

Prior law defined "emergency" as any crisis situation which poses an imminent threat or danger to life, health, or property and requires immediate action.

New law defines "emergency" as any crisis situation which poses an imminent threat or danger to life, health, or property, requires immediate action, and immediate action is taken.

New law defines "agricultural excavator" as a person who owns or operates a farm and is directly involved in the cultivation of land or crops or who raises livestock.

Prior law required the notice of intent to excavate to contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and description of the specific type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition and a statement as to whether directional boring or explosives are to be used. If the excavation or demolition was part of a larger project, the notice was to be confined to the actual area of proposed excavation or demolition that was to occur during the 10-day time period prescribed by prior law.

New law retains prior law but changes the 10-day time period to a 20-day time period.

Prior law required the excavator or demolisher to wait at least 48 hours following notification before commencing any excavation or demolition activity, except in the case of an emergency or if informed by the regional notification center that no operators are to be notified.

New law retains prior law but specifies that the 48 hours does not start until 7:00 a.m. on the next working day following notification.

Prior law required a regional notification center receiving a notice of intent to excavate to notify all member operators having underground utilities or facilities in or near the site of the proposed excavation.

New law retains prior law but adds an exception for the operator who provided the notice of intent and requested not to receive such notification.

Prior law required all member operators to furnish the regional notification center with current emergency contact or notification information, including 24-hour telephone numbers.

New law retains prior law.

Prior law provided that, when the utility or facility operator had marked the location of underground facilities or utilities, the marking shall be deemed good as long as visible but not longer than 10 calendar days, including weekends and holidays, from the "mark by" time. An additional notice to the regional notification center was required to be given by the excavator or demolisher when the marks were no longer visible or if the excavation or demolition could not be completed within 10 calendar days from the "mark by" time, whichever occurred first.

New law retains prior law but changes the period of 10 calendar days to 20 calendar days.

Prior law required, in the case whereby a forestry excavator had requested that the utilities and facilities be marked for location, the operator of a utility or facility to mark the area of the utilities or facilities. The markings provided by the operator were deemed good as long as the markings were visible or up to 30 calendar days from the time the markings were made, whichever was shorter.

New law retains prior law but adds agricultural excavator to the list of persons for whom markings are good up to 30 calendar days.

Prior law provided that the 48-hour notice requirement shall not apply to any person conducting an emergency excavation. Oral notice of the emergency excavation was to be given as soon as practicable to the regional notification center or each operator having

underground utilities and facilities located in the area and, if necessary, emergency assistance was to be requested from each operator in locating and providing immediate protection to its underground utilities and facilities.

New law retains prior law and adds the requirement that the excavator orally certify in the notice that the situation poses an imminent threat or danger to life, health, or property and requires immediate action and that the excavator has a crew on site.

New law provides that an excavator who fails to provide the required oral certification in the notice of emergency excavation shall be subject to the following:

- (1) For the first violation, a civil penalty of not more than \$50.
- (2) For a second violation of a similar nature within a two-year period from the previous violation, a civil penalty of not more than \$200.
- (3) For a third violation of a similar nature within a two-year period from a previous violation, a civil penalty of not more than \$500.
- (4) For a fourth and each subsequent violation of a similar nature within a two-year period from the previous violation, a civil penalty of not less than \$500 nor more than \$5,000.

Effective October 1, 2011.

(Amends R.S. 40:1749.12(4), 1749.13(B)(2) and (5), 1749.14(B) and (C)(1)(b)(iii) and (v), 1749.15, and 1749.20(C); Adds R.S. 40:1749.12(15) and 1749.20(D))