incident, the operator shall immediately, and in no event later than one hour after notice of the incident, contact the Board's Division of Reliability and Security at (973) 648-2066, or at (800) 817-6715 outside of business hours, and shall verbally provide the location and a brief description of the incident.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(e) An underground facility operator will use LiDAR to record the scene of a One-Call incident when damage to an underground facility results in property damage amounting to \$100,000 or more or causes bodily injury, or as requested by Board staff.

(f)[(e)] If the underground facilities of a public utility are affected by an occurrence that meets both the definition of a reportable accident under N.J.A.C. 14:3-6 and a One-Call incident under this chapter, the utility shall comply with the procedures for a reportable accident under N.J.A.C. 14:3-6, and shall also notify the Board in accordance with the requirements for a One-Call incident under (d) above.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(g) ~~[(f)]~~ As soon as possible after a One-Call incident, and in no case later than 15 calendar days afterwards, the underground facility operator shall follow up the initial notice required under this section with a detailed written report. The written report shall include all significant facts of which the underground facility operator is aware regarding the location and cause of the incident, **all pictures of the incident, a timeline of events**, and the extent of any damage and/or injuries.

Current

(f) As soon as possible after a One-Call incident, and in no case later than 15 calendar days afterwards, the underground facility operator shall follow up the initial notice required under this section with a detailed written report. The written report shall include all significant facts of which the underground facility operator is aware regarding the location and cause of the incident, and the extent of any damage and/or injuries.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(h) Any operator who obstructs an inspection or investigation by taking actions that were known or reasonably should have been known to prevent, hinder, or impede an investigation without good cause will be subject to administrative and/or criminal penalties as allowed by statute.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

~~[(g)](i)~~ Each operator of an underground facility ~~[that handles natural gas or hazardous liquids]~~ shall submit a "hits report" listing any damage, emergency or One-Call incident involving the operator's natural gas or hazardous liquids facilities. The report shall be ~~[made on forms provided by the Board on its website at www.bpu.state.nj.us, and shall be]~~ submitted to the Board by the close of business on Tuesday of the week following any two-week period in which any such damage, emergency or One-Call incident has occurred.

Current

(g) Each operator of an underground facility that handles natural gas or hazardous liquids shall submit a "hits report" listing any damage, emergency or One-Call incident involving the operator's natural gas or hazardous liquids facilities. The report shall be made on forms provided by the Board on its website at www.bpu.state.nj.us, and shall be submitted to the Board by the close of business on Tuesday of the week following any two-week period in which any such damage, emergency or One-Call incident has occurred.



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

~~[(h)]~~(j) All underground facility operators shall submit the following report(s) to the Board, as applicable:

1. An underground facility operator with facilities that have sustained any damage, as defined at N.J.A.C. 14:2-1.2, during a **bi-weekly period**~~[quarter]~~ shall submit a "hits report," including all damage occurring to its facilities during that ~~[quarter]~~**period. Damages to all facilities that fit the definition of an underground facility shall be reported.** ~~[No quarterly report is required from an underground facility operator that has had no damage to its facilities during that quarter;]~~

2. (No change.)

3. ~~[Both the quarterly and annual~~**r]** Reports required under this subsection shall contain the contact information for the qualified response personnel described under N.J.A.C. 14:2-4.4(a).

Current

(h) All underground facility operators shall submit the following report(s) to the Board, as applicable:

1. An underground facility operator with facilities that have sustained any damage, as defined at N.J.A.C. 14:2-1.2, during a quarter shall submit a "hits report," including all damage occurring to its facilities during that quarter. No quarterly report is required from an underground facility operator that has had no damage to its facilities during that quarter;

2. Any underground facility operator that has had no damage to its facilities during a year shall submit an annual "no hits" report. The "no hits" report shall be submitted on January 30th of each year; and

3. Both the quarterly and annual reports required under this subsection shall contain the contact information for the qualified response personnel described under N.J.A.C. 14:2-4.4(a)



§ 14:2-4.4 Underground facility operators – accidents and emergencies

Draft

(~~ij~~k) Each underground facility operator shall maintain a paper or electronic record of all damage, as defined at N.J.A.C. 14:2-1.2, to its underground facilities, including any damage reported by an excavator in accordance with N.J.A.C. 14:2-3.4, for seven years after the damage occurred.

(~~jj~~l) [~~All-r~~R]eports and records may be submitted to the Board on paper or electronically, except where another method is required under this chapter or a Board rule or order.

Current

(i) Each underground facility operator shall maintain a paper or electronic record of all damage, as defined at N.J.A.C. 14:2-1.2, to its underground facilities, including any damage reported by an excavator in accordance with N.J.A.C. 14:2-3.4, for seven years after the damage occurred.

(j) All reports and records may be submitted to the Board on paper or electronically, except where another method is required under this chapter or a Board rule or order.



SUBCHAPTER 5. MARKOUTS

§ 14:2-5.1 General markout provisions

(a) When an underground facility operator is required under N.J.A.C. [14:2-2.1(b)] **14:2-4.2(b)** to mark out a site, the underground facility operator shall perform the markout in accordance with this subchapter.



§ 14:2-5.1 General markout provisions

(b)-(c) (No change.)

(b) When more than one underground facility of the same type is located within a rigid structure or envelope such as a concrete pipe or a conduit, the markout shall indicate the envelope and not the individual underground facilities inside the envelope.

(c) If an excavator has marked the perimeter of a proposed excavation or demolition site with white in accordance with N.J.A.C. 14:2-3.2(c) through (e), an underground facility operator shall mark out all of the operator's facilities that lie within the white perimeter marking, and in addition all facilities outside the white perimeter that are within ten feet of the white marking.



§ 14:2-5.1 General markout provisions

(d) All newly installed facilities shall be back flagged and marked according to N.J.A.C. 14:2-5.2 upon completion of the installation. If there is a valid notice of intent to excavate in accordance with 14:2-3.1 in the scope of the work area where the facilities have been installed, the excavator must be notified about the newly installed facilities.



§ 14:2-5.2 Specifications for marks used in markouts

(a)-(j) (No change.)

(k) The underground facility operator shall ensure that all colors used in markouts meet the standards in Standard Z535.1-2017 of the American National Standards Institute, Inc. which is incorporated herein by reference, as amended and supplemented, and is available at

[http://www.nema.org/stds/complimentary-docs/upload/ansi_Z535.1.pdf]

<https://www.nema.org/Standards/Pages/American-National-Standard-for-Safety-Colors.aspx>



§ 14:2-5.2 Specifications for marks used in markouts

(l) The underground facility operator shall ensure that all flags used in markouts shall be:

1.-6. (No change.)

7. Marked with the underground facility operator's initials or logo in black letters or symbols at least one inch high[; and], **the underground facility operator's phone number, the telephone number of the New Jersey One-Call Damage Prevention System Operator (811 or 1-800-272-1000), and the current web address (URL) of the One Call Damage Prevention System Operator; and**

(m)-(o) (No change.)



SUBCHAPTER 6. VIOLATIONS, PENALTIES, ENFORCEMENT

§ 14:2-6.5 Response by alleged violator to Notice of Probable Violation

(a) (No change.)

(b) If the alleged violator wishes to contest the NOPV, the alleged violator shall indicate this on the Answering Certification **and provide proofs by both picture and narrative of the alleged violator's innocence as to the violation charged**. Board staff may hold an informal conference with the alleged **violator to analyze the record of the matter** [violator].

(c)-(e) (No change.)