

reproposed for repeal would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rule reproposed for repeal concerns responsibilities of licensed nurses.

Full text of the rule proposed for repeal follows (addition indicated in boldface **thus**; deletions indicated in brackets [thus]):

13:37-5.6 [Responsibilities of licensure] (**Reserved**)

[A licensee shall be held to the level of practice associated with his or her licensure, either as a registered professional nurse or licensed practical nurse, regardless of his or her employment status. For example, when a registered professional nurse is employed as a licensed practical nurse, he or she will be held to the standards of a registered professional nurse.]

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Underground Facilities: One-Call Damage Prevention System

Proposed Readoption: N.J.A.C. 14:2

Authorized By: New Jersey Board of Public Utilities: Dianne Solomon, President; Jeanne M. Fox, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners.

Authority: N.J.S.A. 48:2-13 and 48:2-73 et seq.

Calendar Reference: See Summary below for an explanation of exception to calendar requirement.

BPU Docket Number: AX14070647.

Proposal Number: PRN 2014-157.

Comments may be submitted through December 5, 2014, by e-mail in Microsoft Word format, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us or on paper to:

Kristi Izzo, Secretary
Board of Public Utilities
ATTN: BPU Docket Number AX14070647
44 S. Clinton Ave., 9th Floor
PO Box 350
Trenton, NJ 08625-0350

The agency proposal follows:

Summary

The Board of Public Utilities (Board) is proposing to readopt its rules governing the One-Call Damage Prevention System, N.J.A.C. 14:2. In accordance with N.J.S.A. 52:14B-5.1.b, these rules will expire on August 23, 2014. Since this notice of rules proposed for readoption has been filed with the Office of Administrative Law prior to August 23, 2014, the expiration date of this chapter is extended 180 days to February 19, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2).

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 Facilities Protection Act (UFPA), N.J.S.A. 48:2-73 et seq.

Within the UFPA, the Legislature determined that the Board of Public Utilities is the appropriate State agency to designate the operator of and provide policy oversight to the One-Call Damages Prevention System and to enforce the provisions of the UFPA. The Board adopted N.J.A.C. 14:2, Protection of Underground Facilities: One Call Damage Prevention System, to provide for the implementation, administration, and enforcement of the UFPA.

The rules proposed for readoption are summarized below. The rules have been very effective in the Board's administration of the UFPA, and no changes to the present rules are being proposed.

As the Board has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar

requirement set forth at N.J.A.C. 1:30-3.1 and 3.2 pursuant to N.J.A.C. 1:30-3.3(a)5.

SUBCHAPTER 1. SCOPE

N.J.A.C. 14:2-1.1 sets forth the scope and purpose of the chapter.

N.J.A.C. 14:2-1.2 contains definitions of words and terms used throughout the chapter.

SUBCHAPTER 2. ONE-CALL SYSTEM OPERATOR

N.J.A.C. 14:2-2.1 sets forth the duties of the One-Call System operator.

N.J.A.C. 14:2-2.2 provides the designation and term of the One-Call system operator.

SUBCHAPTER 3. EXCAVATORS AND RESPONSIBLE CONTRACTORS

N.J.A.C. 14:2-3.1 provides the timing requirements for the notice of intent to excavate.

N.J.A.C. 14:2-3.2 provides the contents and perimeter marking requirements of the notice of intent to excavate.

N.J.A.C. 14:2-3.3 provides the on-site duties and requirements for the excavators.

N.J.A.C. 14:2-3.4 provides the responsible contractor duties and requirements.

N.J.A.C. 14:2-3.5 provides the requirements for excavation or demolition in response to an emergency.

N.J.A.C. 14:2-3.6 provides the incident and damage reporting requirements for excavators.

SUBCHAPTER 4. UNDERGROUND FACILITIES OPERATORS

N.J.A.C. 14:2-4.1 provides the criteria for applicability to underground facility operators.

N.J.A.C. 14:2-4.2 provides basic requirements for underground facility operators.

N.J.A.C. 14:2-4.3 provides markout record requirements for underground facility operators.

N.J.A.C. 14:2-4.4 provides requirements for underground facility operators in reporting and responding to accidents and emergencies.

SUBCHAPTER 5. MARKOUTS

N.J.A.C. 14:2-5.1 provides general markout provisions.

N.J.A.C. 14:2-5.2 provides specifications for marks used in markouts.

N.J.A.C. 14:2-5.3 sets forth the four types of markouts.

N.J.A.C. 14:2-5.4 provides requirements for centerline markouts.

N.J.A.C. 14:2-5.5 provides requirements for outside dimension markouts.

N.J.A.C. 14:2-5.6 provides requirements for offset markouts.

SUBCHAPTER 6. VIOLATIONS, PENALTIES, ENFORCEMENT

N.J.A.C. 14:2-6.1 establishes general provisions relating to violations.

N.J.A.C. 14:2-6.2 establishes penalty amounts.

N.J.A.C. 14:2-6.3 provides that failure to provide notice as required by this chapter is prima facie evidence of negligence.

N.J.A.C. 14:2-6.4 provides the requirements for notices of probable violation to an alleged violator.

N.J.A.C. 14:2-6.5 provides the requirements for a response by alleged violator to a notice of probable violation.

N.J.A.C. 14:2-6.6 provides procedures and penalties for failure of an alleged violator to submit answering certification.

N.J.A.C. 14:2-6.7 sets forth notice of administrative order and civil administrative penalty assessment requirements.

N.J.A.C. 14:2-6.8 sets forth adjudicatory hearing requirements.

N.J.A.C. 14:2-6.9 sets forth actions the Board may institute in Superior Court and the remedies available, as well as actions an affected underground facility operator may institute in Superior Court for injunctive relief.

N.J.A.C. 14:2-6.10 provides the basis for criminal prosecution for violations of this chapter.

Social Impact

The rules proposed for readoption will have a favorable social impact in that the One-Call System greatly reduces the chance that underground

facilities will be damaged during excavation or demolition activities, thereby resulting in less danger to excavators and bystanders, fewer service outages, and less property damage. The rules proposed for re adoption will maintain the effectiveness of the One-Call System by maintaining the flow of information among excavators, underground facility operators, and Board staff, so as to help all parties work together to minimize the risk of accidents involving underground facilities.

Economic Impact

The entities regulated by this chapter are excavators, responsible contractors, and underground facility operators. The One-Call rules require excavators or responsible contractors to provide three business days advance notice of an excavation or demolition, and to conduct the excavation or demolition in accordance with requirements designed to protect underground facilities, the excavator and others at the site, and the public. Excavators or responsible contractors must also keep records and report damage or dangerous conditions. These requirements result in minimal, if any, costs to excavators and responsible contractors.

This chapter has always imposed some costs on underground facility operators and will continue to do so, in that they are required to mark-out the location of their underground facilities, maintain records of all mark-outs, and maintain records of damage, accidents, and emergencies related to excavation or demolition. These requirements do impose some moderate costs on underground facility operators. However, these requirements are key to ensuring public health and safety in light of the special dangers posed by excavation or demolition in proximity to underground facilities. In addition, many of these requirements are the minimum required by the Underground Facility Protection Act. This re adoption does not impose any new costs or obligations as no change to the rules is being proposed.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, re adopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. These rules do not exceed any Federal standards. Under the Federal Pipeline Safety Act (Act), 49 U.S.C. §§ 60101 and 60105, certain Federal funding for the State is conditioned on the implementation of a State One-Call program. The Federal Pipeline Safety Act does not require that a state implement a One-Call program. However, if the State implements such a program and other pipeline safety programs, the Act provides funding to the State for these programs.

Jobs Impact

The Board anticipates that the rules proposed for re adoption will have little or no impact on jobs in New Jersey. The rules proposed for re adoption continue existing requirements for which any needed personnel are already in place. The proposed re adoption does not increase the number of employees that would be required by any of the entities regulated by the rules.

Agriculture Industry Impact

N.J.A.C. 14:2 has not to date had any impact on the agriculture industry in New Jersey, and no such impact is anticipated as a result of the rules proposed for re adoption.

Regulatory Flexibility Analysis

The rules proposed for re adoption at N.J.A.C. 14:2 will impose some recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. The entities regulated by this chapter are excavators, responsible contractors, and underground facility operators. Although it is impossible to determine specific numbers, most excavators and responsible contractors, and many underground facility operators, are small businesses as defined by the Regulatory Flexibility Act.

The One-Call rules require excavators or responsible contractors to provide three business days advance notice of an excavation or demolition, and to conduct the excavation or demolition in accordance with requirements designed to protect underground facilities, the excavator, and others at the site, and the public. Excavators or responsible

contractors must also keep records and report damage or dangerous conditions. These requirements result in minimal, if any, costs to excavators and responsible contractors.

The One-Call rules require underground facility operators to respond to notices from the One-Call system, perform markouts, provide specifications for supporting underground facilities during excavations, maintain records of all markouts, and maintain records of all damage, accidents, and emergencies related to excavation or demolition. These requirements do impose some moderate costs on underground facility operators. However, because of the importance of these requirements to ensuring public health and safety, the Board has not included special provisions for small businesses.

Compliance with these rules will not require professional services. The requirements in many cases follow well-known national standards, and Board staff conducts ongoing training and outreach to excavators and underground facility operators to ensure that the regulated community understands the rules, and to make compliance as easy as possible.

Neither these rules, nor the Underground Facility Protection Act, provide lesser requirements based upon the size of a business. Since these rules are essential for the protection of the health, welfare, and safety of the public, and for the prevention of damage to public and private property, the Board does not believe that lesser requirements based upon business size are appropriate.

Housing Affordability Impact Analysis

The rules proposed for re adoption will have no impact on affordable housing in New Jersey and will not evoke a change in the average costs associated with housing because the rules pertain to the regulation of underground facilities operators performing excavation or demolition.

Smart Growth Development Impact Analysis

The Board anticipates that the rules proposed for re adoption will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to the regulation of underground facilities operators performing excavation or demolition.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:2.

(a)

BOARD OF PUBLIC UTILITIES

Renewable Energy and Energy Efficiency – Aggregated Net Metering

Proposed Re adoption of Specially Adopted New Rules: N.J.A.C. 14:8-7

Authorized By: New Jersey Board of Public Utilities, Dianne Solomon, President, Jeanne M. Fox, Joseph L. Fiordaliso, and Mary-Anna Holden, Commissioners.

Authority: N.J.S.A. 48:2-1 et seq., in particular 48:2-13 and 48:3-87.
Calendar Reference: See Summary below for an explanation of exception to calendar requirement.

BPU Docket Number: QX14070798.

Proposal Number: PRN 2014-158.

Comments may be submitted through December 5, 2014, by email in Microsoft Word format, or in a format that can be easily converted to Word, to: rule.comments@bpu.state.nj.us

or on paper to:

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: QX14070798
44 S. Clinton Ave., 9th Floor
PO Box 350
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The agency proposal follows: