

NOTICE OF INTENT  
**Department of Energy and Natural Resources**  
**Office of Conservation**

Damage Prevention  
(LAC 43:XI:Chapters 59-65)

The Department Energy and Natural Resources, Office of Conservation proposes to amend LAC43:XI in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed rule changes are to align current law with Louisiana administrative code.

**Title 43**  
**NATURAL RESOURCES**

**Part XI. Office of**  
**Conservation—Pipeline Division**  
**Subpart 6. Damage Prevention**  
**Chapter 59. General**

**§5903. Definitions**  
**(Formerly §2703)**

A. ...

\* \* \*

*Excavation or Excavate*—any operation causing movement or removal of earth, rock, or other materials in or on the ground or submerged in a marine environment that could reasonably result in damage to underground or submerged pipelines by the use of powered or mechanical or manual means, including but not limited to pile driving, digging, blasting, augering, boring, back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling, land-leveling, grading, and mechanical probing. Excavation or excavate shall not include manual probing, normal commercial farming operations, or any activity resulting from force majeure, related occurrences, including but not limited to an act of God, or act of nature.

\* \* \*

*Large Project Excavation or Demolition*—excavation or demolition activity that cannot reasonably be completed within 20 days for routine demolition or excavation or within thirty calendar days for agricultural, forestry, or marine excavation or demolition activity.

*Marine Excavator*—an excavator or demolisher who is performing excavation or demolition in areas such as swamps, wetlands, shallow water, waterways, rivers, bayous, bays, lakes, the sea, and arms of the sea.

*Mark-by Time*—the date and time provided by the regional notification center by which the pipeline operator is required to mark the location or provide information to

enable an excavator or demolisher, using reasonable and prudent means, to determine the specific location of the pipeline as provided for in §6301. The mark by time may be extended if mutually agreed upon and documented between the excavator and operator.

\* \* \*

*Routine Excavation or Demolition*—excavation or demolition activity that requires no more than 20 calendar days to be completed, and no more than thirty calendar days for agricultural, forestry, or marine excavation or demolition activity.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:955 (July 2020), repromulgated LR 49:327 (February 2023), amended LR 49:908 (May 2023), LR:51

**Chapter 61. Notifications**

**§6101. Excavation and Demolition; Prohibitions**  
**(Formerly §2705)**

A. Except as provided in this Section, no person shall excavate or demolish in any street, highway, public place, or servitude of any operator, or near the location of an underground pipeline, or on the premises of a customer served by an underground pipeline without having first ascertained, in the manner prescribed in Subsection B of this Section, the specific location as provided in §6301 of all underground pipelines in the area which would be affected by the proposed excavation or demolition. The marking of an operator's facility or utility shall be provided for excavation or demolition purposes only.

B. Except as provided in §6103, prior to any excavation or demolition, each excavator or demolisher shall serve telephonic or electronic notice of the intent to excavate or demolish to the regional notification center or centers serving the area in which the proposed excavation or demolition is to take place and shall include the specific location where the excavation or demolition is to be performed. Such notice shall be given to the notification center at least 48 hours, but not more than 120 hours, excluding weekends and holidays, in advance of the commencement of any excavation or demolition activity. If an excavation or demolition does not commence within 120 hours of the mark-by time, not counting weekends and holidays, the excavator or demolisher shall be found in violation of this Section, except in the case of mutual agreement with the pipeline owner or operator to extend the time or extraordinary circumstances. Extraordinary circumstances are circumstances which make it impractical or impossible for the excavator or demolisher to comply with the provisions of this Part due to weather-related events, equipment malfunction or failure, or unavailability of vital supplies and equipment. Holidays shall consist of the following: New Year's Day; Martin Luther King, Jr. Day;

## NATURAL RESOURCES

Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Eve; and Christmas Day.

1. This notice shall 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. The notice shall be confined to the actual area of proposed excavation or demolition that will occur during the 20 day time period under 6301.

2. The excavator or demolisher shall provide the specific location for excavation or demolition with either telephonic or electronic notice. Telephonic notice shall require the excavator or demolisher to ~~or~~ physically mark the proposed route or area of excavation or demolition using white paint, flags, stakes, or similar means under American Public Works Association guidelines prior to submitting notice.

B.3. – B.4. ...

5. At least one person on any underground or submerged excavation or demolition site shall have proof of completion of the training and education provided by the Regional Notification Center. Training is required on an annual basis through the Regional Notification Center. Excavators or demolishers certified by an operator qualification program subject to Title 49, CFR Part 192 or Part 195 shall be exempt from this requirement.

C. – D. ...

E. The purpose of this Subsection is to allow for voluntary agreements in writing between operators and excavators/demolishers in conflict to determine the mark-by time, as well as the duration of excavation and demolition projects that cannot be reasonably completed within the time frame required for routine excavation or demolition.

1. Unless hereinafter specifically excepted, all other provisions of this Subsection shall apply to large project excavations or demolitions.

2. Upon an excavator or demolisher contacting the regional notification center to provide notice of excavation or demolition, the excavator or demolisher may request that the excavation or demolition be recognized as a large project excavation or demolition. At which time, the regional notification center shall notify all affected underground utility and facility operators that a large project excavation or demolition request has been submitted.

3. A large project excavation or demolition request shall only be submitted electronically to the regional notification center at least ten business days prior to the commencement of the excavation or demolition.

4. The submission of a large project excavation or demolition request shall also include the names and contact

information of any and all subcontractors of the excavator or demolisher who will be working on the project.

5. Upon receipt of the large project excavation or demolition notification request, operators of underground utilities or facilities and the requesting excavator or demolisher may attempt to reach a mutual agreement in writing to determine the scope of work, the mark-by times, and any other details of the project that the operator and excavator or demolisher mutually agree need to be included in the written agreement such as the marking schedule and additional parties to be included in the notification request. In no event shall an agreement be entered into pursuant to this Subsection for a duration of more than ninety calendar days.

6. If mutual agreement between all parties in conflict in an area cannot be reached within thirty calendar days from the date submitted to the Regional Notification Center, the large project excavation or demolition notification request shall be deemed null and void, and the requesting excavator or demolisher shall cancel the large project excavation or demolition notice and request a routine excavation or demolition notice in accordance with this Section.

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:955 (July 2020), repromulgated LR 49:327 (February 2023), amended LR 49:908 (May 2023), LR: 51

### **§6103.Emergency Excavation; Notice Required;**

#### **Penalty (Formerly §2709)**

A. The notice required pursuant to §6101 shall not apply to any person conducting an emergency excavation. Oral or electronic notice of the emergency excavation shall be given as soon as practicable to the regional notification center or each operator having underground pipelines located in the area and, if necessary, emergency assistance shall be requested from each operator in locating and providing immediate protection to its underground pipelines.

B. The excavator shall certify in the notice required in Subsection A of this Section that the situation poses an imminent threat or danger to life, health, or property or is the result of an unplanned pipeline outage and requires immediate action and that the excavator, or owner or operator has personnel on site.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:956 (July 2020), repromulgated LR 49:328 (February 2023), LR: 51

## Chapter 63. Markings

### §6301. Requirements (Formerly §2707)

A. Each operator of an underground pipeline, after having received the notification request from the regional notification center of an intent to excavate, or an intent to conduct normal commercial farming operations shall supply, prior to the proposed, excavation or normal commercial farming operation, the following information to the person responsible for the excavation or normal commercial farming operations;

A.1. ...

2. Unless otherwise required by federal or state statutes, the specific location and type of underground pipeline shall be marked to locate the pipelines. The pipelines shall be marked by the operator by color coded paint, flags, or stakes or similar means using the American Public Works Association color code.

a. When the operator has marked the location of underground pipelines, the marking shall be deemed good as long as visible, but not longer than 20 calendar days, including weekends and holidays, from the mark-by time, unless the notice was designated as a large project excavation or demolition and a written agreement has been reached between the operator and the excavator or demolisher. However, if the proposed excavation or demolition activity could impact a pipeline located on or in water, the commissioner may extend the time period allowed for completion of the excavation or demolition. An additional notice to the regional notification center shall be given by the excavator or demolisher in accordance with the provisions of this Subpart when the marks are no longer visible or if the excavation or demolition cannot be completed within 20 calendar days from the mark-by time; for routine excavation or demolition or ninety calendar days for large project excavation or demolition.

b. Water locations

i. Concerning locations of excavation in or on water, an excavator may request an extension to the expiration date of a regional notification center ticket under the following circumstances:

A.2.b.i.(a). – A.2.c. ...

d. In the case whereby a forestry excavator, agricultural excavator, or marine excavator has requested that the utilities and facilities be marked for location, the operator of a utility or facility shall mark the area of their utilities or facilities. The markings provided by the operator shall be deemed good as long as the markings are visible or up to thirty calendar days from the time the markings were made, whichever is shorter.

A.3. ...

4. In the event of inclement weather as defined in this Chapter, the mark-by time shall be extended by a duration equal to the duration of the inclement weather. The owner or

operator shall notify the excavator or demolisher before the expiration of the mark-by time of the need for such extension.

5. Should an operator determine that their pipeline(s) is not in conflict with the location of the request or should the pipeline(s) not be fully marked for locating purposes, a notification shall be sent to the excavator prior to the mark-by time. A notification to the Regional Notification Center that generated the location request shall suffice for compliance with this section as it pertains to positive response.

B. For the purpose of this Section, the specific location of the underground pipeline(s) is defined as an area not wider than the width of the underground pipeline as marked plus eighteen inches on either side.

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:956 (July 2020), repromulgated LR 49:328 (February 2023), LR: 51

## Chapter 65. Excavation

### §6501. Precautions to Avoid Damage (Formerly §2711)

A. - A.3. ...

4. Potholing to determine the actual location of pipeline(s) or to determine that there is adequate clearance from the pipeline(s) if an excavation or demolition operation could result in damage to such pipeline facilities. For forestry excavation operations that could result in damage to pipelines, the forestry excavator and the operator shall cooperate to determine the actual location of such pipelines.

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:957 (July 2020), repromulgated LR 49:329 (February 2023), LR: 51

### §6503. Excavation or Demolition; Repair of Damage (Formerly §2713)

A. ...

B. Each person responsible for an excavation or demolition operation or normal commercial farming operation which results in damage to an underground pipeline permitting the escape of any flammable, toxic, or corrosive fluids/gases shall, immediately upon discovery of that damage.

B.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 40:1749.27.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:957 (July 2020), repromulgated LR 49:329 (February 2023), LR: 51

### Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

## NATURAL RESOURCES

### **Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

### **Small Business Analysis**

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

### **Public Comments**

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery, USPS or Fed Ex, until 4 p.m., October 21, 2025, at Office of Conservation, Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Pipeline Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. All inquiries should be directed to Travis Huval at the above addresses or by phone to (225) 342-1891.

Steven M. Giambrone  
Commissioner of Conservation