

LCB File No. R153-07

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

Docket No. 07-06018

Proposed Regulation on Underground Excavation of Utility Facilities

Section 1. Chapter 455 of NAC is hereby amended by adding thereto a new section to read as follows:

All occurrences of contact with, exposure of or damage to a subsurface installation resulting from any excavation or demolition shall be reported by both the excavator and operator to the Regulatory Operations Staff within 5 business days of the occurrence on a form provided on the Commission's website. This provision is applicable to all occurrences between January 1, 2008 and December 31, 2008.

Sec. 2. NAC 455.015 is hereby amended to read as follows:

455.015 "Affected area of the proposed excavation or demolition" means the area that is:

1. Within the perimeter of the proposed area of the excavation or demolition; and
2. Within ~~30~~ 24 inches horizontally of the perimeter of the proposed area of the excavation or demolition.

Sec. 3. NAC 455.115 is hereby amended to read as follows:

~~1. Except as otherwise provided in subsections 3 and 4, an~~ An excavator who marks the proposed area of an excavation or demolition pursuant to the provisions of subparagraph (2) of paragraph (b) of subsection 1 of NRS 455.110 shall mark:

- (a) The area before submitting a notification; and

(b) Only the area that can reasonably be excavated or demolished within ~~[14]~~ 28 calendar days after the date the excavator submitted the notification of the excavation or demolition to the association for operators pursuant to the provisions of NRS 455.110.

~~[2. An excavator marking the proposed area of an excavation or demolition pursuant to subsection 1 shall mark in a manner consistent with the marking practices in the industry and shall mark with white:~~

~~-(a) The perimeter of the proposed excavation or demolition; or~~

~~-(b) The centerline and width of the proposed excavation or demolition.~~

~~3. If an excavator and all the operators of subsurface installations in the affected area of the proposed excavation or demolition agree to identify the proposed area of the excavation or demolition in another manner pursuant to the provisions of subparagraph (2) of paragraph (b) of subsection 1 of NRS 455.110, the excavator shall comply with the terms of that agreement.~~

~~4. Pursuant to subsection 1 of NRS 455.110, an excavator conducting an excavation or demolition that will expose only a subsurface installation owned or operated by the excavator is not required to notify an association for operators pursuant to NRS 455.110.]~~

Sec 4. NAC 455.135 is hereby amended to read as follows:

1. Until an excavation or demolition is completed, an excavator shall maintain the marks:

(a) Of the proposed area of an excavation or demolition made by the excavator pursuant to the provisions of ~~[subsections 2 and 3 of NAC 455.115]~~ *subparagraph (2) of paragraph (b) of subsection 1 of NRS 455.110*; and

(b) Of the approximate location of subsurface installations made by an operator pursuant to paragraph (b) of subsection 1 of NAC 455.125.

2. Upon a request from the excavator for additional markings when the excavator determines that it will be unable to maintain the operator's markings due to the type of excavation or demolition being conducted, the excavator shall communicate that request along with the reasons for the request to the operator. Upon joint determination by the excavator and operator of the type of additional markings, the operator shall provide offsets, whiskers, flags or any other means that are consistent with the industry practice and as agreed with the excavator.

~~[2]~~ 3. If, before the commencement of an excavation or demolition or during an excavation or demolition the marks are removed, obliterated, covered, or otherwise become disturbed or the excavator has concerns regarding the accuracy and meaning of the marks *prior to confirming the exact location of the marked subsurface installations pursuant to NRS 455.137*, the excavator shall:

(a) If the excavator has begun the excavation or demolition, cease the excavation or demolition *in the affected area(s)*; and

(b) Submit a notification to the association for operators that requests the operators with subsurface installations in the affected area(s) of the proposed excavation or demolition to mark, *confirm prior marks or make replacement marks for* the subsurface installations in the affected area(s) of the proposed excavation or demolition.

4. Excavators may submit a notification to the association for operators that requests replacement marks be made by the operator if the existing marks are fading, are partially removed or have otherwise been disturbed in such a manner that without replacement marks, the excavator will soon be required to cease the excavation or demolition.

~~[3. An excavator who submits a notification pursuant to the provisions of subsection 2 shall not commence an excavation or demolition until 2 working days after submitting the notification.]~~

Sec 5. NAC 455.150 is hereby amended to read as follows:

455.150 1. An excavator conducting an excavation or demolition shall proceed in a careful and prudent manner.

2. In accordance with the provisions of NRS 455.137, the excavator shall, when conducting an excavation or demolition within the approximate location of a subsurface installation, determine the exact location of the subsurface installation by excavating with hand tools or by any other method agreed upon by the excavator and the operator having responsibility for the subsurface installation before using any mechanical equipment.

3. If, during the course of an excavation or demolition, an excavator is unable to determine the exact location of a subsurface installation within ~~[30]~~ 24 horizontal inches of a mark placed by an operator, the excavator shall notify immediately the association for operators and the operator who placed the mark.

4. If, during the course of an excavation or demolition, an excavator discovers any subsurface installation, the excavator shall provide the lateral and subjacent support of the subsurface installation that is needed to ensure the protection and stability of the subsurface installation.

Sec. 6. NAC 455.165 is hereby amended to read as follows:

455.165 1. A notification submitted by an excavator to an association for operators is valid to conduct an excavation or demolition for ~~[14]~~ 28 calendar days after the date and time that the excavator provided the notification to the association for operators pursuant to the provisions of NRS 455.110.

2. An excavator may submit a request to the association for operators to extend the period for which the excavator may engage in the excavation or demolition by an additional ~~[14]~~ 28 calendar days.

3. At the time the excavator submits a request pursuant to the provisions of subsection 2, the excavator shall inform the association for operators whether an operator with subsurface installations within the affected area of the proposed excavation or demolition needs to make replacement marks identifying the location of a subsurface installation. *Excavators requiring replacement marks shall proceed in accordance with NAC 455.135, subsections 3 and 4.*

4. *The association for operators shall transmit a notification to the operators with subsurface installations within the affected area(s) of the extension of the time for excavation or demolition and* ~~[If the excavator informs the association for operators pursuant to the provisions of subsection 3 that replacement marks are not required,]~~ the period for which the excavator may engage in the excavation or demolition shall be deemed to be extended for ~~[14]~~ 28 calendar days.

~~[5. If the excavator informs the association for operators pursuant to the provisions of subsection 3 that replacement marks are required, the association for operators shall transmit that notification to the operator of the subsurface installations within the affected area of the proposed excavation or demolition.~~

~~6. Except as otherwise provided in subsection 7, if an excavator informs the association for operators that replacement marks are required pursuant to the provisions of subsection 5, the excavator shall cease the excavation or demolition for 2 working days to permit an operator to locate, identify and mark the location of subsurface installations of the operator. Upon either the completion of the replacement marks by the operator or the expiration of the 2 working days~~

~~during which an operator may make the replacement marks, whichever occurs first, the period for which the excavator may engage in the excavation or demolition shall be deemed to be extended for 14 calendar days.~~

~~7. If the excavator informs the association for operators that replacement marks are required and more than 2 working days remain of the period in which the excavator is permitted to engage in the excavation or demolition, the excavator may continue the excavation or demolition upon either the completion of the replacement marks by the operator or the expiration of the 2 working days during which an operator may make the replacement marks, whichever occurs first.]~~

[8] 5. An excavator may not request more than ~~[five]~~ *two* extensions of the period in which the excavator is permitted to engage in an excavation or demolition pursuant to the provisions of this section. ~~[Except as otherwise provided in NAC 455.170,]~~ If the excavator needs additional time in which to engage in the excavation or demolition beyond the period afforded by the original notification and the ~~[five]~~ *two* subsequent extensions, the excavator shall submit a new notification to the association for operators pursuant to the provisions of NRS 455.110.

Sec. 7. Sections 2 and 5 of the proposed regulation will become effective on July 1, 2008.

Sec. 8. NAC 455.170 is hereby repealed.

TEXT OF REPEALED SECTION

NAC 455.170 Renewal of expired notification. (NRS 455.110, 703.025, 704.260, 704.280)

1. In addition to the procedure for the extension of a notification provided pursuant to subsections 2 to 8, inclusive, of NAC 455.165, an excavator may submit a request to the association for operators to renew an expired notification.

2. If an excavator submits a request to renew a notification pursuant to the provisions of subsection 1, the excavator shall provide to the association for operators the reference number of the expired notification.

3. If, based on the reference number provided to the association for operators pursuant to the provisions of subsection 2, the association for operators is able to determine that it has a record of the expired notification, the association for operators shall verify with the excavator that the information contained in the expired notification is accurate.

4. If the association for operators determines that the information contained in the expired notification is accurate pursuant to the provisions of subsection 3, the association for operators shall transmit that notification to the operators of subsurface installations within the affected area of the excavation or demolition. The excavator shall not engage in the excavation or demolition for 2 working days to permit an operator to locate, identify and mark the location of subsurface installations of the operator. Upon either the completion of the replacement marks by the operator or the expiration of the 2 working days during which an operator may make the replacement marks, whichever occurs first, the period for which the excavator may engage in the excavation or demolition shall be deemed to be renewed for 28 calendar days. An excavator may submit a request for the extension of a notification pursuant to the provisions of NAC 455.165 for a notification renewed pursuant to the provisions of this section.

5. If the association for operators determines that the information contained in the expired notification is not accurate pursuant to the provisions of subsection 3, the excavator shall submit a new notification to the association for operators pursuant to the provisions of this chapter and NRS 455.110.

6. If, based on the reference number provided to the association for operators pursuant to the provisions of subsection 2, the association for operators is unable to determine that it has a record of the expired notification, the excavator shall submit a new notification to the association for operators pursuant to the provisions of this chapter and NRS 455.110.

7. As used in this section, “expired notification” means a notification for which the period to engage in an excavation or demolition has expired without having been extended pursuant to the provisions of NAC 455.165 or renewed pursuant to the provisions of this section.