

conformance with N.J.S.A. 48:2-73 et seq., this chapter and its Board-approved tariff.

(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.

Public Notice: One Call Damage Prevention System Operator Applications.

See: 31 N.J.R. 905(b), 31 N.J.R. 1113(a).

Amended by R.2002 d.107, effective April 1, 2002.

See: 33 N.J.R. 2606(a), 34 N.J.R. 1458(a).

Substituted "person" for "system operator" in the first sentence and "person" for "party" in the fourth sentence.

Public Notice: One Call Damage Prevention System Operator Applications.

See: 36 N.J.R. 3598(a).

Recodified from N.J.A.C. 14:2-3.1 and amended by R.2007 d.298, effective October 15, 2007.

See: 39 N.J.R. 1232(a), 39 N.J.R. 4422(b).

Section was "Designation". Rewrote the section.

Public Notice.

See: 40 N.J.R. 6870(b).

Public Notice: Withdrawal of Public Notice at 40 N.J.R. 6870(b).

See: 41 N.J.R. 684(a).

Public Notice.

See: 41 N.J.R. 1532(a).

Public Notice.

See: 47 N.J.R. 668(c).

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.

(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.

(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.

(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

SUBCHAPTER 3. EXCAVATORS AND RESPONSIBLE CONTRACTORS

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

(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 One-Call center of the intent to engage in any excavation or demolition not less than

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.

Amended by R.2002 d.107, effective April 1, 2002.

See: 33 N.J.R. 2606(a), 34 N.J.R. 1458(a).

Added a new (a), recodified former (a) through (d) as (b) through (e) and amended paragraph designators throughout, and added (f).

Recodified in part from N.J.A.C. 14:2-4.1 and amended by R.2007 d.298, effective October 15, 2007.

See: 39 N.J.R. 1232(a), 39 N.J.R. 4422(b).

Section was "Notice". Rewrote the section. Former N.J.A.C. 14:2-3.1, Designation, recodified to N.J.A.C. 14:2-2.2.

Amended by R.2009 d.250, effective August 17, 2009.

See: 40 N.J.R. 6928(a), 41 N.J.R. 3096(a).

Added (g).

Administrative correction.

See: 41 N.J.R. 3939(a).

Case Notes

While removing trees, sidewalk, and curbing, an excavator damaged a natural gas service line owned by New Jersey Natural Gas Company. The New Jersey Board of Public Utilities concluded that the excavator violated the following: N.J.A.C. 14:2-3.1 by failing to have a valid Mark-Out at the time of the excavation; N.J.A.C. 14:2-3.3(a)1 by operating mechanized equipment within two feet horizontally of the outside wall of an underground facility; N.J.A.C. 14:2-3.3(a)3 by failing to use reasonable care during excavation to avoid damage or interference with underground facilities; and N.J.A.C. 14:2-3.1 by failing to have a valid Mark-Out at the time of excavation at several other locations in conjunction with this project. In re Steven G. Becker, Becker's Tree Service, Dkt. No. EO12020151, 2014 N.J. PUC LEXIS 154, Administrative Order and Notice of Civil Administrative Penalty (May 21, 2014).

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

(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.

(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;

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

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.

(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