

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 825

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO UTILITIES; CREATING ADDITIONAL CONDITIONS FOR AN
EXCAVATION REQUEST.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-14-3 NMSA 1978 (being Laws 1973,
Chapter 252, Section 3, as amended) is amended to read:

"62-14-3. EXCAVATION. --

~~Every~~ A. A person who prepares engineering plans
or who performs pre-construction assessments for excavation or
who engages in excavation shall:

~~A.~~ (1) determine the location of any
underground facility in or near the area where the excavation
is to be conducted ~~[including a]~~ and request ~~[to]~~ the owner or
operator of the underground facility to locate and mark the
underground facility pursuant to Section 62-14-5 NMSA 1978;

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underscored material = new
[bracketed material] = delete

1 ~~[B.-]~~ (2) plan the excavation to avoid or
2 minimize interference or damage to underground facilities in or
3 near the excavation area;

4 ~~[C.-]~~ (3) provide telephonic advance notice of
5 the commencement, extent and duration of the excavation work to
6 the one-call notification system operating in the intended
7 excavation area, or the owners or operators of any existing
8 underground facility in and near the excavation area that are
9 not members of the local one-call notification center, in order
10 to allow the owners to locate and mark the location of the
11 underground facility as described in Section 62-14-5 NMSA 1978
12 prior to the commencement of work in the excavation area and
13 shall request reaffirmation of line location every ten working
14 days after the initial locate request;

15 ~~[D.-]~~ (4) prior to initial exposure of the
16 underground facility, maintain at least an estimated clearance
17 of eighteen inches between existing underground facilities for
18 which the owners or operators have previously identified the
19 location and the cutting edge or point of any mechanical
20 excavating equipment utilized in the excavation and continue
21 excavation in a manner necessary to prevent damage;

22 ~~[E.-]~~ (5) provide such support for existing
23 underground facilities in or near the excavation area necessary
24 to prevent damage to them;

25 ~~[F.-]~~ (6) backfill all excavations in a manner

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1 and with materials as may be necessary to prevent damage to and
 2 provide reliable support during and following backfilling
 3 activities for preexisting underground facilities in or near
 4 the excavation area;

5 ~~[G.]~~ (7) immediately notify by telephone the
 6 owner of any underground facilities ~~[which]~~ that may have been
 7 damaged or dislocated during the excavation work; and

8 ~~[H.]~~ (8) not move or obliterate markings made
 9 pursuant to Chapter 62, Article 14 NMSA 1978 or fabricate
 10 markings in an unmarked location for the purpose of concealing
 11 or avoiding liability for a violation of or noncompliance with
 12 the provisions of Chapter 62, Article 14 NMSA 1978.

13 B. A person providing telephonic advance notice of
 14 the commencement, extent and duration of excavation work
 15 pursuant to Paragraph (3) of Subsection A of this section
 16 shall:

17 (1) intend to commence or continue excavation
 18 within ten working days after the initial locate request or
 19 request for reaffirmation of line location;

20 (2) clearly identify the proposed excavation
 21 area; and

22 (3) limit the request to the specific area in
 23 which the requester intends to excavate.

24 C. A person who prepares engineering plans or who
 25 performs pre-construction assessments for excavation may

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1 request that the owner or operator of an underground facility
2 mark the approximate location of an underground facility on
3 engineering or construction plans provided by the requester.
4 The owner or operator of the underground facility, as an
5 alternative to marking the requester's engineering or
6 construction plans, may provide access to maps showing the
7 approximate location of the underground facility or physically
8 locate and mark the underground facility. The owner or
9 operator of an underground facility shall respond to a request
10 from a person preparing engineering or pre-construction
11 assessment plans within ten working days or a time frame agreed
12 to by the parties.

13 D. A person who engages in excavation and who
14 willfully fails to comply with the provisions of Subsection B
15 of this section may be liable to the owner or operator of an
16 underground facility for the cost of the facility owner or
17 operator locating and marking the underground facility provided
18 it is within the utility right of way or easement, not to
19 exceed two thousand five hundred dollars (\$2,500)."

20 Section 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2003.