

**PROPOSED REGULATION OF
THE PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R139-18

July 9, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 703.025, 704.260 and 704.280; §2, NRS 455.140, 703.025, 704.260 and 704.280.

A REGULATION relating to subsurface installations; requiring excavators to notify emergency 911 services if damage to a subsurface installation causes the release of certain gases or hazardous liquids; eliminating certain inapplicable reporting requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Public Utilities Commission of Nevada to regulate excavations and demolitions near subsurface installations. (NRS 455.080-455.180)

Existing regulations require an excavator to inform all appropriate local public service agencies or, if available, emergency 911 services, of damage to a subsurface installation caused by or discovered during an excavation if the damage presents an emergency. (NAC 455.160)

Section 1 of this regulation requires an excavator to call emergency 911 services if the damage to the subsurface installation causes the release of certain gases or hazardous liquids. If an excavator provides such notice to emergency 911 services in relation to the release of a gas or hazardous liquid, the excavator is excused from providing notice to local public services agencies or providing additional notice to emergency 911 services if the release of the gas or hazardous liquid also presents an emergency.

Existing regulations require the excavator and the operator of a subsurface installation to submit a report in connection with an excavation or demolition that occurs on or after January 1, 2008, but before January 1, 2009. (NAC 455.163) **Section 2** of this regulation eliminates this reporting requirement because it no longer applies to any excavation or demolition.

Section 1. NAC 455.160 is hereby amended to read as follows:

455.160 1. If an excavator causes or observes any damage, including, without limitation, a scratch, kink, stretch mark or any other unusual condition, to a subsurface installation during an excavation or demolition, the excavator shall:

(a) Cease work on the excavation or demolition in the area around the damaged subsurface installation;

(b) *If the damage to the subsurface installation has caused the release of any gas or hazardous liquid, promptly report the release to the appropriate emergency response agencies by calling telephone emergency 911 services;*

(c) Inform the operator of the subsurface installation of the damage; and

~~(e)~~ (d) Except as otherwise provided in subsection 2, not backfill the area around the damaged subsurface installation until the operator of the subsurface installation has had a reasonable amount of time to inspect, maintain and repair the subsurface installation.

2. If the operator of a damaged subsurface installation consents, the excavator may backfill the area around a damaged subsurface installation without the inspection, maintenance or repair of the subsurface installation by the operator.

3. If the damaged subsurface installation presents an emergency, the excavator:

(a) In addition to the notification required pursuant to *paragraph (c) of* subsection 1, shall inform all appropriate local public service agencies or, if available, telephone emergency 911 services ~~(h)~~, *unless the excavator has already provided the report required by paragraph (b) of subsection 1;*

(b) Except as otherwise provided in paragraph (c), shall take reasonable steps to ensure public safety and to minimize the hazard presented by the damaged installation; and

(c) Shall not operate any valve or other device of the operator of the damaged subsurface installation while taking steps to ensure public safety and to minimize the hazard presented by the damaged installation.

4. As used in this section:

(a) "Gas" means natural gas, other flammable gas or gas which is toxic or corrosive.

(b) "Hazardous liquid" means a liquid that is flammable or toxic, including, without limitation, petroleum, any petroleum product, anhydrous ammonia, ethanol and liquefied natural gas.

(c) "Liquefied natural gas" means natural gas or synthetic gas having methane (CH₄) as its major constituent which has been changed to a liquid.

(d) "Petroleum" means crude oil, condensate, natural gasoline, natural gas liquids and liquefied petroleum gas.

(e) "Petroleum product" means flammable, toxic or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.

Sec. 2. NAC 455.163 is hereby repealed.

TEXT OF REPEALED SECTION

455.163 Reporting of contact with, exposure of or damage to subsurface installation.

(NRS 455.140, 703.025, 704.260, 704.280)

1. The excavator and the operator of a subsurface installation within the affected area of the proposed excavation or demolition shall, with respect to an excavation or demolition that occurs on or after January 1, 2008, but before January 1, 2009, report any contact with, exposure of or damage to the subsurface installation that results from the excavation or demolition to the Regulatory Operations Staff of the Commission. The report must be made on the form made available by the Commission on its website.

2. The excavator and the operator of a subsurface installation shall:

(a) Prepare the report described in subsection 1 for each calendar quarter; and

(b) File the report with the Regulatory Operations Staff of the Commission not later than 45 days after the last day of the calendar quarter.

3. As used in this section, “any contact with, exposure of or damage to the subsurface installation that results from the excavation or demolition” does not include:

(a) Exposure of a subsurface installation that does not result in any damage to the subsurface installation;

(b) Any contact with, exposure of or damage to a subsurface installation if the operator of the subsurface installation explicitly authorizes the excavator to contact, expose or damage the subsurface installation, unless the contact with, exposure of or damage to the subsurface installation results in death, serious physical harm or serious property damage beyond the damage to the subsurface installation; or

(c) Any contact with, exposure of or damage to a subsurface installation made by an operator if the subsurface installation is owned, operated or maintained by the operator, unless the contact with, exposure of or damage to the subsurface installation results in death, serious physical harm or serious property damage beyond the damage to the subsurface installation.

